



New South Wales

Local Government Amendment (Alcohol-free Zones) Bill 1995

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Local Government Act 1993*:

- (a) to enable a council to prepare a proposal for the establishment of an alcohol-free zone on its own motion, and
 - (b) to enable alcohol-free zones to be established for public places that are car parks, and
 - (c) to enable alcohol-free zones to be established in relation to special events, and
 - (d) to enable alcohol-free zones to operate for a period of up to 3 years, and
 - (e) to make changes to the public notice procedures relating to the establishment of alcohol-free zones, and
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- (f) to provide that the enforcement of the alcohol-free zone provisions is to be carried out by police officers, except in circumstances where the Commissioner of Police has authorised particular council employees as enforcement officers for special events, and
- (g) to prevent a council from prohibiting the drinking of alcohol in a particular place by the erection of notices if the place could be the subject of a proposal to establish an alcohol-free zone.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the *Local Government Act 1993*.

Schedule 1 Amendments

Schedule 1 [1] prevents a council from erecting notices under section 632 of the Act prohibiting the drinking of alcohol on land that could be the subject of an alcohol-free zone under Part 4 of Chapter 16 of the Act.

Schedule 1 [4] repeals and re-enacts section 644 of the Act, providing a scheme for the establishment of alcohol-free zones, as proposed sections 644, 644A, 644B and 644C. The following changes have been made to the existing scheme:

- (a) a council may initiate a proposal for the establishment of an alcohol-free zone, and so need not rely on an application by other persons,
- (b) a public place that is a car park may also be the subject of a proposal for the establishment of an alcohol-free zone (at present only public roads may be included in a zone),
- (c) alcohol-free zones may be established for a period of up to 3 years at a time rather than one year as at present and may be established in relation to a special event,
- (d) copies of a proposal to establish an alcohol-free zone must be given to the holder of a licence under the *Liquor Act 1982* for premises that border on, or adjoin or are adjacent to the proposed zone rather than as at present the occupier of such premises,

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Explanatory note

- (e) copies of a proposal to establish an alcohol-free zone must be given to the secretary of a registered club that borders on, or adjoins or is adjacent to, the proposed zone,
- (f) public consultation can take place at the same time as consultation with the persons and bodies required to be given copies of the proposal,
- (g) only a council listed in the guidelines prepared by the Minister need give copies of any proposal to establish an alcohol-free zone to the Anti-Discrimination Board,
- (h) the Anti-Discrimination Board is to be given 40 days to make submissions on a proposal for the establishment of an alcohol-free zone rather than 30 days as at present.

Schedule 1 [6] provides for the list of councils referred to in paragraph (g) above to be prepared after consultation with the Anti-Discrimination Board.

Schedule 1 [2], [3], [7], [8] and [10] provide that references to police officers in the enforcement provisions relating to alcohol-free zones do not include references to special constables appointed under the *Police Offences Act 1901*. The Commissioner of Police may appoint council employees as enforcement officers for the purposes of those provisions in relation to special events.

Schedule 1 [9] contains savings and transitional provisions providing that:

- (a) alcohol-free zones established before the commencement of the amendments are taken to have been established under the provisions of the Act as amended, and
- (b) a council may, by resolution, extend the operation of an existing alcohol-free zone for a period of up to 3 years from its starting date so long as the signs erected for the zone indicate the extended period.

Schedule 1 [5] makes a consequential amendment.

First print



New South Wales

Local Government Amendment (Alcohol-free Zones) Bill 1995

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New South Wales

Local Government Amendment (Alcohol-free Zones) Bill 1995

No. , 1995

A Bill for

An Act to amend the *Local Government Act 1993* with respect to alcohol-free zones.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Government Amendment (Alcohol-free Zones) Act 1995*.

2 Commencement

5

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Local Government Act 1993 No 30

The *Local Government Act 1993* is amended as set out in Schedule 1.

10

Schedule 1 Amendments

(Section 3)

[1] Section 632 Acting contrary to notices erected by councils

Insert after section 632 (2):

- (2A) However, a notice must not prohibit the drinking of alcohol in any public place that is a public road (or part of a public road) or car park. 5

Note. A council may establish an alcohol-free zone under Part 4 of this Chapter for a public place that is a public road (or part of a public road) or car park (or part of a car park). 10

[2] Section 642 Drinking of alcohol in alcohol-free zone

Insert "or an enforcement officer" after "police officer" in section 642 (1).

[3] Section 643 Confiscation of alcohol

Insert "or an enforcement officer" after "police officer" in section 643 (1). 15

[4] Sections 644, 644A, 644B and 644C

Omit section 644. Insert instead:

644 Proposal for establishment of alcohol-free zone

- (1) A council may prepare a proposal for the establishment of an alcohol-free zone, either on its own motion or on the application of one or more of the following people: 20
- (a) a person who the council is satisfied is a representative of a bona fide community group active in the area, 25
 - (b) a police officer,
 - (c) a person who the council is satisfied lives or works in the area.

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Schedule 1 Amendments

- (2) The application must be in the form set out in the guidelines in force under section 646 or, if there are no such guidelines, in the approved form.
- (3) The proposal must comply with the guidelines (if any) in force under section 646. 5
- (4) The proposed alcohol-free zone may comprise either or both of the following:
- (a) a public road or part of a public road,
 - (b) a public place that is a car park or part of a car park. 10
- (5) The proposal may provide for an alcohol-free zone to be established for a period not exceeding 3 years and for the zone to operate for the whole of that period or just for days on which particular special events occur.
- 644A Public consultation on proposal to establish alcohol-free zone 15**
- (1) After preparing a proposal under section 644, the council may, by notice published in a newspaper circulating in the area as a whole or in a part of the area that includes the zone concerned: 20
- (a) declare that it proposes to establish an alcohol-free zone, indicating the location of the zone and the proposed period or special events for which it will operate, and
 - (b) state the place at which, the dates on which and the times during which a copy of the proposal may be inspected, and 25
 - (c) invite representations and objections from persons and groups within the area, indicating that any representations or objections by them must be made within 14 days after the date on which the notice is published. 30

