

Alcohol Advisory Council Amendment Bill

Member's Bill

As reported from the Health Committee

Commentary

Recommendation

The Health Committee has examined the Alcohol Advisory Council Amendment Bill (the bill) and recommends that it be passed with the amendments shown.

Introduction

The bill, a Member's bill in the name of Belinda Vernon, amends the Alcoholic Liquor Advisory Council Act 1976. The proposed amendments are a means to better facilitate the efficient functioning of the Alcohol Advisory Council of New Zealand (ALAC) and to bring the Act up to date.

The bill proposes to:

- change the statutory name of ALAC from the Alcoholic Liquor Advisory Council of New Zealand to the Alcohol Advisory Council of New Zealand (while retaining the acronym "ALAC")
- amend the primary objective of ALAC to remove references to the "evils" of liquor
- reduce the size of the ALAC Council from eight to six members by removing departmental members
- include a statutory requirement that the ALAC Council include at least one Māori representative, one person with

experience in the field of health and one person with experience in the field of social policy development

- clarify ALAC's role in relation to treatment programmes
- allow ALAC to address road and industrial safety issues
- allow ALAC to undertake activities that address the use of alcohol in combination with other drugs.

This commentary sets out the details of our consideration of the bill and the major issues we addressed.

ALAC's primary objective

The bill amends ALAC's primary objective. The goals of discouraging and reducing the misuse of liquor and minimising the personal, social and economic evils resulting from the misuse of liquor are replaced with the objective of developing and promoting strategies that are designed to reduce liquor-related problems in New Zealand. Most submissions on this matter support the removal of the word "evils" from the primary objective statement. We agree this change is needed as the term "evils" is associated with prohibitionist sentiment and is inconsistent with the promotion of moderate and safe use of alcohol. However, we also concur with ALAC itself that the proposed wording is somewhat bland. We consider a better approach would be to retain the substance of the present primary objective, but to replace the word "evils" with the word "harm". This is consistent with the overall policy basis of the National Drug Policy, that of harm minimisation. We recommend that the bill be amended accordingly.

ALAC functions in respect of polydrug use

The bill seeks to allow ALAC to address the use of alcohol in combination with other drugs. Several submissions express concern with this proposal, which expands the role of ALAC to address polydrug use. Such concerns include the fear that such an expansion would dilute ALAC's focus in respect of alcohol, thus undermining ALAC's contribution in promoting moderation and reducing alcohol-related harm. On the other hand, ALAC itself acknowledges that its inability to address polydrug issues could lead to it becoming less relevant over time.

Submissions from industry representatives on this issue highlight problems with ALAC's funding stream, which is by way of a levy

on alcohol produced or imported into New Zealand. The industry is opposed to the levy being used to support drug-related activities.

In light of submissions received on this issue, we consider that ALAC's role should not be extended to include other drug use in combination with alcohol. We do not want to see ALAC's focus on alcohol become diluted and acknowledge the liquor industry's concerns about ALAC's funding. We therefore recommend that the bill be amended by omitting clause 8(1)(i).

While we are recommending that ALAC's role not be extended to address polydrug issues, we consider that there needs to be developed, as a matter of priority, a comprehensive integrated strategy to address polydrug use and addiction. We consider an integrated approach is necessary to address problems associated with drug use and other addictive behaviours, such as gambling.

Size and composition of ALAC Council

The bill proposes a reduction in the size of the ALAC Council from eight to six members by removing the provision for two departmental representatives. We understand that departmental officials have not taken a place on the council as a matter of practice since 1995. We support the removal of provisions for departmental representatives on the council as having officials on the council can create conflicts of interest and cross accountabilities for officials who may be required to advise the Government on matters relating to ALAC. Additionally the amendment allows ALAC a degree of autonomy commensurate with its role as a statutory adviser to the Government. The bill provides for the appointment of at least one Māori member, and specifies that other members will have specific expertise in areas of health and social policy. Several submissions suggest the need for alternative skills and representation on the council, while opposing the reduction in the council's size. Many submissions consider that a reduction in the size of the council would limit the range of views and expertise available to ALAC.

