



ANALYSIS

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1984, No. 18

An Act to amend the Local Government Act 1974

[14 December 1984

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Local Government Amendment Act 1984, and shall be read together with and deemed part of the Local Government Act 1974 (hereinafter referred to as the principal Act).

2. Prohibition of vehicles and consumption or possession of intoxicating liquor in public place—The principal Act is hereby amended by inserting, after section 709 (as enacted by section 2 of the Local Government Amendment Act 1979), the following heading and section:

“Prohibition of Vehicles and Consumption or Possession of Liquor in Public Places

“709A. (1) In addition to the powers conferred on the council by sections 319, 342, and 366 (2) of this Act or by regulations made pursuant to section 77 (1) (u) of the Transport Act 1962, the council may, in any case where it considers that on the occasion of the holding in any public place or part of a public place (in this section referred to as the specified public place) of any public event, function, or gathering,—

- “(a) The use of ordinary vehicular traffic in the specified public place should be prohibited; or
- “(b) The consumption of liquor in the specified public place during that period or those periods, the bringing of liquor or empty liquor containers into the specified public place during that period or those periods, and the possession of liquor or empty liquor containers in the specified public place during that period or those periods should be prohibited; or
- “(c) That both the prohibition referred to in paragraph (a) of this subsection and the prohibitions referred to in paragraph (b) of this subsection should apply,—
the council may, not later than the day before the day of the public event, function, or gathering, but sooner so as to be able to comply with subsection (5) of this section unless the council considers there are special circumstances,—
- “(d) Prohibit the use in the specified public place of ordinary vehicular traffic for any period or periods specified in the resolution; or
- “(e) Prohibit the consumption of liquor in the specified public place during that period or those periods, the bringing of liquor or empty liquor containers into the specified public place during that period or those periods, and the possession of liquor or empty liquor containers in the specified public place during that period or those periods; or
- “(f) Do both the matters specified in paragraphs (d) and (e) of this subsection.
- “(2) The council may delegate its powers under subsection (1) of this section to any committee of the council appointed under section 104 of this Act that comprises only members of the council, but may not delegate those powers to any committee that has any members who are not members of the council or to any officer of the council under section 715 of this Act.
- “(3) No prohibition under this section shall have effect for more than 12 hours in any consecutive period of 24 hours.
- “(4) No prohibition relating to liquor under this section shall be deemed to prohibit—
- “(a) The transport of liquor from premises on land having a frontage to the specified public place during any period while pursuant to the Sale of Liquor Act 1962 liquor may lawfully be sold on those premises for consumption off the premises, provided the liquor is promptly removed from the specified public place:

“(b) The transport of liquor from outside the specified public place for delivery to premises on land having a frontage to the specified public place, being premises licensed for the sale of liquor pursuant to the Sale of Liquor Act 1962:

“(c) The transport of liquor from outside the specified public place to premises on land having a frontage to the specified public place by or for delivery to a person residing on those premises or by his bona fide visitors, or from such premises to a place outside the specified public place by a person residing on the premises, provided the liquor is promptly removed from the specified public place.

“(5) The council shall give public notice of every decision under this section in a newspaper circulating in the district on at least 3 occasions during the period of 21 days immediately preceding the day on which the prohibition or prohibitions are to have effect, or, where the prohibition or prohibitions are to have effect on 2 or more days, the first of those days.

“(6) Notwithstanding subsection (5) of this section, where it is not practicable to give any or all of the notices required by that subsection because the decision of the council was made in special circumstances within a short period before the date of the prohibition or prohibitions, the council shall comply with subsection (5) of this section so far as is practicable and shall ensure that similar notices are displayed in the specified public place and given to the public in whole or in part by such other means as the council, after consultation with the Police, considers appropriate.

“(7) Every notice required to be given or displayed under subsection (5) or subsection (6) of this section shall—

“(a) Describe clearly the specified public place and the proposed event, function, or gathering:

“(b) Specify whether or not the use of ordinary vehicular traffic is prohibited in the place, and shall specify the classes of vehicles (if any) to which the prohibition does not apply:

“(c) Specify any prohibitions relating to consumption of liquor and the bringing or possession of liquor or liquor containers that are to apply:

“(d) Specify the day or days on which any prohibition or prohibitions are to have effect, and the hours of each day during which the prohibition or prohibitions are to have effect:

“(e) Set out the powers conferred on the Police by this section:

“(f) Set out the maximum penalty for offences against this section.

“(8) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$500, who, knowing that any prohibition under subsection (1) of this section is in force in respect of the specified public place,—

“(a) Consumes liquor in the specified public place in breach of any prohibition imposed under subsection (1) of this section; or

“(b) Brings liquor or any empty liquor container into any specified public place in breach of any such prohibition; or

“(c) Is in possession of liquor or any empty liquor container in any specified public place in breach of any such prohibition; or

“(d) Drives or rides any motor vehicle, being ordinary vehicular traffic, in any specified public place in breach of any such prohibition.

“(9) Nothing in subsection (8) (d) of this section shall apply to the driving or riding of a motor vehicle by a person residing in premises on land having a frontage to the specified public place or by his bona fide visitors.

“(10) Any constable may, without warrant,—

“(a) Arrest any person whom he finds committing an offence against this section:

“(b) During the period of the prohibition or prohibitions, arrest any person whom he has reasonable cause to suspect of having committed such an offence:

“(c) But subject to subsections (11) and (12) of this section, search any parcel, package, bag, case, or other container in the possession of any person in, entering, or about to enter any specified public place in respect of which any prohibition relating to liquor under subsection (1) of this section is for the time being in force, for the purpose of ascertaining whether or not the parcel, package, bag, case, or container contains any liquor or any empty liquor container.

“(11) Before exercising the power of search conferred by subsection (10) (c) of this section, the constable shall inform the person in possession of the parcel, package, bag, case, or other container of the provisions of subsection (12) of this section, and in any case where that person is in possession of the item in the specified public place, give him a reasonable opportunity of removing the item from the specified public place.

“(12) No constable may exercise the power of search conferred by subsection (10) (c) of this section if the person in possession of the parcel, package, bag, case, or other container removes it from or, as the case may be, refrains from taking it into the specified public place and leaves it outside that public place until the period of the prohibition ceases.

“(13) Any constable may seize and remove any liquor and its container or any other liquor container that he has reasonable cause to believe would be evidence of the commission of an offence against this section.

“(14) Any liquor or container seized under subsection (13) of this section and in respect of which any person is convicted of an offence under this section, together, in the case of any liquor, with the container of the liquor, shall be deemed to be forfeited to the Crown.

“(15) In this section,—

“‘Liquor’ has the same meaning as in the Sale of Liquor Act 1962:

“‘Public place’ means any place that, at any material time, is under the control of the council and is open to or being used by the public, whether free or on payment of a charge; and includes any road whether or not it is under the control of the council:

“‘Ordinary vehicular traffic’, in relation to any specified public place, means all vehicular traffic other than traffic of any kind (if any) that pursuant to the decision of the council under subsection (1) of this section is permitted to use the specified public place during the period of the prohibition.”

Cf. 1974, No. 66, s. 346; 1978, No. 43, s. 2

3. Consequential amendment—Section 715 of the principal Act (as enacted by section 2 of the Local Government Amendment Act 1979) is hereby amended by inserting in subsection (1), after the expression “section 104 (1)”, the expression “or section 709A (1)”.

4. Repeal and revocation—(1) Section 343 of the principal Act is hereby repealed.

(2) The Local Authorities (Prohibiting Liquor in Streets and Roads) Regulations 1975 (S.R. 1975/268) are hereby revoked.