

**National Competition Policy (NCP) *Liquor Act* Review Report  
Recommendations and Northern Territory Government Response**

RECOMMENDATION IN THE NCP REVIEW REPORT	GOVERNMENT RESPONSE
<p>1. Objectives of the <i>Liquor Act</i></p> <p>It is recommended that a licensing system of regulation be retained as it is the most appropriate means of ensuring the objectives of the Act are implemented and enforced.</p> <p>As the Act does not include an express list of objectives, it is recommended that the following objectives be incorporated in the Act:</p> <p>(i) The primary objective of the <i>Liquor Act</i> is to minimise the harm associated with the consumption of liquor by encouraging responsible attitudes that reflect community expectations towards the promotion, sale, supply, consumption and use of alcohol;</p> <p>Further objects are:</p> <p>(ii) To promote the sale and supply of alcohol in such ways as to contribute to, and not detract from, the amenity of community life;</p> <p>(iii) To facilitate the development of a diversity of licensed premises and related services for the benefit of the community; and</p> <p>(iv) To regulate the liquor industry in a manner that contributes to the optimum responsible development of the liquor, hospitality and tourism industries in the Northern Territory.</p>	<p>Accept with the following modifications to the Objectives:</p> <p>(i) The primary object of this Act is to regulate the promotion, sale, supply and consumption of alcohol so associated harms are minimised and potential individual and community benefits are optimised.</p> <p>Further objects are:</p> <p>(ii) To protect and enhance community amenity, social harmony and well-being through the responsible sale, supply and consumption of alcohol.</p> <p>(iii) To manage the development of a diversity of licensed outlets and associated services for the benefit of the community.</p> <p>(iv) To regulate the provision of alcohol in a way that contributes to the proper and responsible development of the liquor and associated industries in the Northern Territory.</p> <p>NOTE: The final Government response may have a slightly different wording following further discussions with NT Government agencies.</p>

<p>2. Section 25(1) be amended to read:  “A body corporate shall not hold a licence unless that body corporate is a corporation within the meaning of the <i>Corporations Act 2001</i>”.</p> <p>Note: This recommendation has already been actioned via the Corporations Reform (Consequential Amendments NT) Act 2001 which updated references in NT legislation to the new Corporations Act 2001.</p>	Accept (already actioned)
<p>3. The restriction on a licensee whose licence has been cancelled by the Licensing Commission applying for a new licence within 3 years of the cancellation without permission of the Commission, and the restriction on the use of the premises the subject of a cancellation under section 26A is a duplication of other provisions of the Act, is unnecessarily restrictive and should be repealed.</p>	Accept
<p>4. The restriction requiring an applicant who is a natural person, and persons with an interest in the applicant that is a body corporate, demonstrate they are a “fit and proper” person to hold, or maintain an interest in, a liquor licence under section 28 should be maintained but reworded to more closely mirror the broader requirements contained under section 25 of the <i>Gaming Machine Act</i>.</p>	Accept
<p>5. The restriction that a licence application can be refused on grounds contained under section 29 of the Act be maintained, subject to legislative changes required to bring the restriction in line with other recommended changes contained in the Review that impact directly on the application of the restriction. Those changes are:</p> <ul style="list-style-type: none"> <li>• That the Commission may only consider issues related to the objects of the Act in determining whether premises are suitable for the proposed purpose but may not consider other issues such as town planning.</li> </ul>	Accept
<p>6. The restriction allowing forced exit from the liquor industry through licence cancellation or suspension under section 30 should be retained. No legislative change is required.</p>	Accept

<p>7. The restriction allowing the Licensing Commission to place conditions deemed necessary or desirable in the public interest to an individual licence application under section 31 should be retained, subject to the following legislative amendment:</p> <ul style="list-style-type: none"> <li>• That the Licensing Commission should be tasked with establishing specific licence categories for each type of licensed activity under the Act;</li> <li>• That the Licensing Commission formulate general conditions that should attach to each licence category, including hours of trade and general licensing requirements; and</li> <li>• That the system of applying conditions to individual licence applications be limited to address public interest issues in the affected community, as expressed in concerns raised in bona fide objections to the granting of the liquor licence.</li> </ul>	Accept
<p>8. The restriction on the number and types of licensed premises in any given area under section 32 should be amended by deleting the current criteria and inserting criteria addressing the “public interest” when determining whether or not a liquor licence should be issued.</p>	Accept
<p>9. The restriction that the Licensing Commission can impose further conditions on existing licenses under section 33 should be amended to include the right of a licensee to apply to the Commission to vary the conditions or type of licence issued, subject at all times to the public interest.</p>	Accept
<p>10. Division 3 of Part III of the Act that relates to prescribed fees be repealed.</p>	<p>Accept as current provisions relate to liquor tax which ceased to be collected following 1997 High Court decision regarding business franchise fees and excise. Formal repeal of those provisions is appropriate.</p> <p>An appropriate regulatory fee regime should be considered as part of the development of a Alcohol Framework.</p>
<p>11. The restriction on the transfer of a liquor licence under section 40 should be amended to include that the Licensing Commission shall have regard to the public interest in authorising any application for the transfer of a liquor licence.</p>	Accept
<p>12. The restriction that a person seeking to obtain or acquire a beneficial interest in an existing liquor licence be a “fit and proper person” under section 41 should be maintained, subject to the recommendations in respect to sections 28 and 32.</p>	Accept
<p>13. The restriction on the transfer of a licence in circumstances as set out in section 43 should be retained. No legislative change is required.</p>	Accept
<p>14. The restriction on the substitution of premises from which a licensee can operate under</p>	Accept