We agree that there is a need for a wide range of expertise and representation on the council. We consider that this is best achieved by retaining the current size of the council at eight members.

Membership of ALAC Council

We consider that, in addition to a Māori member and members with experience in health and social policy development and implementation, there is a need for a Pacific Island representative. There is a

large Pacific Island community in New Zealand and concerns about alcohol issues within it. In addition we agree with submissions which suggest there needs to be a requirement for a council member with experience in the treatment of alcohol-related problems. However, most of us do not agree with submissions from industry representatives recommending industry membership on the council. We consider that such a requirement would create the potential for conflicts of interest to arise and could call into question ALAC's independence. We recommend that ALAC work with the industry in order to meet ALAC's primary objective.

We recommend that the bill be amended to set the membership of the ALAC Council at eight members, including:

- at least one Māori member
- a Pacific Island member
- members with relevant experience in public health and social policy development and implementation
- a member with experience in treating alcohol-related problems.

Road traffic safety and industrial safety

The bill allows ALAC to address road and industrial safety issues, where currently the Act restricts ALAC's contributions in this area. This amendment recognises that alcohol is a contributing factor in many road and industrial accidents and that matters of road and industrial safety are a natural part of ALAC's activities. A number of submitters oppose this amendment on the ground that it would dilute ALAC's activities making it less effective. However, we support the amendment as it would allow ALAC to work in conjunction with other agencies to reduce drink driving and alcohol-related industrial accidents. We note it is intended to complement other activities and not put an unnecessary drain on ALAC's resources.

Appendix

Committee process

The Alcohol Advisory Council Amendment Bill was referred to the previous Health Committee on 30 June 1999 and held over from the 45th Parliament. The closing date for submissions was 13 August 1999. We received and considered 19 submissions from interested groups and individuals. We heard 14 submissions orally, holding hearings in Auckland and Wellington. Hearing evidence took four hours and 45 minutes and consideration took one hour and 35 minutes.

We received advice from the Ministry of Health.

Committee membership

Judy Keall (Chairperson)

Hon Phillida Bunkle

Steve Chadwick

Rt Hon Wyatt Creech

Dr Paul Hutchison

Sue Kedgley

Mita Ririnui

Dr Lynda Scott

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

[Subject to this Act, **]**

Text struck out unanimously

New (unanimous)

[Subject to this Act, **]**

Text inserted unanimously

New (majority)

[Subject to this Act, **]**

Text inserted by a majority

(Subject to this Act,)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Note: This bill has been reformatted in accordance with the resolution of the House of 22 December 1999.

Belinda Vernon

Alcohol Advisory Council Amendment Bill

Member's Bill

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Alcohol Advisory Council Amendment Act **1999**.
- (2) In this Act, the Act previously known as the Alcoholic Liquor Advisory Council Act 1976¹ is called the "the principal Act".

¹ 1976 No 143

1AA Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

New (unanimous)**1A Title repealed**

The title of the principal Act is repealed.

**Part 1
Amendments to principal Act**

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Struck out (unanimous)**2 Title and Short Title of principal Act amended**

- (1) The principal Act is amended by repealing the Title, and substituting the following Title:

“An Act—

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- (a) to provide for the establishment of an Alcohol Advisory Council of New Zealand having as its primary objective the promotion of moderation in the use of liquor, and the development and promotion of strategies which are designed to reduce liquor related problems in New Zealand; and

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- (b) to define the Council's functions and powers; and
(c) to make provision for the funding of the Council's activities by means of a levy on liquor imported into or manufactured in New Zealand”.

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- (2) The principal Act may from now on be cited as the **Alcohol Advisory Council Act 1976**.
- (3) Section 1(1) of the principal Act is consequentially amended by omitting the words “Alcoholic Liquor Advisory Council”, and substituting the words “**Alcohol Advisory Council**”.

