

THE NORTHERN TERRITORY OF AUSTRALIA

No. 35 of 1980

AN ACT

To amend the Liquor Act

[Assented to 19 March 1980]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act* 1978 of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the Liquor Act 1980.

2. PRINCIPAL ACT

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

3. APPLICATION

Section 5 of the Principal Act is amended -

(a) by omitting from sub-section (2)(g) "or";

(b) by adding at the end of sub-section (2) the following paragraph:

"; or

(j) of liquor on premises occupied by the special defence undertaking for the purposes of the Defence (Special Undertakings) Act 1952 of the Commonwealth known as the Joint Defence Space Research Facility at Alice Springs."; and

(c) by adding at the end the following sub-section:

"(4) Section 116 does not apply to a purchase of liquor made by an inspector or a member of the Police Force in the execution of his duty."

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4. COMPOSITION OF COMMISSION

Section 7(1) of the Principal Act is amended by omitting paragraph (c) and substituting:

"(c) 2 other members."

5. INSPECTOR'S POWERS

Section 19 of the Principal Act is amended -

(a) by omitting from sub-section (3)(b) "and" and substituting "or";

(b) by omitting from sub-section (5)(b) "and";

(c) by adding at the end of sub-section (5) the following paragraphs:

"(d) seize and remove any liquor on the premises which he has reasonable grounds to believe is evidence of or otherwise relates to an offence against this Act; and

(e) require a person on the premises to provide his name and address, evidence of his age and the name or identity of the seller or supplier of any liquor in the person's possession."; and

(d) by inserting after sub-section (10) the following sub-section:

"(10A) The provisions of Division 3 of Part VIII apply to any liquor seized under sub-section (5) as if it was seized under that Division."

6. MEETINGS OF COMMISSION

Section 21 of the Principal Act is amended -

(a) by inserting in sub-section (2) after "including" the words ", subject to section 51(2A),";

(b) by omitting from sub-section (2)(b) "one other member" and substituting "2 other members"; and

(c) by omitting sub-section (2)(c) and substituting:

"(c) all questions shall be decided by a majority of votes of the members present and voting and, in the event of an equality of votes, the Chairman shall have a casting vote;"

7. APPLICATION FOR RENEWAL

Section 34 of the Principal Act is amended -

(a) by omitting from sub-section (1) "and accompanied by a fee calculated in accordance with section 35" and substituting "and accompanied by such returns, not previously lodged, referred to in section 113 that are necessary to calculate the fee payable for renewal."; and

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- (b) by inserting in sub-section (2) after "sub-section (1)" the words "upon payment of the fee payable for renewal".

8. FEES FOR RENEWAL

Section 35 of the Principal Act is amended -

- (a) by omitting from sub-section (1) "The fee payable" and substituting "Subject to this section, the fee payable";

- (b) by inserting after sub-section (4) the following sub-section:

"(4A) If a licence is issued for a period of less than one year, a proportionate amount only of the licence fee for renewal of the licence shall be payable."; and

- (c) by omitting from the definition of "cost into store" in sub-section (5) the words "on 30 June prior to the date of expiry of the licence or a renewal of the licence" and substituting "on whichever of the last days of March, June, September or December last occurred prior to the lodging of the application for renewal".

9. NEW SECTION

The Principal Act is amended by inserting after section 46 the following section:

"46A. SUBSTITUTION OF PREMISES

"(1) A licensee may apply to the Commission in a form approved by the Commission for the substitution of other premises for the premises specified in a licence held by the licensee.

"(2) The Commission may approve an application made under sub-section (1) and substitute other premises for the premises specified in a licence held by an applicant where -

- (a) the other premises are in close proximity to the premises specified in the licence; and
- (b) it is satisfied that the substitution will not adversely affect the public."

10. PROCEDURE AT HEARING

Section 51 of the Principal Act is amended -

- (a) by inserting after sub-section (2) the following sub-section:

"(2A) At a hearing under this Act the Commission shall, if the Chairman directs, be constituted by one member."; and

- (b) by adding at the end the following sub-sections:

"(10A) Where the Commission is constituted by one member, a party who is not satisfied with the decision of the Commission may apply, within 14 days after the decision, in writing to the Chairman for a new hearing.

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"(10B) Where a party applies, under sub-section (10A), for a new hearing the Chairman may, if he thinks fit, cause a new hearing to be held.

"(10C) Where a new hearing is held, under sub-section (10B), the Commission -

(a) shall be constituted by not less than 3 members; and

(b) may make any decision that it could have made if a hearing had not previously been held.

"(10D) A decision by the Commission under sub-section (10C) shall be in substitution for the decision made at the hearing by a single member in respect of which the new hearing is being held."

11. DECISION OF COMMISSION TO BE FINAL

Section 56 of the Principal Act is amended by omitting "Where a hearing" and substituting "Subject to section 51, where a hearing".

12. COMMISSION'S POWER TO SUSPEND LICENCE

Section 66(1) of the Principal Act is amended by omitting paragraphs (a) and (b) and substituting -

"(a) the Commission -

(i) gives a direction to the licensee under section 49(4)(b) or 65; and

(ii) is of the opinion that suspension of the licence is necessary for the protection of the public;

(b) the licensee has contravened or failed to comply with his licence, this Act or the regulations and the Commission is satisfied that the contravention or failure is of sufficient gravity to justify the suspension of the licence; or

(c) the licensed premises are not being used for the sale or supply of liquor."