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- (2) The council must give a copy of its proposal to each of the following persons, indicating that any representations or objections by the person must be made within 30 days after the date on which the copy is given:
- (a) the officer in charge of the police station within or nearest to the proposed alcohol-free zone, 5
 - (b) each holder of a licence in force under the *Liquor Act 1982* for premises that border on, or adjoin or are adjacent to, the proposed alcohol-free zone,
 - (c) each secretary of a registered club under the *Registered Clubs Act 1976* that borders on, or adjoins or is adjacent to, the proposed alcohol-free zone. 10
- (3) If required to do so by the guidelines in force under section 646, the council must also give a copy of its proposal to the Anti-Discrimination Board, indicating that any representations or objections by the Board must be made within 40 days after the date on which the copy is given. 15
- (4) The council must consider all representations and submissions that are duly made to it under this section. 20

644B Establishment of alcohol-free zones

- (1) After complying with the procedures set out in sections 644 and 644A, the council may, by resolution, adopt a proposal (with or without modifications) to establish an alcohol-free zone. 25
- (2) The resolution has the effect of establishing the alcohol-free zone in accordance with the terms of the resolution.
- (3) After making the resolution, the council must, by notice published in a newspaper circulating in the area as a whole or in a part of the area that includes the zone concerned: 30
 - (a) declare that an alcohol-free zone has been established, and 35

Schedule 1 Amendments

- (b) specify the period (or, in the case of a zone established for one or more special events, the day or days) for which the alcohol-free zone is to operate.
- (4) An alcohol-free zone may be re-established from time to time, in accordance with this Part, for further periods each not exceeding 3 years. 5

644C Operation of alcohol-free zones

- (1) An alcohol-free zone operates, in accordance with the terms of the resolution establishing the zone, for the whole of the period specified in the resolution or just for specified days on which particular special events occur. 10
- (2) However, an alcohol-free zone cannot operate earlier than 7 days after the first publication of the relevant notice under section 644B. 15
- (3) An alcohol-free zone operates only so long as there are erected at the outer limits of the zone, and at suitable intervals within the zone, conspicuous signs:
 - (a) stating that the drinking of alcohol is prohibited in the zone, and 20
 - (b) specifying the period (or, in the case of a zone established for one or more special events, the day or days) for which the alcohol-free zone is to operate, as specified in the resolution by which it was established. 25
- (4) The signs must comply with the requirements of the guidelines (if any) in force under section 646.

[5] Section 646 Guidelines for alcohol-free zones

- Omit "to be" from section 646 (1).
Insert instead "that must be". 30

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- [6] Section 646 (3) and (4)**
- Insert after section 646 (2):
- (3) The guidelines are to include a list of the names of the councils that are required to advise the Anti-Discrimination Board under section 644A (3). The list is to be prepared after consultation with the Board. 5
 - (4) However, the guidelines are to make it clear that other councils may also advise the Anti-Discrimination Board under section 644A (3).
- [7] Section 647 Penalty notices** 10
- Insert "or an enforcement officer" after "A police officer" in section 647 (1).
- [8] Section 647 (1)**
- Insert "or enforcement officer" after "the police officer".
- [9] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts** 15
- Insert after Part 3:
- Part 4 Provisions consequent on the enactment of the Local Government Amendment (Alcohol-free Zones) Act 1995** 20
- 16 Existing alcohol-free zones**
- (1) An alcohol-free zone established under Part 4 of Chapter 16 before its amendment by the *Local Government Amendment (Alcohol-free Zones) Act 1995* is taken to have been established under Part 4, as so amended. 25
 - (2) A council may, by resolution, extend the period of operation of such a zone for up to 3 years from the starting date for the zone's operation last notified under Part 4 of Chapter 16.

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Schedule 1 Amendments

- (3) The resolution is taken to be the resolution establishing the zone for the purposes of section 644C (3).
- (4) Sections 644, 644A, 644B and 644C (1) and (2) do not apply to a resolution under this clause or to an alcohol-free zone whose period of operation is extended under this clause. 5
- (5) The period of operation of an alcohol-free zone may be extended once only under this clause.

[10] Dictionary

Insert in alphabetical order: 10

enforcement officer, in Part 4 of Chapter 16, means an employee of a council authorised in writing by the Commissioner of Police to be an enforcement officer for the purposes of this Part in relation to a specified alcohol-free zone and for a specified period in relation to a specified special event. 15

police officer, in Part 4 of Chapter 16, does not include a special constable appointed under the *Police Offences Act 1901*.

LOCAL GOVERNMENT AMENDMENT (ALCOHOL-FREE ZONES) BILL 1995

LEGISLATIVE COUNCIL

Second Reading Speech

MR PRESIDENT:

I MOVE THAT THIS BILL BE NOW READ A SECOND TIME.

THE AMENDMENTS CONTAINED IN THIS BILL WILL IMPROVE THE EFFECTIVENESS OF THE SCHEME OF ALCOHOL-FREE ZONES. THE SCHEME IS ONE OF A RANGE OF STRATEGIES THAT THE GOVERNMENT IS PURSUING TO ADDRESS THE PROBLEMS ASSOCIATED WITH IRRESPONSIBLE ALCOHOL CONSUMPTION. IT SPECIFICALLY TARGETS THE PROBLEMS OF STREET DRINKING WHICH CAN BE A SOURCE OF LATER PUBLIC CRIME.

ALCOHOL-FREE ZONES WERE INTRODUCED IN 1991 IN RESPONSE TO COMMUNITY CONCERNS THAT SOME ROADS COULD NOT BE USED IN SAFETY AND WITHOUT INTERFERENCE FROM STREET DRINKERS. THE ZONES HAVE SINCE BECOME A VERY POPULAR MEANS BY WHICH EACH LOCAL COMMUNITY CAN RESPOND TO ITS OWN SITUATION. ALCOHOL-FREE ZONES HAVE BEEN ESTABLISHED IN CENTRAL SYDNEY AND MANY SYDNEY SUBURBS, IN COASTAL TOWNS AND IN REGIONAL RURAL CENTRES AND COUNTRY TOWNS.