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New (unanimous)**2 Name of principal Act changed**

- (1) The principal Act may from now on be called the **Alcohol Advisory Council Act 1976**.

- (2) Section 1(1) of the principal Act is consequentially amended by omitting the words “Alcoholic Liquor Advisory Council”, and substituting the words “**Alcohol Advisory Council**”.

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New (unanimous)**2A New section 1A inserted**

The principal Act is amended by inserting, after section 1, the following section:

“1A Purpose

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The purpose of this Act is to—

- “(a) provide for the establishment of an Alcohol Advisory Council of New Zealand having as its primary objective the encouragement and promotion of moderation in the use of liquor, the discouragement and reduction of the misuse of liquor, and the minimisation of the personal, social, and economic harm resulting from the misuse of liquor; and 10
- “(b) define the Council’s functions and powers; and
- “(c) make provision for the funding of the Council’s activities by means of a levy on liquor imported into, or manufactured in, New Zealand.” 15

3 Interpretation

- (1) Section 2(1) of the principal Act is amended by repealing the definitions of the terms **Chairman** and **Council**, and substituting the following definitions: 20

“**Chairperson** means the Chairperson of the Council appointed under (**section 3A(3)**) **section 3A(4)**

“**Council** means the Alcohol Advisory Council of New Zealand constituted by **section 3**”. 25

New (unanimous)

- (1A) Section 2(1) of the principal Act is amended by inserting, after the definition of the term **levy**, the following definition:

“**Liquor Fund** or **Fund** means the Liquor Fund established under section 20”. 30

Struck out (unanimous)

- (2) Section 2(1) of the principal Act is amended—

Struck out (unanimous)

- (a) by omitting from the definition of the term “fortified wine” the word “Customs”; and
- (b) by repealing the definition of the term “official member”; and
- (c) by omitting from the definition of the term “wine” the word “Customs”.

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New (unanimous)

- (2) Section 2(1) of the principal Act is amended—
- (a) by repealing the definition of the term **Alcoholic Liquor Account**;
 - (b) by repealing the definition of the term **Alcoholic Liquor Fund or Fund**;
 - (c) by repealing the definition of the term **appointed member**;
 - (d) by omitting from the definition of the term **fortified wine** the word “Customs”;
 - (e) by repealing the definition of the term **official member**;
 - (f) by omitting from the definition of the term **wine** the word “Customs”.

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4 New sections 3 and 3A substituted

The principal Act is amended by repealing section 3, and substituting the following sections:

“3 Constitution of Alcohol Advisory Council

- “(1) For the purposes of this Act there is a Council called the Alcohol Advisory Council of New Zealand.

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New (majority)

“(1A) The name of the Alcohol Advisory Council is, in the Maori language, Kaunihera Whakatupato Waipiro O Aotearoa.

- “(2) The Council continues to be a body corporate with perpetual succession and a common seal, and has and may exercise all

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the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.

Struck out (unanimous)

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| “3A Membership of Council | 5 |
| “(1) The Council consists of 6 members to be appointed by the Governor-General on the recommendation of the Minister. | |
| “(2) The members of the Council must include— | |
| “(a) at least 1 person who is Māori: | |
| “(b) at least 1 person who has experience in the field of health: | 10 |
| “(c) at least 1 person who has experience in the development and implementation of social policy. | |
| “(3) One of the members of the Council must be appointed as Chairperson of the Council by the Governor-General on the recommendation of the Minister. | 15 |
| “(4) The powers of the Council are not affected by any vacancy in its membership.” | |

New (majority)

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|---|----|
| “3A Membership of Council | 20 |
| “(1) The Council consists of 8 members to be appointed by the Governor-General on the recommendation of the Minister. | |
| “(2) The members of the Council must include— | |
| “(a) at least 1 person who is Māori: | |
| “(b) at least 1 person from the Pacific Island community: | 25 |
| “(c) at least 1 person with experience in the treatment of alcohol dependence. | |
| “(3) Every member of the Council who is not a person to whom subsection (2) applies must have experience, at the date of the member’s appointment, in either or both of the following: | 30 |
| “(a) public health: | |
| “(b) the development and implementation of social policy. | |
| “(4) One of the members of the Council must be appointed as Chairperson of the Council by the Governor-General on the recommendation of the Minister. | 35 |

New (majority)

“(5) The powers of the Council are not affected by any vacancy in its membership.”

