

NORTHERN TERRITORY OF AUSTRALIA

LIQUOR AMENDMENT ACT 2006

Act No. 27 of 2006

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 27 of 2006

AN ACT

to amend the *Liquor Act*

[Assented to 19 September 2006]

[Second reading 23 August 2006]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Liquor Amendment Act 2006*.

2. Act amended

This Act amends the *Liquor Act*.

3. Amendment of section 4 (Interpretation)

- (1) Section 4(1), definitions of "contravention notice", "permit" and "restricted area"

omit

- (2) Section 4(1)

insert (in alphabetical order)

"contravention notice" means:

- (a) a public restricted area contravention notice mentioned in section 101AC(1); or

Liquor Amendment Act 2006

- (b) a restricted premises contravention notice mentioned in section 101N(1);

"council area", for a local government council, means the municipality or community government area for the council;

"general restricted area" means a general restricted area declared under section 74(1)(a);

"local government council" means a council or community government council;

"permit" means a permit mentioned in section 87 or 89A;

"private premises" means private premises as defined in section 101A;

"public restricted area", means a public restricted area declared under section 74(1)(b);

"restricted area" means a general restricted area or public restricted area;

4. Amendment of section 22 (Delegation by Commission)

- (1) Section 22(1)

omit

by instrument in writing, either generally or in relation to a matter or class of matters,

substitute

in writing,

- (2) Section 22(1)(a) and (d), at the end

insert

or

- (3) After section 22(1)(d)

insert

- (da) a power or function mentioned in subsection (1A) or (1B); or

- (4) After section 22(1)

insert

(1A) The Commission may, in writing, delegate its powers and functions under sections 86C and 86F(3) to one or more of the following:

- (a) a member;
- (b) the Director.

(1B) The Commission may, in writing, delegate its powers and functions under section 89A to one or more of the following:

- (a) a member;
- (b) the Director;
- (c) the Deputy Director;
- (d) the chief executive officer of a local government council;
- (e) a police officer who is:
 - (i) of or above the rank of senior sergeant; or
 - (ii) the person in charge of a police station.

- (5) Section 22(2), after "subsection (1)"

insert

, (1A) or (1B)

5. Amendment of section 73 (Interpretation)

- (1) After section 73(1)

insert

(1A) In this Part, a reference to an area of land includes a reference to premises on the land.

- (2) Section 73(2), before "restricted area" (all references)

insert

general

6. Amendment of section 74 (Power to declare restricted area)

(1) Section 74(1)

omit, substitute

(1) The Commission may:

- (a) declare a specified area of land to be a general restricted area; or
- (b) declare a specified area of land, other than private premises, to be a public restricted area.

(1A) However, the Commission may declare a public restricted area that includes private premises that are specified by regulation.

(2) Section 74(2), before "restricted area" (all references)

insert

general

7. Amendment of section 75 (Liquor not brought into, &c., restricted area)

(1) Section 75, heading

omit, substitute

Prohibitions for restricted areas

(2) Section 75(1) and (1A), before "restricted area" (all references)

insert

general

(3) After section 75(1A)

insert

(1B) A person is guilty of an offence if the person consumes liquor within a public restricted area.

Maximum penalty for an offence against subsection (1B): \$500.

(1C) Subsection (1B) does not apply if the liquor is consumed:

- (a) in accordance with a permit granted under section 89A; or

- (b) for the purposes of worship associated with the celebration of the Holy Communion.

8. Amendment of section 76 (Application for declaration)

- (1) Section 76

omit

An application

substitute

- (1) An application

- (2) Section 76(e)

omit

a restricted area

substitute

a general restricted area or public restricted area

- (3) Section 76(f), before "restricted area"

insert

general

- (4) Section 76(a) to (d), at the end

insert

and

- (5) Section 76, at the end

insert

(2) An application for the declaration of a public restricted area may only be made by one or more of the following:

- (a) the Commissioner of Police;
- (b) the Director;
- (c) if all or part of the relevant area forms all or part of a council area – the local government council for the council area.

9. New Part VIII, Division 1A heading

After section 76

insert

Division 1A – Declaration of general restricted area

10. New section 76A

Before section 77 in Part VIII, Division 1A

insert

76A. Application

This Division applies to an application for the declaration of a general restricted area.