<p>section 46A be maintained, subject to an amendment that:</p> <ul style="list-style-type: none"> <li>• a properly submitted application will be approved by the Licensing Commission without further consideration where no objections to the application have been lodged; and</li> <li>• an application that attracts objections shall be dealt with under the procedures proposed in the amendments to section 48 of the Act.</li> </ul>	
<p>15. The restriction requiring the appointment of a temporary licensee under section 47 where the licensee is unable to conduct the business should be maintained. No legislative change is required.</p>	Accept
<p>16. The restriction under section 47C on who can apply to carry on the business of a deceased licensee should be retained. No legislative change is required.</p>	Accept
<p>17. The restriction under section 47D on who can apply to carry on the business of a bankrupt licensee should be retained. No legislative change is required.</p>	Accept
<p>18. The restriction prohibiting a person nominated under sections 47C and 47D from selling, or cancelling a liquor licence to which those sections relate, under section 47E, should be repealed. Section 47E should therefore be amended by deleting sub-section (3) of section 47E.</p>	Accept
<p>19. The restriction allowing the Commission to cancel a licence under the circumstances set out in section 68 to 72 should be maintained. No legislative change is required.</p>	Accept
<p>20. The restriction that requires liquor wholesalers to be registered if they are not licensed should be retained. No legislative change is required.</p>	Accept
<p>21. The restriction prohibiting a person from selling liquor without a licence under section 115 should be retained. No legislative change is required.</p>	Accept
<p>22. Section 119 should be amended by:</p> <ul style="list-style-type: none"> <li>• inserting a clause defining a “material alteration” to be an alteration that affects the harm minimisation or public amenity objects of the Act, or which increases or decreases the actual area of licensed premises that is utilised by the public for the sale or consumption of alcohol; and</li> <li>• The process for an application for a “material alteration” include a requirement for the application to be advertised at the discretion of the Licensing Commission.</li> </ul>	Accept
<p>23. The restriction in section 44 on a licensee seeking to transfer a liquor licence should be retained. No legislative change is required.</p>	Accept

24. The restriction in relation to objections against new licence applications and complaints against the operations of current licenses be retained. No legislative change is required.	Accept
25. The restriction that the Commission may amend or alter a liquor licence that has been the subject of a breach under section 49(4) should be retained. No legislative change is required.	Accept
26. The restriction that a licensee may be directed to perform, or refrain from performing, a specified action under section 65 should be retained. No legislative change is required.	Accept
27. The restriction on the sale, supply and possession of liquor in restricted areas under Part VIII of the Act should be maintained, subject to the following legislative amendments: <ul style="list-style-type: none"> <li>• Sections 78-80 be amended to include objections to restricted area applications;</li> <li>• Section 81 be amended to include consideration of the public interest; and</li> <li>• A new provision be made for forfeiture of vehicles in cases where: <ul style="list-style-type: none"> <li>(i) an offender who owns the vehicle fails to appear before the courts on the date allotted to answer charges in relation to the seizure of the vehicle; or</li> <li>(ii) the owner of a vehicle seized from a 3<sup>rd</sup> party against whom a prosecution has been commenced, has not made application for the return of that vehicle within 30 days of the vehicle being seized.</li> </ul> </li> </ul>	Accept.  Due to the need for further consultation with Indigenous communities and organisations, the amendment to Sections 78-80 concerning objections to restricted area applications will be deferred. Further input on this matter will occur through the Alcohol Framework project.
28. The restriction that a licensee must adhere to the conditions of that licence under section 110 should be maintained, subject to the proposals put forward earlier in the Review with regards to the use of generic licensing categories and uniform conditions for like licences.	Accept
29. The restriction allowing the Administrator to make regulations with respect to the operation of liquor licences be maintained.  The recommendation concerning Regulation 4 as it relates to the prohibition on liquor stores and supermarkets to trade on Sundays has been extracted from this document.	Accept recommendation to retain ability for Administrator to make regulations.  Defer decision regarding Sunday takeaway-trading (Regulation 4) pending the outcomes associated with the development of a comprehensive Alcohol Framework.  Note: The Minister for Racing, Gaming and Licensing announced on 3 April 2003, the Government's Five Point Plan to address liquor issues. As part of the Five Point Plan, it was announced that the current arrangements for takeaway liquor sales on Sundays would be maintained pending the development of the comprehensive whole-

of-Government Alcohol Framework.

This will enable further consultation with affected and interested parties before a final decision is made.