5 Term of office of members of Council

Section 4 of the principal Act is amended—

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- (a) by omitting from subsections (1) ~~(and (2))~~, (2), and (3) the word “appointed”; and

New (unanimous)

- (ab) by inserting in subsection (3) after the word “office”, the words “and the chairperson may be removed from the office of Chairperson”; and

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- (b) by omitting from ~~(subsections (3) and (4) in each case)~~ subsection (4) the word “appointed” where it first appears; and

New (unanimous)

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- (c) by inserting in subsection (4), after the word “office,”, the words “or the Chairperson is removed from the office of Chairperson,”.

6 New section 5 substituted

The principal Act is amended by repealing section 5, and substituting the following section:

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“5 Deputy Chairperson

- “(1) At its first meeting in each financial year, the members of the Council must elect 1 of their number to be Deputy Chairperson.

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- “(2) Any person elected as Deputy Chairperson must hold office as such for the financial year in which he or she is elected or until he or she sooner vacates office as a member of the Council.

- “(3) At the first meeting of the Council after a vacancy occurs in the office of Deputy Chairperson, the members of the Council must elect 1 of their number to be Deputy Chairperson.

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- “(4) Except in the circumstances described in this Act, the Deputy Chairperson has and may exercise or perform all the powers and duties of the Chairperson during his or her absence or incapacity or while there is a vacancy in the office of Chairperson. 5
- “(5) No acts done by a Deputy Chairperson acting as the Chairperson may in any proceedings be questioned on the ground that the occasion for his or her so acting had ceased or had not arisen.”
- 7 Deputies of members 10**
- (1) Section 6 of the principal Act is amended—
- (a) by omitting from subsection (1) the word “appointed”; and
- (b) by omitting from subsection (3) the word “Chairman” in both places where it appears, and substituting in each case the word “Chairperson”. 15
- (2) Section 6(2) of the principal Act is repealed.
- 8 New sections 7 and 8 substituted 20**
- The principal Act is amended by repealing sections 7 and 8, and substituting the following sections:
- Struck out (unanimous)**
- “7 **Primary objective of Council**

The primary objective of the Council is the promotion of moderation in the use of liquor, and the development and promotion of strategies which are designed to reduce liquor-related problems in New Zealand. 25
- New (unanimous)**
- “7 **Primary objective of Council**

The primary objective of the Council is the encouragement and promotion of moderation in the use of liquor, the reduction and discouragement of the misuse of liquor, and the minimisation of the personal, social, and economic harm resulting from the misuse of liquor. 30

“8 **Functions of Council**

- “(1) In pursuing its primary objective, the Council has the following functions:
- “(a) to encourage, promote, sponsor, and co-operate in research into— 5
 - “(i) the use of liquor in New Zealand:
 - “(ii) public attitudes in New Zealand towards the use of liquor:
 - “(iii) problems associated with or consequent on the misuse of liquor in New Zealand: 10
 - “(iv) means of minimising the harmful effects of liquor:
 - “(b) to encourage, promote, sponsor, and co-operate in the dissemination to the public, or to any class of persons, of information relating to any problem that is or may be associated with or consequent on the misuse of liquor: 15
 - “(c) to devise, promote, sponsor, and conduct, and to encourage and co-operate in the preparation and conduct of, educational programmes for the public or for any class of persons (including persons attending schools or other educational institutions, and persons who may for any reason be at special risk in respect of liquor-related problems) designed— 20
 - “(i) to discourage the misuse of liquor:
 - “(ii) to encourage moderation in the use of liquor: 25
 - “(iii) to promote and encourage responsible attitudes towards the use of liquor:
 - “(d) to sponsor innovative programmes for the treatment, care, and rehabilitation of persons adversely affected by the use of liquor, whether by themselves or others: 30
 - “(e) with respect to any of the matters referred to in **paragraphs (a) to (d)**, to make recommendations to the Government, departments of State, authorities in the fields of health, education, social welfare, and industry, and any other public or private bodies, associations, or persons: 35
 - “(f) to make recommendations to such person or persons as the Council thinks fit about the advertising of liquor, whether generally or through any particular medium, and the need to regulate or in any way restrict such advertising: 40