11. Amendment of section 77 (Consideration of application)

(1) Section 77(1)

omit

an application made under section 76

substitute

the application

(2) Section 77(3)(b)

omit

an application

substitute

the application

12. Amendment of section 78 (Opinions regarding application)

(1) Section 78(1)

omit

an application for a specified area of land to be declared a restricted area –

substitute

the application:

- (2) Section 78(2)

omit (all references)

he

substitute

the person

- (3) Section 78(2)

omit

an application for a specified area of land to be declared a restricted area

substitute

the application

13. Amendment of section 80 (Commission to consider opinions expressed regarding application)

- (1) Section 80

omit

an application for an area of land to be declared a restricted area

substitute

the application

- (2) Section 80(a)

omit

that application

substitute

the application

14. Amendment of section 81 (Decision after hearing)

- (1) Section 81(1)

omit

an application for an area of land to be declared a restricted area

substitute

the application

- (2) Section 81(1)(a), at the end

insert

or

- (3) Section 81(1)(a), (b) and (c), before "restricted area"

insert

general

15. Amendment of section 86 (Not an offence to transport liquor through restricted area)

- (1) Section 86, heading, after "**through**"

insert

general

- (2) Section 86(1), before "restricted area" (all references)

insert

general

- (3) Section 86(1) and (2)

omit

75

substitute

75(1)

16. New Part VIII, Division 1B

After section 86

insert

Division 1B – Declaration of public restricted area

86A. Application

This Division applies to an application for the declaration of a public restricted area.

86B. Consideration of application

The Commission must consider the application as soon as practicable after receiving it.

86C. Inquiry by Commission

(1) The Commission must conduct an inquiry to inform itself about the application.

(2) The inquiry:

(a) must be conducted in or near the relevant area; and

(b) may be conducted in any way the Commission considers appropriate.

(3) The Commission must give notice about the inquiry:

(a) to each local government council mentioned in section 76(2)(c) in relation to the area; and

(b) in a newspaper circulating in the area.

(4) The notice must:

(a) specify the area; and

(b) invite individuals and bodies to make submissions about the application by a specified time; and

(c) include any other information the Commission considers appropriate.

(5) For subsection (4)(b), the submissions may be in writing or made in any other way the Commission considers appropriate.

(6) In conjunction with the inquiry, the Commission may also inform itself about the application by conducting investigations and consultations as it considers appropriate.

86D. Matters the Commission must take into account

The Commission must take into account the following information in considering the application:

- (a) information about the consumption of liquor in or near the relevant area (including the amount and type of liquor sold under each licence in or near the area and conditions of the licence);
- (b) incidents of crime in or near the area that are related to liquor consumption;
- (c) the views of any of the following in relation to the application that have been given to the Commission:
 - (i) an individual who lives or works, or proposes to live or work, in the area;
 - (ii) a body (whether incorporated or not) that has, or proposes to have, an address in the area;
 - (iii) each local government council mentioned in section 76(2)(c) in relation to the area;
 - (iv) the Police Force, an Agency and any other authorities established by a law of the Territory;
 - (v) anyone else whom the Commission considers to have an interest in the area;
- (d) any other information the Commission considers relevant to the application.

86E. Decision of Commission

- (1) Having considered the application, the Commission must:
 - (a) declare, by *Gazette* notice, an area of land that is or includes all or part of the relevant area to be a public restricted area if the Commission considers:
 - (i) it is in the public interest to make the declaration; and
 - (ii) the declaration is consistent with the objects of this Act; or
 - (b) otherwise – refuse the application.

- (2) The declaration under subsection (1)(a):
 - (a) takes effect from a date specified in the declaration, which must be later than the date of the *Gazette* notice and the date on which a notice for the declaration is published under section 86F; and
 - (b) ceases to have effect:
 - (i) when the declaration is revoked; or
 - (ii) if the declaration specifies a period and the declaration is not revoked before the end of the period – at the end of the period.

(3) If the Commission refuses the application, the Commission must give notice to the applicant of the refusal and the reasons for it.

86F. Notice of declaration

(1) The Commission must, within 28 days after declaring a public restricted area, publish a notice of the declaration in a newspaper circulating in the area.

- (2) The notice must:
 - (a) describe the area in sufficient detail for it to be identified; and
 - (b) specify when the declaration will take effect; and
 - (c) specify the period for which the declaration will have effect if the declaration specifies that period; and
 - (d) specify any other matters the Commission considers appropriate.
- (3) The Commission:
 - (a) must, before the declaration takes effect, set up signs in the area publicising the declaration; and
 - (b) must maintain the signs while the declaration has effect; and
 - (c) may publicise the declaration in other ways as the Commission considers appropriate.

(4) Without limiting subsection (3), a sign set up under that subsection must specify the following:

- (a) the declaration;
- (b) the offence in section 75(1B);

- (c) the penalty for the offence.

(5) If all or part of the area forms all or part of a council area, the Commission may enter into an arrangement with the local government council for each such council area for the doing of a thing mentioned in subsection (3).

