

NORTHERN TERRITORY OF AUSTRALIA

LIQUOR AMENDMENT BILL 1991

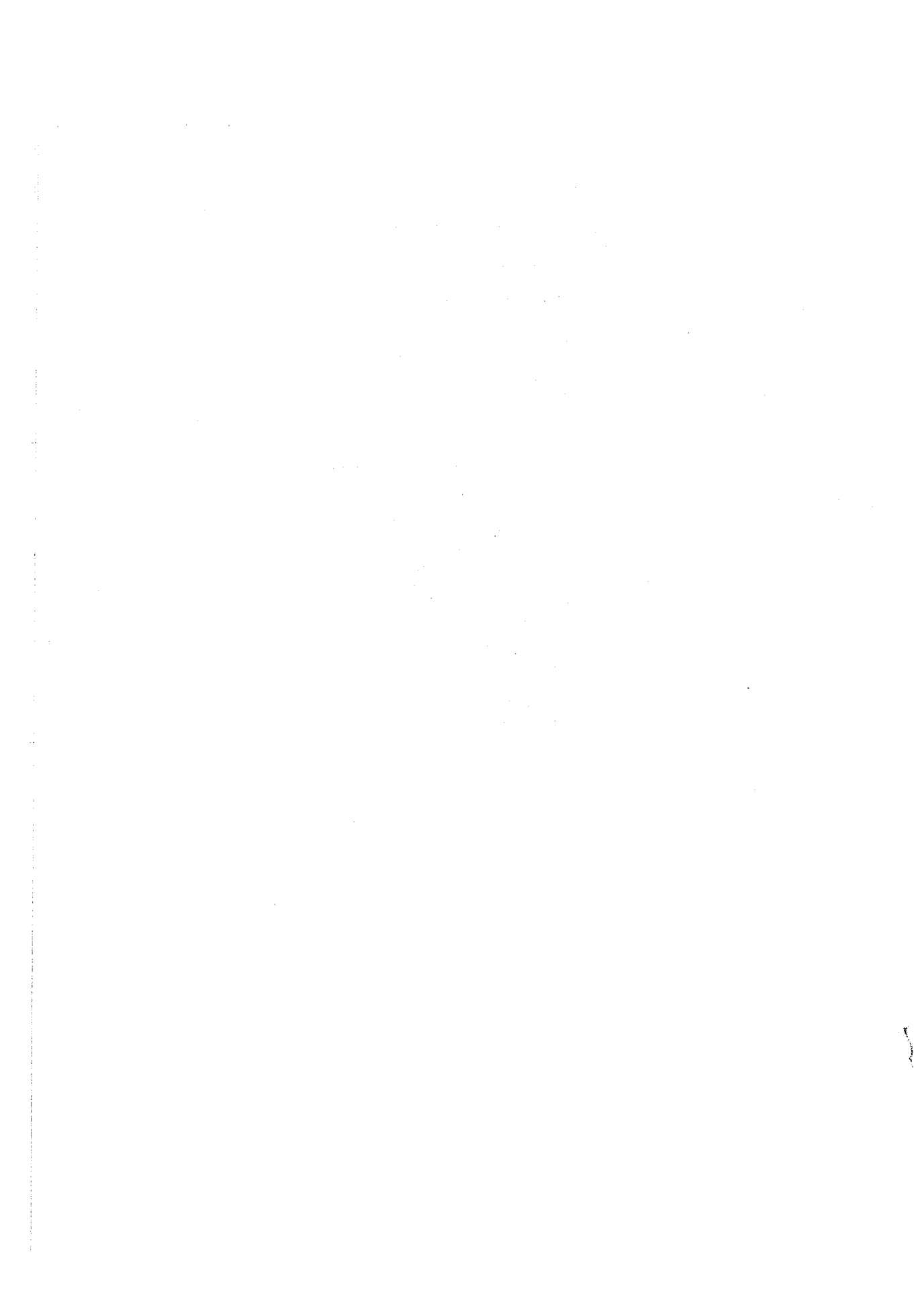
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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the Liquor Act

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 Amendment Act 1991*.