- “(g) to consider such matters relating to the sale and consumption of liquor as may be referred to the Council from time to time by the Minister of the Crown who is for the time being responsible for the administration of the Sale of Liquor Act 1989, and to report to that Minister on the results of that consideration: 5
- “(h) to consider and report on to the Minister such matters relating to the use or misuse of liquor as are referred to the Council from time to time by the Minister:

Struck out (unanimous)

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- “(i) to carry out activities which are concerned with any problem that is or may be associated with or consequent on the use of liquor in combination with other drugs:

- “(j) to carry out such other activities as, in the Council’s opinion, will assist in the pursuit of its primary objective. 15

“(2) Without limiting its functions under **subsection (1)**, the Council has the following further functions:

- “(a) to encourage, promote, sponsor, and co-operate in the preparation, publication, and dissemination, to interested bodies, associations, and persons, of research papers, theses, and other reports relating to any matter with which the Council is concerned: 20
- “(b) to obtain, monitor, analyse, collate, and disseminate to interested bodies, associations, and persons in New Zealand, information from overseas relating to any matter with which the Council is concerned: 25
- “(c) to encourage, promote, sponsor, and co-operate in the preparation and publication of a bibliography of literature relating to any matter with which the Council is concerned. 30

“(3) Whenever the Council makes any recommendation under **subsection (1)(f)** about the advertising of liquor, then, if the recommendation is not made to the Minister, it must send a copy of its recommendation to the Minister.” 35

New (unanimous)**8A Powers of Council**

Section 9(2)(a) of the principal Act is amended by omitting the word “Alcoholic”.

9 Meetings of Council

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(1) Section 12 of the principal Act is amended—

(a) by omitting the word “Chairman” wherever it appears, and substituting in each case the word “Chairperson”; and

(b) by omitting from subsection (8) the word “chairman”, and substituting the word “chairperson”; and 10

(c) by omitting from subsection (8) the words “Deputy Chairman”, and substituting the words “Deputy Chairperson”.

(2) Section 12 of the principal Act is amended by repealing subsection (4), and substituting the following subsection: 15

“(4) At all meetings of the Council the quorum necessary for the transaction of business is 4 members.”

10 Council may insure members

Section 15 of the principal Act is amended by omitting the word “appointed” where it first appears. 20

New (unanimous)**10A Salaries, etc, to be payable out of fund**

Section 17 of the principal Act is amended by omitting the word “Alcoholic”. 25

10B Bank accounts

Section 19A of the principal Act is amended by repealing subsection (5).

10C Amendment to heading

The heading before section 20 of the principal Act is amended by omitting the word “Alcoholic”. 30

New (unanimous)

- 10D Establishment of fund**
Section 20(1) of the principal Act is amended by omitting the word “Alcoholic”.
- 10E Alcoholic Liquor Account** 5
Section 21 of the principal Act is repealed.
- 10F Payment and collection of levies in respect of beer and spirits**
Section 29A(2) of the principal Act is amended by omitting the words “excise duty”, and substituting the words “excise-equivalent duty”. 10
- 10G Payment and collection of levies in respect of wine**
Section 31(2)(c) of the principal Act is amended by omitting the words “excise duty”, and substituting the words “excise-equivalent duty”. 15
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- 11 Donations and bequests**
Section 36 of the principal Act is amended by omitting the word “Chairman”, and substituting the word “Chairperson”.
- 12 New section 37A inserted** 20
The principal Act is amended by inserting, after section 37, the following section:
- “37A Common seal**
- “(1) The common seal of the Council must be held in the custody of such officer of the Council as the Council from time to time appoints. 25
- “(2) The common seal must not be affixed to any document except under a resolution of the Council, or of a committee of that Council acting with the authority of the Council.
- “(3) The execution of any document so sealed must be attested to by the Chairperson or any member of the Council acting on behalf of the Chairperson, and by the Chief Executive officer or other officer of the Council authorised for that purpose. 30