ALCOHOL-FREE ZONES BRING TOGETHER THE VARIOUS SECTORS OF THE COMMUNITY IN THE ESTABLISHMENT AND ENFORCEMENT PROCESS. BECAUSE RESIDENTS, BUSINESSES, SPECIAL GROUPS AND THE POLICE ARE ALL ABLE TO HAVE AN INPUT, THIS PROCESS FOSTERS A WIDE COMMITMENT TO THE SUCCESS OF THE ZONES.

ALCOHOL-FREE ZONES ARE ALSO POPULAR BECAUSE THEY ALLOW FOR EARLY INTERVENTION PARTICULARLY IN ON-GOING TROUBLE SPOTS. THE POLICE ARE ABLE TO CONFISCATE THE ALCOHOL OF THOSE WHO DRINK IN AN ALCOHOL-FREE ZONE AFTER A WARNING TO STOP. WITHOUT ALCOHOL THE GROUP IS LIKELY TO DISPERSE. A POTENTIALLY UGLY SITUATION, PERHAPS LEADING TO PERSONAL INJURY OR PROPERTY DAMAGE, IS AVOIDED.

IN 1994 THE PUBLIC WAS INVITED TO COMMENT ON THE SCHEME OF ALCOHOL-FREE ZONES. SIXTY FIVE SUBMISSIONS WERE RECEIVED OF WHICH SIXTY SUPPORTED THEIR CONTINUATION AND MADE SUGGESTIONS TO IMPROVE THEIR EFFECTIVENESS. THAT SUPPORT CAME FROM COUNCILS, MEMBERS OF PARLIAMENT, PRIVATE INDIVIDUALS, COMMUNITY GROUPS, THE POLICE AND OTHER STATE GOVERNMENT AGENCIES. I AM PLEASED TO PRESENT THIS BILL WHICH INCLUDES AMENDMENTS DEVELOPED FROM THOSE SUGGESTIONS. THE AMENDMENTS COVER THE ESTABLISHMENT OF ZONES, THEIR NATURE AND THEIR ENFORCEMENT.

MR PRESIDENT, AT PRESENT ANY PERSON LIVING OR WORKING IN A LOCAL AREA, A LOCAL COMMUNITY GROUP OR THE LOCAL POLICE CAN APPLY TO THE LOCAL COUNCIL TO ESTABLISH AN ALCOHOL-FREE ZONE.

NDLY, BUSINESSES WILL BE BETTER INFORMED BY REQUIRING
CILS TO GIVE ADVICE OF PROPOSED ALCOHOL-FREE ZONES TO
SEES UNDER THE LIQUOR ACT AND SECRETARY-MANAGERS OF
S UNDER THE REGISTERED CLUBS ACT.

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LY, THE PROCESS WILL BE STREAMLINED BY ALLOWING THE TIMES
CONSULTATION WITH THE GENERAL PUBLIC AND THE SPECIAL
S TO RUN CONCURRENTLY.

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UGH NOT A PART OF THE BILL I SHOULD MENTION AT THIS POINT
INTEND TO STRENGTHEN THE NEED FOR CONSULTATION BETWEEN
COUNCILS AND THE POLICE BY AMENDMENT OF THE MINISTERIAL
LINES ISSUED UNDER THE ACT. SPECIFICALLY, I WILL BE REQUIRING
CILS TO ALSO CONSULT WITH LOCAL POLICE PATROL COMMANDERS
IE NUMBER AND LOCATION OF ALCOHOL-FREE ZONES AND THEIR
OSTING. THIS WILL FACILITATE EFFECTIVE TARGETING OF KNOWN
BLE SPOTS.

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GOVERNMENT HAS TAKEN CARE NOT TO DISTURB THE ESSENTIAL
RE OF ALCOHOL-FREE ZONES IN PROPOSING AMENDMENTS. I
ON THIS SPECIFICALLY BECAUSE A NUMBER OF SUBMISSIONS
HT THE ABILITY TO ESTABLISH THE ZONES PERMANENTLY. SUCH A
ESTION LARGELY DEFEATS ONGOING BENEFITS OF THE
ULTATION PROCESS. HOWEVER I DO APPRECIATE THE COMMITMENT
E AND RESOURCES THAT ARE NECESSARY FOR THE ESTABLISHMENT
ALCOHOL-FREE ZONE. ACCORDINGLY A SIGNIFICANT AMENDMENT IS
XTENSION OF THE MAXIMUM DURATION OF A ZONE FROM ONE TO
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NOR DOES THE GOVERNMENT INTEND TO INTRUDE ON THE RIGHTS OF PROPERTY OWNERS BY ALLOWING ALCOHOL-FREE ZONES TO BE ESTABLISHED ON PRIVATE PROPERTY. THIS SCHEME WILL NOT BE USED AS A BACK DOOR TO PROHIBITION.

