

Serial 124
Liquor Amendment Bill 2020
Ms Fyles

A Bill for an Act to amend the *Liquor Act*
2019

NORTHERN TERRITORY OF AUSTRALIA

LIQUOR AMENDMENT ACT 2020

Act No. [] of 2020

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2020

An Act to amend the *Liquor Act 2019*

[Assented to [] 2020] [Introduced [] 2020]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Liquor Amendment Act 2020*.

2 Commencement

This Act commences on the day after the day on which the Administrator's assent to this Act is declared.

3 Act amended

This Act amends the *Liquor Act 2019*.

4 Division 4A inserted

After section 60(5)(b)

insert

Division 4A **Minister's power to issue a licence and authorities for significant development proposals**

60A **Minister's power to issue a licence and authorities for significant development proposals**

(1) Subject to subsection (5), the Minister may issue a licence and one

or more authorities to any person on such terms and conditions as the Minister thinks fit.

- (2) When considering whether to issue a licence and one or more authorities to any person under subsection (1), the Minister must consider the purposes of the Act in section 3.
- (3) The Minister's power under subsection (1) is not subject to or limited by any of the requirements of Part 3 Division 4, Part 3 Division 5 and section 84 of this Act.
- (4) For the avoidance of doubt, the Minister may exercise the power under subsection (1) notwithstanding that:

 - (a) there is no application under section 52;
 - (b) the Minister has not notified any person (including any person who may be adversely affected by the issue of the licence and one or more authorities) that the Minister is considering exercising the power under subsection (1);
 - (c) the person in whose favour the Minister proposes to issue the licence and one or more authorities has not satisfied the Minister or any other person of any matter or thing (including any matter or thing specified in Part 3 Division 4);
 - (d) the issue of the licence and one or more authorities may be contrary to any of the limits specified in section 84, including but not limited to the moratorium in section 84(3);
 - (e) the issue of the licence and one or more authorities may be contrary to or inconsistent with a decision of the Director or the Commission whether under this Act or the *Liquor Act 1978*; or
 - (f) the premises proposed to be licensed which are not yet constructed or are still under construction.
- (5) The Minister's power under subsection (1) may only be exercised in relation to a significant development proposal.
- (6) For the purposes of this section, **significant development proposal** means a proposal in relation to premises which are proposed to be licensed under this Act which the Minister certifies as being, in the opinion of the Minister, of such a nature and scale as to be important to the Northern Territory for economic or social reasons.
- (7) The Minister must table in the Legislative Assembly within 6 sitting

days after making a decision under sub-section 1:

(a) a copy of the Minister's certification of a significant development proposal under subsection (6); and

(b) any decision to issue a licence and one or more authorities to any person under subsection (1).

(8) For the avoidance of doubt, any certification or decision by the Minister under this section is not reviewable by the Director, the Commission or NTCAT.

54 Section 75 amended (Substitution of premises)

Section 75(2)

omit, insert

(2) Despite subsection (1), instead of issuing a new licence the Commission may, on application by the licensee, amend a licence to substitute other premises for the licensed premises if satisfied that the substitution satisfies the public interest and community impact requirements.

(2A) To avoid doubt, the Commission may, under subsection (2):

(a) impose conditions on the substitution; and

(b) substitute premises that are not yet constructed or are still under construction.

(2B) To avoid doubt, nothing in section 84(3) limits or in any way affects:

(a) the power of the Commission to grant an application under subsection (2); or

(b) the circumstances in which an application under subsection (2) should be granted.

65 Section 322 replaced

omit, insert

Subject to s326(12), in this Part:

commencement means the commencement of section 321.

7 Section 324(2) replaced

Section 324(2)

omit, insert

- (2) A licence or special licence issued under the *Liquor Act 1978*:
 - (a) expires on the date it is converted under subsection (5) or (6); or
 - (b) if not converted by 1 October 2020, will be temporarily suspended by the Director, until it is converted under subsection (5) at which time the licence or special licence will immediately cease to be suspended.