“(4) The common seal of the Council must be judicially noticed in all courts and for all purposes.”

13 Transitional provisions

- (1) Despite the change of its name, the Alcohol Advisory Council of New Zealand is the same body corporate as the Alcoholic Liquor Advisory Council that, immediately before the commencement of this Act, was constituted by section 3 of the principal Act. 5
- (2) Despite (**section 3A(2)**) **section 3A** of the principal Act, every person who, immediately before the commencement of this Act, was an appointed member of the Alcoholic Liquor Advisory Council continues in office as a member of the Alcohol Advisory Council of New Zealand until the expiry of the term of office for which the member was appointed, or for such longer period as provided in section 4(5) of the principal Act, or until that member resigns or is removed from office in accordance with that section. 10 15
- (3) Every reference in any enactment or document in force at the commencement of this Act (other than an Act specified in the **Schedule**) to the Alcoholic Liquor Advisory Council is, unless the context otherwise requires, to be read as a reference to the Alcohol Advisory Council of New Zealand. 20

Part 2

Consequential amendments and repeals

- 14 Amendments to other enactments** 25
- (1) The Acts specified in the **Schedule** are amended in the manner specified in that schedule.
- (2) The Alcoholic Liquor Advisory Council Regulations 1978² are amended—
- (a) by omitting from regulation 1(1) the words “Alcoholic Liquor Advisory Council”, and substituting the words “Alcohol Advisory Council”; and 30
- (b) by omitting from the definition of the term **the Act** in regulation 2 the words “Alcoholic Liquor Advisory Council”, and substituting the words “Alcohol Advisory Council”. 35

² SR 1978/1

- (3) The amendment, by this section, of the Alcoholic Liquor Advisory Council Regulations 1978 is without prejudice to any power to amend or revoke those regulations.

15 Repeals

The following enactments are repealed: 5

- (a) section 3 of the Alcoholic Liquor Advisory Council Amendment Act 1978:
- (b) the Alcoholic Liquor Advisory Council Amendment Act 1986:
- (c) section 2(2) of the Alcoholic Liquor Advisory Council Act 1987: 10

New (unanimous)

(ca) sections 3 and 7 of the Alcoholic Liquor Advisory Council Amendment Act 1989:
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- (d) section 48 of the Public Finance Amendment Act 1992: 15
- (e) so much of the Fourth Schedule of the Health Reforms (Transitional Provisions) Act 1993 as relates to the Alcoholic Liquor Advisory Council Act 1976.

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**Schedule
Acts Amended****Official Information Act (1982 No 156)**

To omit from the First Schedule the words “Alcoholic Liquor Advisory Council”, and substitute the words “Alcohol Advisory Council of New Zealand”. 5

Public Finance Act (1989 No 44)

To omit from the Fourth and Fifth Schedules the words “Alcoholic Liquor Advisory Council” in both places where they appear, and substitute in each case the words “Alcohol Advisory Council of New Zealand”. 10

Wine Makers Act (1981 No 125)

To omit from paragraphs (c) and (d) of section 12(4) the expression “Alcoholic Liquor Advisory Council Act 1976”, and substitute in each case the expression “Alcohol Advisory Council Act 1976”. 15

Legislative history

29 April 1999

Introduction and first reading (Bill 277-1)

30 June 1999

Second reading and referral to Health Committee