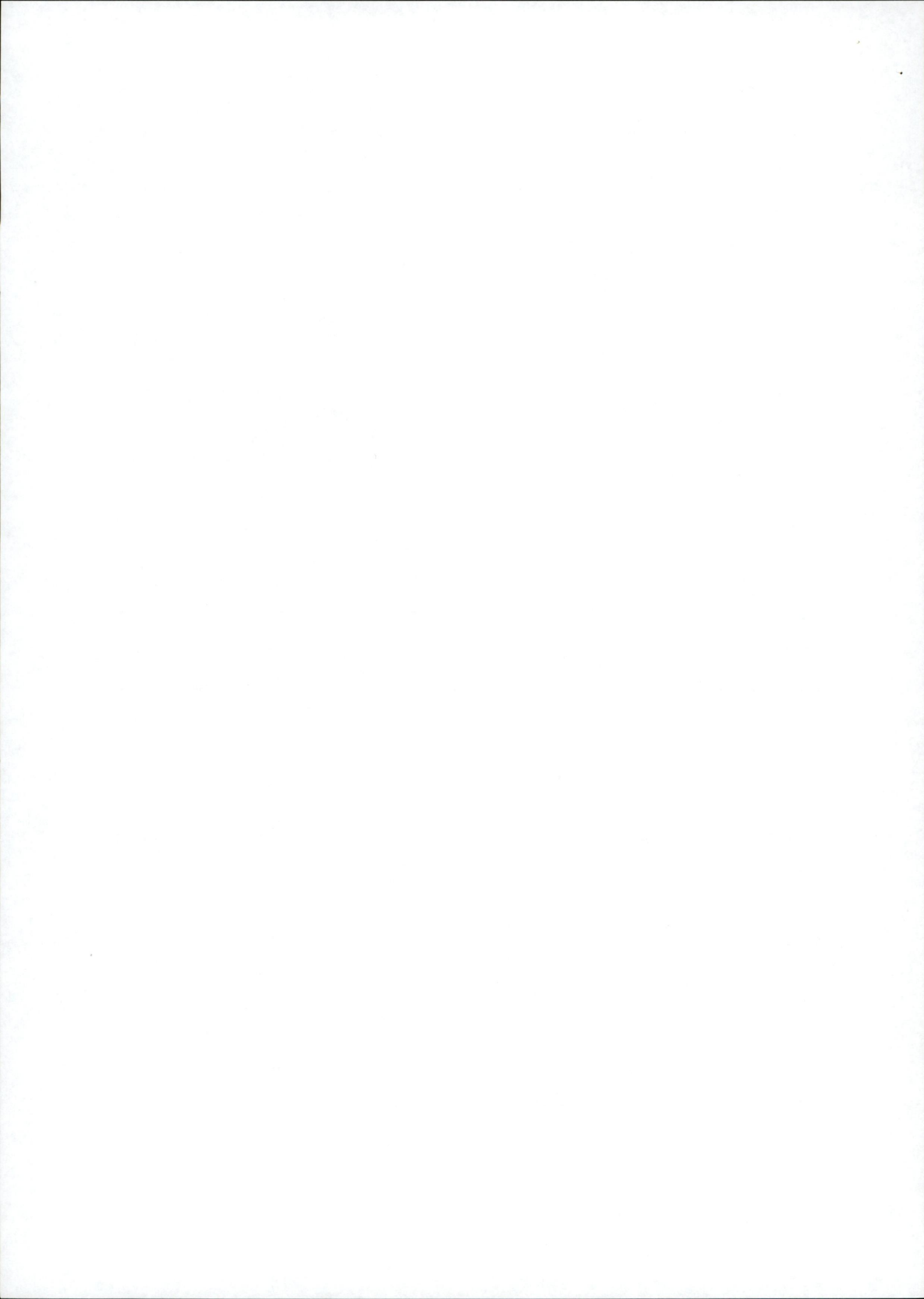
THE FINAL MAJOR FEATURE OF ALCOHOL-FREE ZONES IS THE ENFORCEMENT ROLE OF THE POLICE. THE SUCCESS OF THE ZONES IS IN THE END ATTRIBUTABLE TO THE SKILFUL MANNER IN WHICH THE POLICE IN EACH LOCAL COMMUNITY DEAL WITH STREET DRINKERS. THIS TASK IS ESPECIALLY DIFFICULT BECAUSE OF THE EFFECTS OF ALCOHOL ON BEHAVIOUR.

I AM CONVINCED THAT THE REQUIREMENT TO GIVE A WARNING BEFORE AN OFFENCE OF DRINKING IN AN ALCOHOL-FREE ZONE CAN BE COMMITTED SERVES A USEFUL FUNCTION AND IT WILL BE RETAINED. THE WARNING ENABLES INNOCENT DRINKERS, POSSIBLY VISITORS OR TOURISTS, AS WELL AS THOSE WHO MIGHT WISH TO CHANCE A DRINK TO WITHDRAW WITHOUT PENALTY.

THE RETENTION OF THE WARNING REQUIREMENT IS ALSO IMPORTANT FOR A NUMBER OF OTHER REASONS.

IN THE CONSULTATION PHASE LEADING UP TO THE DRAFTING OF THIS BILL, THE NSW ANTI-DISCRIMINATION BOARD WAS ASKED ABOUT THIS ISSUE.

THE BOARD INDICATED THAT IT DID NOT SUPPORT THE ABOLITION OF THE WARNING REQUIREMENT REQUIRED UNDER SECTION 643.



IT SAID THAT: *"THE BOARD IS CONCERNED THAT THE REMOVAL OF THE MANDATORY WARNING WILL CREATE MORE OPPORTUNITIES FOR CONFLICT WITH POLICE AND STREET DRINKERS, ESPECIALLY ABORIGINES AND TORRES STRAIT ISLANDERS. THIS MAY LEAD TO AN INCREASE IN THE ARREST RATE FOR OTHER STREET OFFENCES."*