86G. Revocation and amendment of declaration

(1) A declaration of a public restricted area may be revoked or amended by the Commission at any time.

(2) The Commission may do so on any of the following (the "proposal"):

- (a) the Commission's initiative;
- (b) an application by anyone who could have applied for the declaration.
- (3) Sections 86B to 86F apply in relation to the proposal as if:
 - (a) a reference to an application in those sections were a reference to the proposal; and
 - (b) a reference to a declaration were a reference to a decision to accept the proposal; and
 - (c) sections 86C(4) and 86F(2) had each required the notice mentioned in that section to specify such a decision; and
 - (d) if the proposal relates to a revocation – section 86F(3)(a) and (b) and (4) had been omitted.

17. Amendment of section 87 (Commission may grant permits)

(1) Section 87, heading

omit, substitute

Permit for general restricted area

(2) Section 87(1), before "restricted area"

insert

general

- (3) After section 87(1)

insert

(1A) The permit may only be granted on an application by the person mentioned in subsection (1).

- (4) Section 87(2)

omit

a permit

substitute

the permit

- (5) Section 87(2), before "restricted area"

insert

general

18. Amendment of section 88 (Guest of permit holder may consume liquor)

- (1) Section 88

omit (all references)

a permit

substitute

the permit

- (2) Section 88(a), before "restricted area"

insert

general

19. Amendment of section 89 (Persons may deliver liquor to permit holder at his request)

- (1) Section 89, heading

omit

his

substitute

holder's

(2) Section 89

omit (all references)

a permit

substitute

the permit

(3) Section 89, before "restricted area"

insert

general

20. New section 89A

After section 89

insert

89A. Permit for public restricted area

(1) The Commission may grant a permit for a public restricted area to an individual or body (whether incorporated or not).

(2) The permit may only be granted:

- (a) on an application by the individual or body; and
- (b) for the purposes specified in the application.

(3) Without limiting subsection (2)(b), the purposes for which the permit may be granted include a wedding and any other event organised by the applicant.

(4) The Commission must specify in the permit:

- (a) the purposes for which the permit is granted; and
- (b) any conditions of the permit (including conditions about when liquor may be consumed in the area).

(5) If the permit is granted, a person may consume liquor in the area in accordance with the permit.

(6) The Commission must, as soon as practicable after granting the permit, give notice to each of the following about the permit:

- (a) if all or part of the area forms all or part of a council area – the local government council for each such council area;
- (b) the person in charge of the police station that is closest to the area.

(7) The notice must detail the purposes and conditions specified in the permit.

21. Amendment of section 90 (Application for permit)

(1) Section 90(1)

omit

(2) Section 90(2)

omit

(2) An application pursuant to subsection (1) shall –

substitute

An application for a permit under section 87 or 89A must:

(3) Section 90(2)(a) and (b), at the end

insert

and

(4) Section 90(2)(d)

omit, substitute

(d) for an application under section 87 – include a statement of the applicant's reasons for making the application; and

(e) for an application under section 89A – specify the purposes for the permit.

22. Amendment of section 92 (Decision after consideration)

Section 92(a)

omit

determined by the Commission under section 87(3)

substitute

specified by the Commission under section 87(3) or 89A(4)

23. Amendment of section 93 (Permit revoked on breach of condition)

(1) Section 93

omit

his permit

substitute

the permit

(2) Section 93

omit

he

substitute

the holder of that permit

(3) Section 93, after "75(1)"

insert

or (1B)

24. Repeal and substitution of Part VIII, Division 3 heading

Part VIII, Division 3 heading

repeal, substitute

Division 3 – Powers of entry, search and seizure for general restricted areas

25. New section 94A

Before section 95, in Part VIII, Division 3

insert

94A. Application

This Division applies to an offence against this Part in relation to a general restricted area (a "relevant offence").

26. Amendment of section 95 (Powers of search and seizure)

(1) Section 95, heading

omit, substitute

Powers of entry, search and seizure

(2) Section 95(1)

omit (all references)

an offence against this Part

substitute

a relevant offence

(3) Section 95(1)

omit (all references)

he

substitute

the inspector

(4) Section 95(1)(d)

omit

any offence that has been or is being committed against this Part

substitute

a relevant offence that has been or is being committed

(5) Section 95(1)(e)

omit

him

substitute

the master or other person

27. New Part VIII, Division 4

After section 101

insert

Division 4 – Powers of search and seizure for public restricted areas

101AA. Application

This Division applies to an offence against this Part in relation to a public restricted area (a "relevant offence").