2. COMMENCEMENT

This Act shall come into operation on 1 July 1991.

3. PRINCIPAL ACT

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

4. DEFINITIONS

Section 4 of the Principal Act is amended -

- (a) by omitting the definitions of "Chairman" and "Commission" and substituting the following:

"'Chairman' means the Chairman of the Commission appointed under section 7 and includes a person appointed under section 8 to act as the Chairman while so acting;

"'Commission' means the Liquor Commission established by section 6;"

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(b) by omitting from the definition of "licence" the words "and includes a renewal of a licence"; and

(c) by omitting the definition of "Southern Region".

5. NEW DIVISION

The Principal Act is amended by inserting, in Part II after the heading, the following:

"Division 1 - Liquor Commission

"6. LIQUOR COMMISSION

"(1) There is established by this Act the Liquor Commission.

"(2) The Commission -

(a) is a body corporate with perpetual succession;

(b) shall have a common seal; and

(c) is capable, in its corporate name, of acquiring, holding and disposing of real (including leasehold) and personal property and of suing and being sued.

"(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall assume that it was duly affixed.

"(4) The Commission is a prescribed statutory corporation within the meaning and for the purposes of the *Financial Administration and Audit Act*.

"(5) The Commission is a prescribed authority within the meaning and for the purposes of the *Public Service Act*.

"7. COMPOSITION OF COMMISSION

"(1) Subject to this Act, the Commission shall consist of the following members appointed by the Minister:

(a) the Chairman, who shall be an employee within the meaning of the *Public Service Act*;

(b) a legal practitioner who has had not less than 5 years experience as a solicitor or barrister in the Territory or in a State or another Territory of the Commonwealth; and

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(c) 3 other members.

"(2) The exercise of the powers or the performance of the functions of the Commission shall not be affected by reason only of there being a vacancy in the office of a member.

"8. ACTING CHAIRMAN

"(1) Where the Chairman is, or is expected to be, absent from duty or from the Territory, the Minister may, by instrument in writing, appoint an employee, within the meaning of the *Public Service Act*, to act as the Chairman during that absence.

"(2) The Minister may, at any time, terminate an appointment made under subsection (1).

"(3) A person appointed under subsection (1) to act as the Chairman has all the powers, functions and duties conferred or imposed on the Chairman whether under this Act or under any other Act.

"(4) The validity of a decision of the Commission shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under subsection (1) had not arisen or that an appointment under that subsection has ceased to have effect.

"9. DUTIES OF CHAIRMAN

"The Chairman shall, in accordance with the decisions and subject to the directions of the Commission, administer the affairs of the Commission.

"10. TENURE OF OFFICE

"(1) Subject to this Division, a member, other than the Chairman, shall be appointed for a period not exceeding 3 years, but is eligible for reappointment.

"(2) Notwithstanding subsection (1), unless a member sooner vacates office or is removed from office under this Division, the member shall continue in office until a successor is appointed.

"11. RESIGNATION AND DISMISSAL OF MEMBERS

"(1) A member may resign from office by writing signed by the member and delivered to the Minister.

"(2) The Minister may, at any time, terminate the appointment of the Chairman.

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"(3) The Minister may remove a member from office for inability, inefficiency, misbehaviour or physical or mental incapacity.

"(4) Where a member -

- (a) is absent, except on leave granted by the Minister, from 3 consecutive meetings of the Commission; or
- (b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of the member's remuneration for their benefit,

the Minister shall terminate the appointment of the member.

"12. LEAVE OF ABSENCE

"The Minister may grant leave of absence to a member.

"13. MEETINGS

"(1) The Chairman shall convene such meetings of the Commission as are necessary for the exercise of its powers and the performance of its functions under this or any other Act.

"(2) At a meeting of the Commission -

- (a) the Chairman shall preside;
- (b) the Chairman and 2 other members constitute a quorum;
- (c) questions arising shall be determined by a majority of the votes of the members present and voting and, in the event of an equality of votes, the Chairman shall have a casting vote; and
- (d) subject to this Act, the Commission shall determine its own procedures.