8 Section 326 replaced

Section 326

repeal, insert

326 Substitution of licensed premises

- (1) This section applies to the following applications for the substitution of licensed premises (each a ***Substitution Application***):
 - (a) an application made under section 46A of the Liquor Act 1978 during the period from 27 February 2018 to 30 September 2019;
 - (b) an application made under section 75 of this Act during the period from 1 October 2019 to the commencement.
- (2) A Substitution Application that is not determined by the Commission before the commencement is to proceed and be determined under section 75(2) and (2A) of this Act, as in force after the commencement.
- (3) A Substitution Application that was determined by the Commission before the commencement cannot be resubmitted to the Commission for a determination under section 75(2) and (2A).
- (4) If a Substitution Application was refused by the Commission before the commencement, the licensee may apply to NTCAT for a ~~rehearing~~ review of the Commission's decision in accordance with section 75(2) and (2A).
- (5) The licensee may apply for a review under subsection (4) even if the refusal of the application was reviewed or otherwise determined (including, without limitation, on the basis that NTCAT or the Commission did not have jurisdiction) by NTCAT before the commencement.
- (6) An application for review by NTCAT under subsection (4) must be made within the later of the following:
 - (a) 28 days after the commencement;

- (b) a period or day specified by NTCAT or the Supreme Court.
- (7) Where an application is made to NTCAT in accordance with subsection (4):
- (a) NTCAT must proceed to review the application;
 - (b) NTCAT must review the application despite any earlier decision of NTCAT in relation to the Substitution Application and as if such decision had not been made;
 - (c) NTCAT has the power to grant the application subject to conditions in accordance with section 75(2A)(a); and
 - (d) after reviewing the decision, NTCAT must proceed to:
 - (i) confirm the Commission's decision; or
 - (ii) vary the Commission's decision; or
 - (iii) substitute its own decision; or
 - (iv) make a different decision permitted by Liquor Act 1978 (as modified by this section).
- (8) Where an application is made to NTCAT in accordance with subsection (4) in respect of a Substitution Application of the kind described in subsection (1)(a):
- (a) NTCAT must review the application as if, at all relevant times:
 - (i) sections 75(2) and 75(2A) of the Liquor Act 2019 as in force after the commencement governed the application in lieu of section 46A(1) of the Liquor Act 1978; and
 - (ii) the provisions of the Liquor Act 1978 as in force as at the date of the original application under s 46A(1) of the Liquor Act 1978 otherwise applied (including, without limitation, the subsections of section 46A other than section 46A(1)).
 - (b) NTCAT must review the application as if, at the time the Commission determined the relevant Substitution Application under s 46A of the Liquor Act 1978:
 - (i) the Commission was required to apply sections 75(2) and 75(2A) of the Liquor Act 2019 as in force after the commencement in lieu of section 46A(1) of the Liquor Act 1978; and

- (ii) the Commission was otherwise required to apply the provisions of the Liquor Act 1978 as in force as at the date of the Substitution Application (including, without limitation, the subsections of section 46A other than section 46A(1)).
- (c) NTCAT must review the Commission's decision as if section 24(2) of the Liquor Act 1978 Act did not limit or in any way affect:
 - (i) the power of NTCAT to grant the application; or
 - (ii) the circumstances in which it should grant the application;
- (9) For the purpose of the [review under subsection \(4\) rehearing](#), an applicant may adduce evidence and material before NTCAT ~~evidence and material~~ that was [not](#) before the Commission.
- (10~~8~~) Except as otherwise provided by this section, a review by NTCAT under subsection (4) is otherwise to proceed as if the decision of the Commission under review was a reviewable decision [under Part 3, Division 3, Subdivision 4 of the Northern Territory Civil and Administrative Tribunal Act 2014](#).

~~This section has effect despite any law of the Territory or decision of NTCAT or the Supreme Court to the contrary.~~

- (11) Nothing in this section prevents an applicant from making a new application under section 75(1) of the *Liquor Act 2019*.

- (12~~9~~) In this section:

commencement means the commencement of section 5 of the *Liquor Amendment Act 2020*.

reviewable decision has the same meaning as that term in the *Northern Territory Civil and Administrative Act 2014*

96 Repeal of Act

This Act is repealed on the day after it commences.