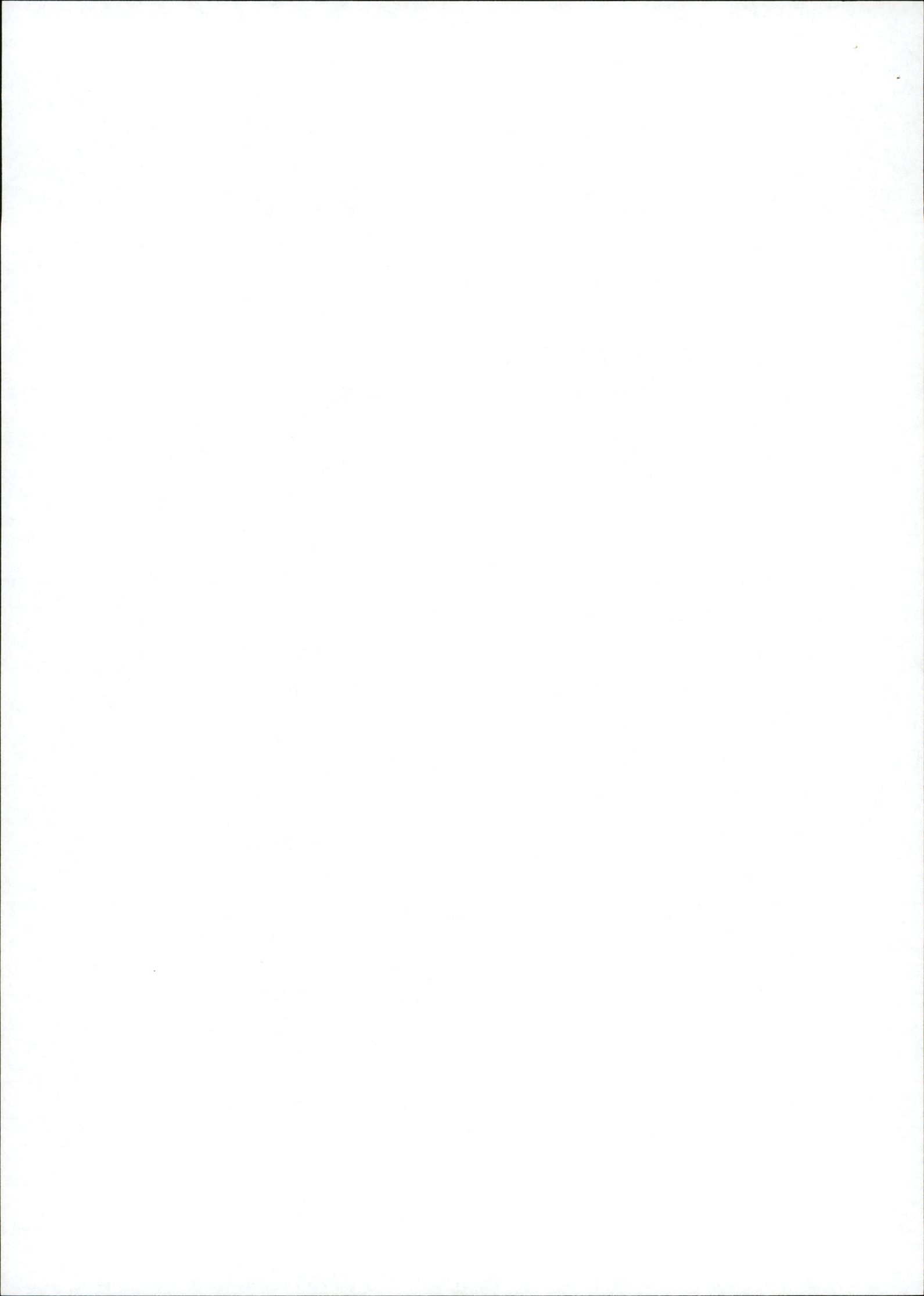
MR PRESIDENT, THE GOVERNMENT SHARES THE VIEW OF THE ANTI-DISCRIMINATION BOARD AND DOES NOT WANT TO SEE THE ALCOHOL FREE ZONE PROVISIONS OF THE LOCAL GOVERNMENT ACT USED AS A DE-FACTO SUMMARY OFFENCES ACT OR USED IN AN OTHERWISE DISCRIMINATORY MANNER.

I SHOULD STRESS THAT FOR THOSE WHO IGNORE THE WARNING, THE POLICE HAVE THE POWER TO CONFISCATE THE ALCOHOL AND/OR ISSUE A PENALTY NOTICE FINE OF \$20. BOTH THESE OPTIONS ARE LOW LEVEL ENFORCEMENT REMEDIES THAT REFLECT THE LOW LEVEL NATURE OF THE OFFENCE.

I SHOULD ALSO POINT OUT THAT SECTION 649 OF THE LOCAL GOVERNMENT ACT ALREADY PREVENTS A PERSON FROM BEING IMPRISONED OR DETAINED FOR FAILING TO PAY A PECUNIARY PENALTY FOR AN OFFENCE UNDER THESE PROVISIONS.

THE GOVERNMENT SUPPORTS THAT PROVISION AND DOES NOT INTEND TO ALTER IT.

IT HAS BEEN SAID THAT A MUCH HIGHER PENALTY SHOULD BE IMPOSED ESPECIALLY WHERE VANDALISM OR ASSAULTS OCCUR.

