

LICENSING FEES LEGISLATION (LIQUOR AND TOBACCO PRODUCTS) AMENDMENT BILL 1993

EXPLANATORY NOTE

GENERAL OUTLINE

Objectives of the Legislation

The objective of this Bill is to amend the refund provisions of the *Tobacco Products (Licensing) Act 1988* and the *Liquor Act 1992*. Refunds of licensing fees may be made only to those licence holders who either have not received an amount in respect of those fees from another person or who, having received such an amount from another person, will reimburse that person.

Reasons for the Bill

Where a fee has effectively been passed on by a licence holder to another person, a refund paid to the licence holder without any requirement for reimbursement of the other person would result in an inappropriate windfall gain to the licence holder.

Estimated Cost for Government Implementation

There will be no cost for Government.

Consultation

None.

NOTES ON PROVISIONS

Clause 1 sets out the short title of the Bill.

Clause 2 provides for amendment of the Liquor Act 1992.

Clause 3 provides for matters of which the chief executive must be satisfied when refunding a fee.

A refund of a fee, including a supplementary fee, under or purportedly under the Liquor Act, may only be paid where the person to whom the refund is payable has not received, and will not receive, an amount from another person in respect of any part of the fee, or having received an amount from another person, will reimburse that person. Receipt of an amount in respect of a fee includes obtaining the amount through the price charged for goods, either in anticipation of a fee to be paid or after the fee is paid.

Where a refund is made to a person who has received an amount for any part of the fee from another person, the refunded amount must be reimbursed to that other person within 90 days of the refund being made. Written notification of payment of the reimbursement must be given to the chief executive within 7 days after expiration of the 90 day period.

Where reimbursement is not made within the 90 day period, the refunded amount must be returned to the chief executive within 7 days.

Interest is payable at 20% per annum, calculated from the date the refund was paid to the date the amount is repaid.

The provision applies where the fee was paid voluntarily or under compulsion, whether or not paid under a mistake of law or fact, and includes recovery of the fee by legal proceeding.

An amount required to be repaid to the chief executive is a debt payable to the State.

Clause 4 provides for amendment of the Tobacco Products (Licensing) Act 1988.

Clause 5 similarly as for clause 3, provides for matters of which the Commissioner must be satisfied when refunding a fee.

