



ANALYSIS

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1994, No. 38

An Act to amend the Hotel Association of New Zealand Act 1969

[1 July 1994]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Hotel Association of New Zealand Amendment Act 1994, and shall be read together with and deemed part of the Hotel Association of New Zealand Act 1969 (hereinafter referred to as the principal Act).

2. Interpretation—The principal Act is hereby amended by repealing section 2, and substituting the following section:

“2. In this Act, unless the context otherwise requires,—

“‘Association’ means the Hotel Association of New Zealand established by this Act:

“‘Disciplinary Committee’ means the Disciplinary Committee of the Association:

“‘Hotel’ means any premises used or intended to be used in the course of business principally for the provision to the public of—

“(a) Lodging; and

“(b) Liquor, meals, and refreshments for consumption on the premises:

“ ‘Hotel industry’ includes the business of operating hotels, taverns, and tourist-houses; and includes any other business or activity that may lawfully be conducted in conjunction therewith:

“ ‘Minister’ means the Minister of Justice:

“ ‘Tavern’ means any premises used or intended to be used in the course of business principally for the provision to the public of liquor and other refreshments; but does not include an airport bar:

“ ‘Tourist-house’ means a hotel in which liquor is sold to members of the public only if they are lodging on the premises, or are on the premises for the purpose of having a meal.”

3. Constitution of Hotel Association of New Zealand—

(1) Section 3 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Every person (including a body corporate, but excluding a licensing trust and an employee of a licensing trust) who is the holder of—

“(a) An on-licence; or

“(b) An off-licence; or

“(c) A general manager’s certificate—

granted under the Sale of Liquor Act 1989 in respect of a hotel, a tavern, or a tourist-house, is eligible to be a member of the Association.”

(2) Section 3 (3) of the principal Act is hereby amended by inserting, before the word “manager’s”, the word “general”.

4. Transitional provision as to membership—

Notwithstanding the provisions of section 3 (2) of the principal Act (as substituted by section 3 of this Act), any person who was a member of the Association immediately before the commencement of this Act shall, subject to this Act, be deemed to continue to be a member after the commencement of this Act.

5. Right to elect against membership—Section 4 of the principal Act is hereby repealed.

6. Administration of the Association—(1) Section 5 (1) of the principal Act is hereby amended by omitting the words “an Executive Council”, and substituting the words “a Board of Management”.

(2) Section 5 of the principal Act is hereby further amended by repealing subsection (2), and substituting the following subsection:

“(2) Notwithstanding anything in subsection (1) of this section, the Association’s rules may provide for delegation to a committee or to the Chief Executive, either generally or on specified occasions, of all or any of the powers of the Board of Management.”

(3) Section 5 of the principal Act is hereby further amended by omitting from subsection (3), and also from subsection (4), the words “Executive Council”, and substituting, in each case, the words “Board of Management”.

(4) Section 5 (5) of the principal Act is hereby repealed.

7. Powers of the Association—Section 6 of the principal Act is hereby amended by omitting from paragraph (c), and also from paragraph (d), the term “Executive Council”, and substituting, in each case, the term “Board of Management”.

8. Rules of the Association—(1) Section 8 (1) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) The constitution of the Board of Management and any committees of the Association:”.

(2) Section 8 (1) of the principal Act is hereby further amended by repealing paragraph (k), and substituting the following paragraph:

“(k) The admission of persons to membership of the Association and the retention of membership by persons who would otherwise cease to be members under section 3 (3) of this Act:”.

9. Constitution of Disciplinary Committee—(1) Section 9 (2) of the principal Act is hereby amended by omitting from paragraph (a), and also from paragraph (c), the words “Minister after consultation with the Association”, and substituting, in each case, the words “Board of Management”.

(2) Section 9 (3) of the principal Act is hereby amended—

(a) By omitting the word “Minister”, and substituting the words “Board of Management”:

- (b) By omitting the word “his”, and substituting the word “its”.

10. Charges before Disciplinary Committee—(1) Section 10 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Where a charge has been made to the Disciplinary Committee by any person that any person has, while a member of the Association, failed to fulfil that member’s responsibilities under any of the provisions of the Sale of Liquor Act 1989, or has committed any breach of the code of ethics or of any other rules in force under this Act, the Disciplinary Committee may, whether or not that person is still a member of the Association, inquire into the charge.”

(2) Section 10 (2) (d) of the principal Act is hereby repealed.

11. Appeal from decision of Disciplinary Committee—The principal Act is hereby amended by repealing section 12, and substituting the following section:

“12. (1) A person against whom the Disciplinary Committee makes an order or who is censured by the Disciplinary Committee under section 10 of this Act may appeal to the District Court against any finding made by the Disciplinary Committee or the order or censure.

“(2) Every appeal shall be brought within 28 days after the date on which the appellant received notification of the finding or order or censure appealed against, or within such further period as the District Court may allow.

“(3) Notice of the appeal shall be served on the Association and on the person who made the charge to which the finding or order or censure that is appealed against relates.

“(4) On any appeal to the District Court against a decision of the Disciplinary Committee, the District Court may confirm, modify, or reverse the decision of the Disciplinary Committee.

“(5) No decision of the Disciplinary Committee shall take effect while the person to whom the decision relates remains entitled to appeal against it under this section or while any such appeal by that person awaits determination by the District Court.”

12. Publication of decisions in disciplinary proceedings—(1) Section 13 (1) of the principal Act is hereby amended by omitting the words “an appeal tribunal”, and substituting the words “a District Court”.

(2) Section 13 (2) of the principal Act is hereby amended by omitting the words "An appeal tribunal", and substituting the words "A District Court".

13. Section empowering Association to apply for suspension or cancellation of certain licences or certificates repealed—Section 18 of the principal Act is hereby repealed.

14. Jurisdiction of other authorities not to be limited—The principal Act is hereby amended by repealing section 20, and substituting the following section:

"20. Except as expressly provided in this Act, nothing in this Act shall be construed to limit the jurisdiction of any Court or of the Licensing Authority or any District Licensing Agency, or to limit the liability of any person to be prosecuted for any offence against the Sale of Liquor Act 1989 or any other enactment."

This Act is administered in the Department of Justice.