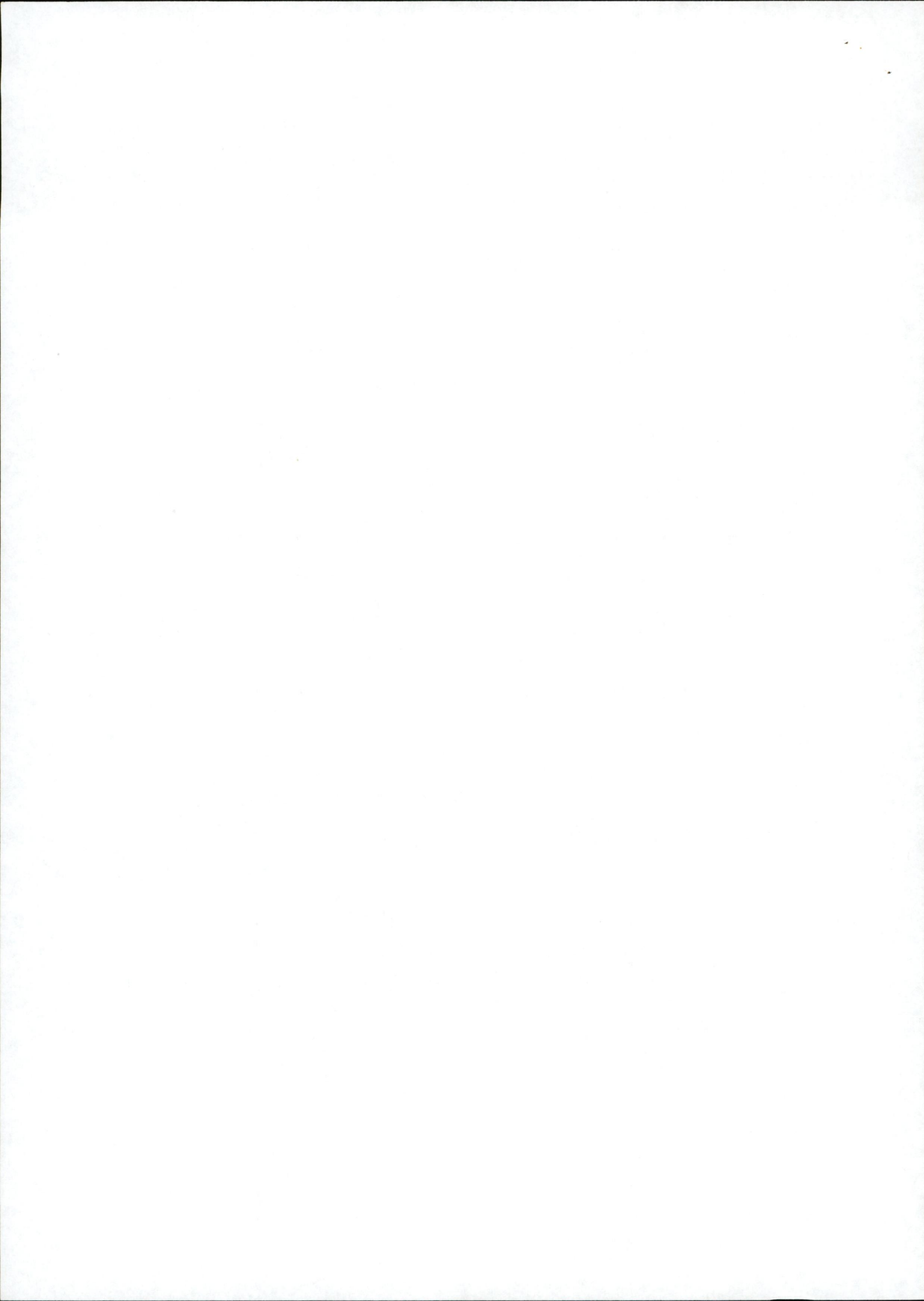


I DO NOT SUPPORT THIS VIEW. THE POLICE HAVE SEPARATE POWERS, SUCH AS THOSE UNDER THE CRIMES ACT, TO DEAL WITH MORE SERIOUS OFFENCES. THESE POWERS WILL BE USED IF THE CIRCUMSTANCES WARRANT IT. IT WOULD BE A MISUSE OF THE SCHEME TO CONFUSE OTHER BEHAVIOUR WITH SIMPLY DRINKING IN A ZONE WHERE IT IS PROHIBITED.

THE POLICE SERVICE INTENDS TO MORE CLOSELY MONITOR THE EFFECTIVENESS OF EACH ENFORCEMENT OPTION BY KEEPING APPROPRIATE STATISTICS. THIS WILL FACILITATE ANY FUTURE REVIEW OF ENFORCEMENT.

THERE ARE, OF COURSE, OCCASIONAL SITUATIONS WHICH STRAIN POLICE RESOURCES, SUCH AS NEW YEAR'S EVE CELEBRATIONS, OR PARTICULAR FESTIVALS. THE LOCAL COMMUNITY MAY BE INUNDATED WITH TOURISTS AND VISITORS. THESE PEOPLE ARE WELCOME BUT NOT IF THEIR IRRESPONSIBLE DRINKING INTERFERES WITH THE GENERAL ENJOYMENT OF THE SPECIAL EVENT.

IN THESE SITUATIONS AN AMENDMENT WILL ALLOW THE COMMISSIONER OF POLICE TO AUTHORISE SPECIFIED LOCAL COUNCIL EMPLOYEES TO ASSIST THE POLICE IN THE ENFORCEMENT OF THE ALCOHOL-FREE ZONES. A GREATER ENFORCEMENT PRESENCE WILL HELP AVOID ROWDY SCENES INVOLVING UNRULY DRINKERS SUCH AS THOSE THAT WERE WITNESSED AT BYRON BAY, BONDI AND MANLY IN RECENT NEW YEAR'S EVE CELEBRATIONS.



THIS IS A SPECIAL ROLE FOR COUNCIL OFFICERS AS AT ALL OTHER TIMES ENFORCEMENT OF ALCOHOL-FREE ZONES WILL BE SOLELY BY THE POLICE.

IN CONCLUSION MR PRESIDENT, THE AMENDMENTS CONTAINED IN THIS BILL ARE PROPOSED BY THE GOVERNMENT TO IMPROVE THE EFFECTIVENESS OF ALCOHOL-FREE ZONES IN CONTROLLING STREET DRINKING.

THEY WILL PROVIDE A MORE COMPREHENSIVE AND STREAMLINED ESTABLISHMENT PROCESS AND WILL STRENGTHEN THE ENFORCEMENT CAPABILITIES.

I EXPECT ALCOHOL-FREE ZONES TO HAVE AN EVEN GREATER ROLE IN LOCAL COMMUNITIES THAN EXISTS AT PRESENT. HOWEVER I SHOULD END ON A NOTE OF CAUTION. IT WOULD BE UNREALISTIC TO EXPECT ALCOHOL-FREE ZONES ALONE TO RESOLVE ALL THE PROBLEMS OF PUBLIC DRUNKENNESS.

I COMMEND THE BILL TO THE HOUSE.

ROYAL LEGISLATIVE COUNCIL 11-12-95 13:10 2324796 PARLIAMENT HOUSE: # 2
PAGE 2

Amendments in Committee

C-028
Opp.