101AB. Police powers of search and seizure

(1) If a police officer believes on reasonable grounds that a relevant offence has been, is being, or is likely to be, committed by a person in a public restricted area, the officer may, without a warrant:

- (a) search the person; and
- (b) seize any opened or unopened container in the area that the officer has reason to believe contains liquor.

(2) A person may only be searched under subsection (1)(a) by someone who is of the same gender as the person.

(3) A police officer who seizes a container under subsection (1)(b) may immediately:

- (a) empty the container if it is opened; or
- (b) destroy the container (including the liquor in it) if it is unopened.

(4) The officer must ensure that any containers covered by subsection (3)(a) that are not emptied, and any containers covered by subsection (3)(b) that are not destroyed, are taken to a police station, where they must be destroyed.

101AC. Contravention notice

(1) A police officer may serve a public restricted area contravention notice on a person if the officer:

- (a) believes on reasonable grounds the person has committed an offence against section 75(1B); and
- (b) has seized one or more unopened containers of liquor under section 101AB; and

- (c) does not intend to make a complaint or serve an infringement notice for the alleged offence.

(2) Section 101N(2) and (3) and sections 101P to 101S (the "applied provisions") apply for the purposes of this Division as if, in the applied provisions:

- (a) a reference to a restricted premises contravention notice were a reference to a public restricted area contravention notice; and
- (b) a reference to section 101L(1) were a reference to section 75(1B); and
- (c) a reference to section 101M were a reference to section 101AB; and
- (d) a reference to section 101P or 101Q were a reference to that section as applied by this section.

28. Amendment of section 101M (Police powers of entry, search and seizure)

Section 101M(2) to (5)

omit, substitute

(2) A person may only be searched under subsection (1)(b) by someone who is of the same gender as the person.

(3) A police officer who seizes a container under subsection (1)(c) may immediately:

- (a) empty the container if it is opened; or
- (b) destroy the container (including the liquor in it) if it is unopened.

(4) The officer must ensure that any containers covered by subsection (3)(a) that are not emptied, and any containers covered by subsection (3)(b) that are not destroyed, are taken to a police station, where they must be destroyed.

29. Amendment of section 101N (Service etc. of contravention notice on alleged offender)

(1) Section 101N, heading

omit, substitute

Service of contravention notice

- (2) Section 101N(1)

omit

must

substitute

may

30. Amendment of section 101P (Court order if no application under section 101Q)

- (1) Section 101P(1)

omit

- (1) If the

substitute

If the

- (2) Section 101P(2)

omit

31. Repeal and substitution of section 101S

Section 101S

repeal, substitute

101S. Interest in destroyed liquor

(1) The interest that a person had in any liquor destroyed because of section 101M is taken to have become, on the destruction, an interest in an amount of money equal to the liquor's value.

- (2) The interest in the amount is forfeited to the Territory if:

- (a) an order is made under section 101P(1) for an offence against section 101L(1) (a "relevant offence") in relation to the liquor; or
- (b) a court otherwise finds a person guilty of a relevant offence in relation to the liquor.

(3) If subsection (2) does not apply, a person who has the interest in the amount may seek compensation for that interest in a court of competent jurisdiction.

(4) Without limiting subsection (3), a court that finds a person not guilty of a relevant offence in relation to the liquor may make an order of compensation for the interest in the amount.

32. Amendment of section 124AA (Regulatory offences)

(1) Section 124AA(1), after "75(1)"

insert

or (1B)

(2) Section 124AA(1), after "93(b),"

insert

101L(1),

33. New Part XIV

After section 136

insert

PART XIV – TRANSITIONAL MATTERS FOR *LIQUOR AMENDMENT ACT 2006*

137. Savings – restricted areas

(1) A declaration of a restricted area in force immediately before the commencement of the *Liquor Amendment Act 2006* (the "commencement") has effect as if it were a declaration of a general restricted area.

(2) Anything done for the declaration has effect as if it had been done for a declaration of a general restricted area.

(3) An application for a declaration of a restricted area that was not decided immediately before the commencement has effect as if it were an application for a declaration of a general restricted area.

(4) Anything done for the application has effect as if it had been done for an application for a declaration of a general restricted area.

34. Further amendments

The Schedule has effect.

35. Expiry

This Act expires on the day after it commences.

SCHEDULE

Section 34

FURTHER AMENDMENTS

Provision	Amendment	
	omit	substitute
Sections 53(1) and 54(1)	Penalty	Maximum penalty
Sections 82(1), (2)(a) and (aa), 83, 84 and 85	restricted area (all references)	general restricted area
Section 101F(3)	the whole penalty provision	Maximum penalty: \$1 000
Section 101L(1)	Penalty	Maximum penalty