13. INTERPRETATION

Section 73 of the Principal Act is amended by adding at the end the following sub-section:

"(2) Where the Commission declares, under section 74(2), that a restricted area is restricted in respect of liquor other than a type of liquor, in this Part, 'liquor' does not, in respect of that restricted area, include that type of liquor."

14. POWER TO DECLARE RESTRICTED AREA

Section 74 of the Principal Act is amended by adding at the end the following sub-section:

"(2) The Commission may, upon the declaration of a restricted area, declare that the restricted area is restricted in respect of liquor other than a specified type of liquor."

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15. LIQUOR NOT TO BE BROUGHT INTO, &c., RESTRICTED AREA

Section 75 of the Principal Act is amended by adding at the end the following sub-section:

"(2) In any proceedings for an offence against this section a certificate of the Commission stating that a place was, or was not, at a specified time, within a restricted area is evidence of the fact stated."

16. APPLICATION FOR DECLARATION

Section 76 of the Principal Act is amended -

(a) by omitting from paragraph (d) "and"; and

(b) by inserting after paragraph (e) the following new paragraph:

"; and

(f) if the applicant desires the relevant area to be declared a restricted area in respect of liquor other than a type of liquor - state the type of liquor."

17. DECISION AFTER HEARING

Section 81 of the Principal Act is amended -

(a) by omitting from sub-section (1)(a) "or"; and

(b) by adding after sub-section (1)(b):

"; or

(c) declare an area of land to be a restricted area in respect of liquor other than a type of liquor."; and

(c) by omitting from sub-section (2) "sub-section (1)(b)" and substituting "sub-section (1)(b) or (1)(c)".

18. NOTICE OF DECLARATION

(1) Section 82(2)(a) of the Principal Act is amended by inserting after paragraph (a) the following new paragraph:

"(aa) if the restricted area is restricted in respect of liquor other than a type of liquor - a statement to that effect identifying the type of liquor;"

19. COMMISSION MAY GRANT PERMITS

Section 87 of the Principal Act is amended by omitting sub-section (1) and substituting:

"(1) Subject to this Part, the Commission may grant a permit to a person -

(a) who resides in; or

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(b) who is temporarily living in, or intends to temporarily live in,
a restricted area."

20. APPLICATION FOR PERMIT

Section 90(1) of the Principal Act is amended by omitting "who resides in a restricted area" and substituting "referred to in section 87(1)".

21. SALES BY PERSONS EMPLOYED BY LICENSEE

Sections 102 and 103 of the Principal Act are amended by inserting after "licensee" the words "or any person employed by a licensee".

22. PERSONS ON LICENSED PREMISES AFTER HOURS

Section 104 of the Principal Act is amended -

(a) by omitting from sub-section (2) "15 minutes" and substituting "30 minutes";

(b) by omitting from sub-section (3)(e) "or"; and

(c) by adding at the end of sub-section (3) the following paragraph:

"; or

(g) a person authorized by the Commission, either on application or on the motion of the Commission, to enter licensed premises."

23. SALE OF LIQUOR TO MINORS

Section 106 of the Principal Act is amended -

(a) by omitting from sub-section (1) "A licensee shall not" and substituting "Subject to this section, a licensee or any person employed by a licensee shall not";

(b) by inserting in sub-section (3) after "A licensee" the words "or a person employed by a licensee"; and

(c) by adding at the end the following sub-section:

"(4) This section does not apply to the sale or supply of liquor to a person who is under the age of 18 years if -

(a) the person is in the company of his parent, guardian or spouse (who is over the age of 18 years); and

(b) the liquor is sold or supplied in conjunction with or ancillary to a meal supplied by the licensee."

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24. MINORS NOT TO BUY OR CONSUME LIQUOR AT LICENSED PREMISES

Section 118 of the Principal Act is amended by omitting "at licensed premises" and substituting "at licensed premises unless he is in the company of his parent, guardian or spouse (who is over the age of 18 years) and he purchases or consumes the liquor in conjunction with or ancillary to a meal supplied by the licensee."

25. POWER TO EXCLUDE OR REMOVE PERSON FROM LICENSED PREMISES

Section 121 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-sections:

"(1) A licensee shall exclude or remove a person, not being a bona fide resident of his licensed premises, from his licensed premises if the person is intoxicated, violent, quarrelsome, disorderly or incapable of controlling his behaviour.

"(1A) A licensee may exclude or remove a person -

- (a) from his licensed premises if the presence or continued presence of the person on or at the premises would or might render the licensee liable to a penalty under this Act or any other law of the Territory; and
- (b) who is a bona fide resident of his licensed premises, from his licensed premises if the person is intoxicated, violent, quarrelsome, disorderly or incapable of controlling his behaviour."

26. OFFENCES, PENALTIES, &c.

Section 124 of the Principal Act is amended -

- (a) by inserting in sub-section (1) after "or the regulations" the words "or a lawful requirement made pursuant to this Act"; and
- (b) by inserting in sub-section (2) after "the regulations" (first occurring) the words "or a lawful requirement made pursuant to this Act".

27. NEW SECTION

The Principal Act is amended by inserting after section 124 the following section:

"124A. AVERMENTS IN COMPLAINTS

"In any proceedings for an offence against this Act or the regulations an averment by the prosecutor in a complaint or information that -

- (a) a specified person was or was not, at a specified time, the holder of a licence;
- (b) specified premises were or were not, at a specified time, licensed premises; or

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(c) a specified liquid is or is not liquor, or is or is not a type of liquor,
is evidence of the facts averred."