LEGISLATIVE COUNCIL

Local Government Amendment (Alcohol-free Zones) Bill 1995

First Print

Amendments to be moved in Committee

No 1 Page 3, Schedule 1 [2], lines 11-13. Omit all words on those lines, insert instead:

[2] **Section 642 Drinking of alcohol in alcohol-free zone**
Omit "It is the duty of a police officer who finds a person drinking or about to drink, or who has recently been drinking, alcohol in an alcohol-free zone to warn" from section 642 (1).
Insert instead "On finding a person drinking or about to drink, or who has recently been drinking, alcohol in an alcohol-free zone, a police officer or an enforcement officer may warn".

[3] **Section 642 (2)**
Omit the subsection (except for the penalty at the end of the subsection).
Insert instead:
(2) A person who drinks alcohol in a place that the person knows, or ought reasonably to be aware, is an alcohol-free zone is guilty of an offence.

No 2 Page 3, Schedule 1. After line 13, insert:

[3] **Section 642 (2)**
Omit "0.2" from the penalty at the end of the subsection. Insert instead "2".

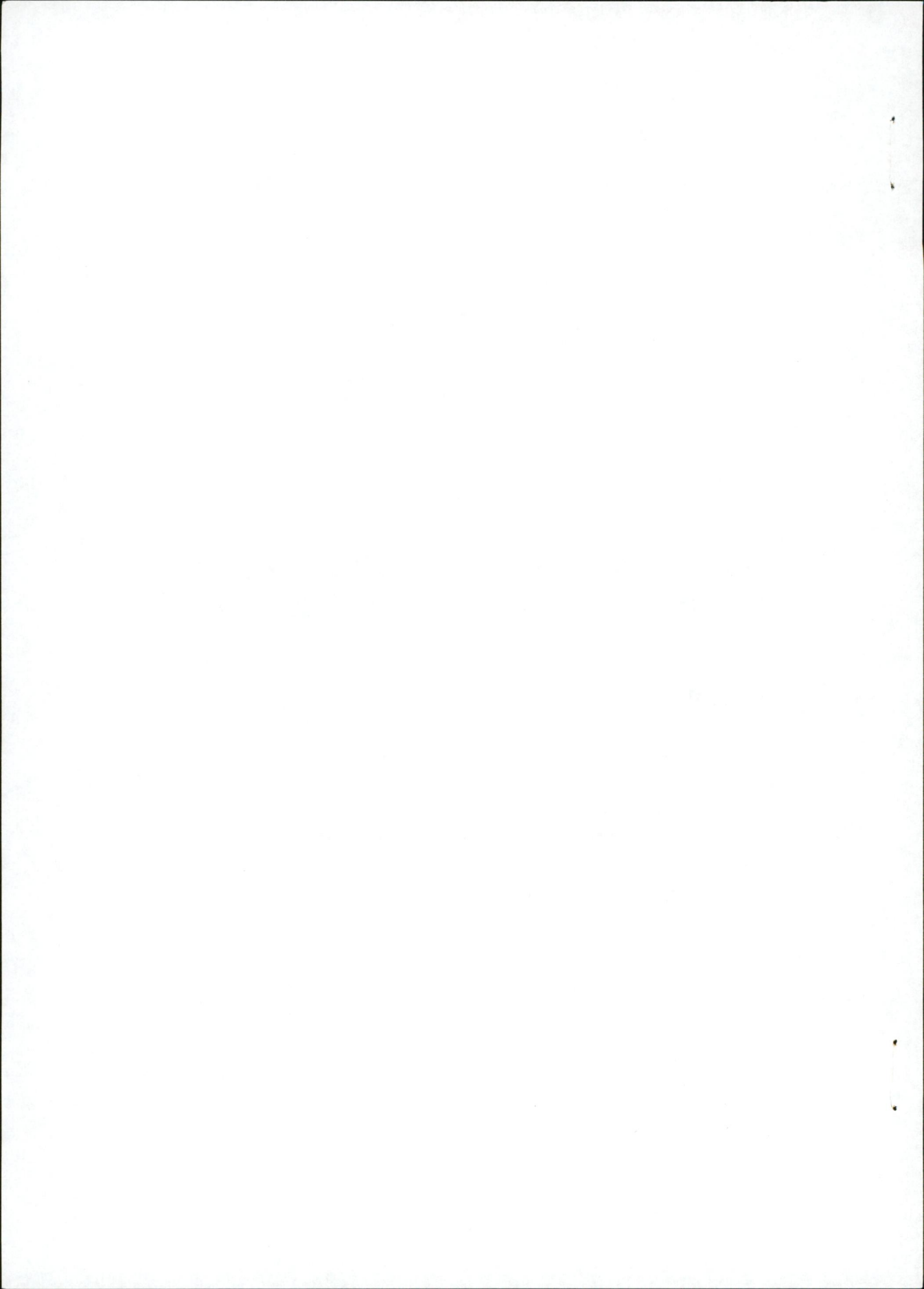


New South Wales

Local Government Amendment (Alcohol-free Zones) Act 1995 No 79

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New South Wales

Local Government Amendment (Alcohol-free Zones) Act 1995 No 79

Act No 79, 1995

An Act to amend the *Local Government Act 1993* with respect to alcohol-free zones. [Assented to 15 December 1995]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Local Government Amendment (Alcohol-free Zones) Act 1995*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Local Government Act 1993 No 30

The *Local Government Act 1993* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 632 Acting contrary to notices erected by councils

Insert after section 632 (2):

- (2A) However, a notice must not prohibit the drinking of alcohol in any public place that is a public road (or part of a public road) or car park.

Note. A council may establish an alcohol-free zone under Part 4 of this Chapter for a public place that is a public road (or part of a public road) or car park (or part of a car park).

[2] Section 642 Drinking of alcohol in alcohol-free zone

Insert "or an enforcement officer" after "police officer" in section 642 (1).

