

2016

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

ATTORNEY-GENERAL AND MINISTER FOR JUSTICE

LIQUOR AMENDMENT BILL 2016

SERIAL NO. 13

EXPLANATORY STATEMENT

GENERAL OUTLINE

This Bill addresses an anomaly in the *Liquor Act* with respect to the ability to apply for variations to conditions on liquor licences.

The Bill makes clear that the Director-General cannot approve an application by a store licence holder to vary the conditions or type of licence where such variation would have an effect to permit the sale of liquor for consumption away from the licensed premises on a day on which that is not permitted under the licence as in force immediately prior to the application for variation.

NOTES ON CLAUSES

Part 1 Preliminary Matters

Clause 1. Short title

This is the formal clause, which provides for the citation of the Bill.

The Bill when passed may be cited as the *Liquor Amendment Act 2016*.

Clause 2. Commencement

Clause 2 provides for the commencement of the Act on 30 November 2016, being the date of the introduction of the Bill in the Legislative Assembly.

Clause 3. Act amended

This clause provides for this Act to make amendments to the *Liquor Act*.

Clause 4. Section 32A amended

Clause 4(1) omits current section 32A(1A) in the *Liquor Act*.

Clause 4(2) inserts new subsection (7A) which provides that, despite the Director-General having the authority under section 32A(7) to vary or refuse an application for variation of licence conditions under section 32A(1), after considering the application having regard to the objects of the *Liquor Act* (refer section 3), the Director-General cannot vary the conditions of a store licence in a way that would permit the sale of the liquor for consumption away from the licensed premises on a day on which that is not permitted under the licence as in force immediately before the application for the variation was made.

This means that a store licensee, who currently is not permitted to trade on a particular day, such as Sunday, cannot be granted a variation to their licence conditions that would permit that licensee to otherwise trade on that day.

Clause 4(2) also inserts a new subsection (7B) to provide that, in addition, the Director-General cannot vary a store licence in a way that would change the licence to a type of licence that would permit the sale of liquor for consumption away from the licensed premises on a day on which that is not permitted under the licence as in force immediately before the application for the variation was made.

This means that a store licensee who is currently not permitted to trade on a particular day, such as Sunday, cannot apply to vary the type of licence that would then permit that licensee to otherwise trade on that day.

These restrictions apply to store licences in force before and after the commencement of the new provisions.

New section 32(7C) also provides that the restrictions on variations apply whether the application was made before or after the commencement of the *Liquor Amendment Act 2016*. However, the restrictions do not apply to overturn an existing variation to a licence made prior to the commencement of the *Liquor Amendment Act 2016*.

Clause 4(3) omits the reference to the *Gaming and Liquor Legislation Amendment Act 2015* and inserts the reference to *Liquor Amendment Act 2016* for the purposes of considering the definition of “commencement”.

Clause 5. Part XXII inserted

Clause 5 inserts a new Part XXII after section 164 providing for transitional provisions for the Bill.

Part XXII – Transitional matters for Liquor Amendment Act 2016**Section 165 Application not determined**

New section 165 applies to an existing application under section 32A(1) for variation of the conditions of a store licence that would have an effect of permitting the sale of takeaway liquor on a day that is otherwise not permitted under the licence as in force immediately before the application was made.

Where such an application for variation has not been decided as at the commencement of the *Liquor Amendment Act 2016*, subclause (2) provides the application is taken to have been rejected.

Subclause (3) provides that there is no right of review in a matter that is taken under this section to have been rejected.

Subclause (4) confirms that, for the purposes of considering “commencement”, commencement means the commencement of the *Liquor Amendment Act 2016*.

Clause 6. Expiry of Act

This is a standard clause which provides that the *Liquor Amendment Act 2016* expires the day after it commences. As this is an amending Act, there is no need to retain the Act on the statute book, once all the amendments have been effected.