"(3) The Commission shall keep records of its meetings.

"13A. PROTECTION OF MEMBERS, &c.

"No action or proceeding, civil or criminal, shall lie against the Commission, the Chairman or a member for or in respect of an act or thing done or omitted to be done whether under this or any other Act, in good faith by the Commission, the Chairman or a member.

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"13B. DEPUTIES OF MEMBERS

"(1) The Minister may appoint a person to be the deputy of a member (other than of the Chairman).

"(2) A deputy appointed under subsection (1) shall, in the event of the absence from a meeting of the Commission of the member for whom the person is the deputy, be entitled to attend that meeting and when so attending, shall be deemed to be a member both for the purposes of this Act and for the purposes of the *Remuneration (Statutory Bodies) Act*.

"(3) An act done by a deputy appointed under subsection (1) as a deputy shall not, in any proceedings, be questioned on the ground that the occasion for the exercise of any powers or the performance of any functions did not arise or had ceased.

"(4) A person appointed as a deputy under subsection (1) of a member referred to in section 7(1)(b) shall be a person who is a legal practitioner who has had not less than 5 years experience as a solicitor or barrister in the Territory or in a State or another Territory of the Commonwealth.

"13C. DISCLOSURE OF INTEREST

"(1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons and of which he or she is not a director, shall, as soon as practicable after the relevant facts have come to the attention of the member, disclose the nature of the interest at a meeting of the Commission.

"(2) A disclosure under subsection (1) shall be recorded in the minutes of the Commission, and the member making the disclosure shall -

- (a) not, while the member has that interest, take part after the disclosure in any deliberation or decision; and
- (b) be disregarded for the purpose of constituting a quorum,

of the Commission in relation to that matter."

6. PROCEDURE AT HEARING

Section 51(2A) of the Principal Act is amended by omitting "the *Racing, Gaming and Liquor Commission Act*" and substituting "section 13(2)".

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7. TRANSITIONAL AND SAVINGS

(1) In this section -

"Liquor Commission" means the Liquor Commission established by section 6 of the Principal Act (as inserted by section 5 of this Act);

"Old Commission" means the Racing, Gaming and Liquor Commission established by the *Racing, Gaming and Liquor Commission Act* as it is constituted under section 5(3) of that Act.

(2) The Chairman of the Old Commission shall, on the commencement of this Act, be the Chairman of the Liquor Commission.

(3) The members constituting the Old Commission as at the commencement of this Act shall go out of office at that time but are eligible for reappointment to the Liquor Commission.

(4) Any matter or thing before the Old Commission and not determined as at the commencement of this Act shall be determined by the Liquor Commission.

(5) On the commencement of this Act, in respect of the exercise of the powers and the performance of the functions of the Old Commission -

(a) any levy, fee, charge, interest, debt, or money payable to the Old Commission shall become payable to and be recoverable by the Liquor Commission;

(b) all liabilities, contracts, and engagements, and all rights and authorities of any nature whatever of the Old Commission shall become liabilities, contracts, engagements, rights and authorities of the Liquor Commission; and

(c) all rights, authorities and licences granted or issued by the Old Commission shall continue in force on the same terms and conditions on which they were granted or issued or on which they arose as if such rights, authorities and licences had been granted or issued by the Liquor Commission.

(6) All estates and interests in property, real and personal, and rights (except property mentioned in subsection (5)) held by the Old Commission immediately before the commencement of this Act that are required for the purposes of the operation of the Liquor Commission

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shall, by virtue of this section and without further assurance, vest in the Liquor Commission subject to any liabilities, charges, obligations or trusts affecting the estates or interests, and the Liquor Commission shall have all powers necessary to take possession of and deal with such property.

(7) The Old Commission is and shall be deemed to have always been a prescribed authority within the meaning of and for the purposes of the *Public Service Act*.