[3] Section 643 Confiscation of alcohol

Insert "or an enforcement officer" after "police officer" in section 643 (1).

[4] Sections 644, 644A, 644B and 644C

Omit section 644. Insert instead:

644 Proposal for establishment of alcohol-free zone

- (1) A council may prepare a proposal for the establishment of an alcohol-free zone, either on its own motion or on the application of one or more of the following people:
- (a) a person who the council is satisfied is a representative of a bona fide community group active in the area,
 - (b) a police officer,
 - (c) a person who the council is satisfied lives or works in the area.

- (2) The application must be in the form set out in the guidelines in force under section 646 or, if there are no such guidelines, in the approved form.
- (3) The proposal must comply with the guidelines (if any) in force under section 646.
- (4) The proposed alcohol-free zone may comprise either or both of the following:
 - (a) a public road or part of a public road,
 - (b) a public place that is a car park or part of a car park.
- (5) The proposal may provide for an alcohol-free zone to be established for a period not exceeding 3 years and for the zone to operate for the whole of that period or just for days on which particular special events occur.

644A Public consultation on proposal to establish alcohol-free zone

- (1) After preparing a proposal under section 644, the council may, by notice published in a newspaper circulating in the area as a whole or in a part of the area that includes the zone concerned:
 - (a) declare that it proposes to establish an alcohol-free zone, indicating the location of the zone and the proposed period or special events for which it will operate, and
 - (b) state the place at which, the dates on which and the times during which a copy of the proposal may be inspected, and
 - (c) invite representations and objections from persons and groups within the area, indicating that any representations or objections by them must be made within 14 days after the date on which the notice is published.

- (2) The council must give a copy of its proposal to each of the following persons, indicating that any representations or objections by the person must be made within 30 days after the date on which the copy is given:
 - (a) the officer in charge of the police station within or nearest to the proposed alcohol-free zone,
 - (b) each holder of a licence in force under the *Liquor Act 1982* for premises that border on, or adjoin or are adjacent to, the proposed alcohol-free zone,
 - (c) each secretary of a registered club under the *Registered Clubs Act 1976* that borders on, or adjoins or is adjacent to, the proposed alcohol-free zone.
- (3) If required to do so by the guidelines in force under section 646, the council must also give a copy of its proposal to the Anti-Discrimination Board, indicating that any representations or objections by the Board must be made within 40 days after the date on which the copy is given.
- (4) The council must consider all representations and submissions that are duly made to it under this section.

644B Establishment of alcohol-free zones

- (1) After complying with the procedures set out in sections 644 and 644A, the council may, by resolution, adopt a proposal (with or without modifications) to establish an alcohol-free zone.
- (2) The resolution has the effect of establishing the alcohol-free zone in accordance with the terms of the resolution.
- (3) After making the resolution, the council must, by notice published in a newspaper circulating in the area as a whole or in a part of the area that includes the zone concerned:
 - (a) declare that an alcohol-free zone has been established, and

- (b) specify the period (or, in the case of a zone established for one or more special events, the day or days) for which the alcohol-free zone is to operate.
- (4) An alcohol-free zone may be re-established from time to time, in accordance with this Part, for further periods each not exceeding 3 years.

644C Operation of alcohol-free zones

- (1) An alcohol-free zone operates, in accordance with the terms of the resolution establishing the zone, for the whole of the period specified in the resolution or just for specified days on which particular special events occur.
- (2) However, an alcohol-free zone cannot operate earlier than 7 days after the first publication of the relevant notice under section 644B.
- (3) An alcohol-free zone operates only so long as there are erected at the outer limits of the zone, and at suitable intervals within the zone, conspicuous signs:
 - (a) stating that the drinking of alcohol is prohibited in the zone, and
 - (b) specifying the period (or, in the case of a zone established for one or more special events, the day or days) for which the alcohol-free zone is to operate, as specified in the resolution by which it was established.
- (4) The signs must comply with the requirements of the guidelines (if any) in force under section 646.

[5] Section 646 Guidelines for alcohol-free zones

Omit "to be" from section 646 (1).
Insert instead "that must be".

[6] Section 646 (3) and (4)

Insert after section 646 (2):

- (3) The guidelines are to include a list of the names of the councils that are required to advise the Anti-Discrimination Board under section 644A (3). The list is to be prepared after consultation with the Board.
- (4) However, the guidelines are to make it clear that other councils may also advise the Anti-Discrimination Board under section 644A (3).

[7] Section 647 Penalty notices

Insert "or an enforcement officer" after "A police officer" in section 647 (1).

[8] Section 647 (1)

Insert "or enforcement officer" after "the police officer".

[9] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert after Part 3:

Part 4 Provisions consequent on the enactment of the Local Government Amendment (Alcohol-free Zones) Act 1995

16 Existing alcohol-free zones

- (1) An alcohol-free zone established under Part 4 of Chapter 16 before its amendment by the *Local Government Amendment (Alcohol-free Zones) Act 1995* is taken to have been established under Part 4, as so amended.
- (2) A council may, by resolution, extend the period of operation of such a zone for up to 3 years from the starting date for the zone's operation last notified under Part 4 of Chapter 16.

- (3) The resolution is taken to be the resolution establishing the zone for the purposes of section 644C (3).
- (4) Sections 644, 644A, 644B and 644C (1) and (2) do not apply to a resolution under this clause or to an alcohol-free zone whose period of operation is extended under this clause.
- (5) The period of operation of an alcohol-free zone may be extended once only under this clause.

[10] Dictionary

Insert in alphabetical order:

enforcement officer, in Part 4 of Chapter 16, means an employee of a council authorised in writing by the Commissioner of Police to be an enforcement officer for the purposes of this Part in relation to a specified alcohol-free zone and for a specified period in relation to a specified special event.

police officer, in Part 4 of Chapter 16, does not include a special constable appointed under the *Police Offences Act 1901*.

[Minister's second reading speech made in—
Legislative Assembly on 26 October 1995
Legislative Council on 11 December 1995]