

ENFORCEABLE UNDERTAKING

Liquor Act
Section 72A(1)(b)

The commitments in this undertaking are offered to the Director-General of Licensing by:

Mrs Stephanie Jane Liyanage
Director
For and on behalf of
Spice Garden NT Pty Ltd
ACN: 616 647 440
10 Hakea Street, Nightcliff NT 0801

BACKGROUND:

1. The Director-General of Licensing ("the Director-General") is charged with various functions under the *Liquor Act* ("the Act"), including the function of granting liquor licences to appropriate applicants.
2. Spice Garden NT Pty Ltd (SG) has leased the premises known as Lot 524, Town of Nightcliff, being 2 Pavonia Place, Nightcliff from Kumudini Bali and Ram Pal Bali commencing on 12 March 2017 and expiring on 11 March 2021 with a right of renewal.
3. By application dated 22 February 2017 SG applied to the Director-General for the grant of a liquor licence for the premises known as Spice Garden, and located at 2 Pavonia Place, Nightcliff.
4. The original application dated 22 February 2017 listed the shareholders of SG to be Stephanie Jane Liyanage and Wijeneka Mudalige Aruna Liyanage. Both persons were also listed as directors and secretaries of SG and are each person's spouse.
5. On 23 May 2017 the Australian Securities & Investments Commission received a Change to Company Details for SG in which Wijeneka Mudalige Aruna Liyanage was removed as a shareholder, director and secretary of SG.

THE DIRECTOR-GENERAL'S CONCERNS

6. In assessing the application for the grant of a liquor licence it came to the attention of the Director-General that a former director of SG, Dr Wijeneka Mudalige Aruna Liyanage was the applicant in a matter determined by the Northern Territory Civil and Administrative Tribunal on 21 October 2016, that raised concerns as to his appropriateness to be an officer of a corporation holding a liquor licence.
7. Section 23A(1)(a) of the Act defines a person's spouse to be an associate for the purposes of the grant of a liquor licence.
8. Section 28(2)(f) of the Act requires the Director-General to make an assessment of an associate of a person referred to in the affidavit under section 26A – whether that person is a fit and proper person to be an associate of a licensee.
9. The concerns raised in relation to Dr Liyanage's appropriateness to be an officer of a corporation holding a liquor licence similarly applies to his appropriateness to be an associate of a licensee.
10. The grant of the liquor licence to SG is subject to a pre-condition, offered in advance by SG, that SG enter into an enforceable undertaking, pursuant to section 72A(1)(b) of the Act to the effect that Dr Wijeneka Mudalige Aruna Liyanage is restricted as to his involvement with the day to day operation and management of the business conducted under the liquor licence held by Spice Garden NT Pty Ltd.

ACKNOWLEDGMENT OF CONCERNS

11. SG acknowledges the Director-General's concerns and believes that they are reasonably held.

UNDERTAKING:

12. Under section 72A(1)(b) of the Act SG has offered, and the Director-General has agreed to accept, as an alternative to the Director-General refusing to grant the liquor licence to SG, the undertaking set out in this Enforceable Undertaking.
13. SG undertakes Dr Wijeneka Mudalige Aruna Liyanage, date of birth 31 August 1972, in his capacity as an associate of Mrs Stephanie Jane Liyanage the Director of SG and proposed Nominee of the premises, will have no involvement whatsoever with the day to day management or operations of Spice Garden.

14. SG also undertakes that Dr Wijeneka Mudalige Aruna Liyanage will not be authorised to give any instruction or direction to the Nominee (Manager) of the liquor licence granted to SG or to any other staff member of SG employed at Spice Garden.

NON-COMPLIANCE

15. Should the Director-General believe that SG has failed to materially comply with the Enforceable Undertaking as described in clauses 13 and 14 she will write to SG setting out the concerns regarding non-compliance.
16. SG will have 14 days from the date of the Director-General's letter referred to in clause 15 to provide evidence satisfactory to the Director-General refuting the concerns, or that it has remedied such non-compliance.

ACKNOWLEDGEMENTS

17. SG acknowledges that the Director-General, in accordance with section 72B of the Act, will record this Enforceable Undertaking in the Register of Enforceable Undertakings.
18. SG also acknowledges that the Register of Enforceable Undertakings may be inspected by any person, as required by section 72B(3) of the Act.
19. SG further acknowledges, in accordance with section 72A(3) of the Act, that it may vary or withdraw this Enforceable Undertaking only with the consent of the Director-General.

COMMENCEMENT DATE:

20. This Enforceable Undertaking will commence operative force from the date it is accepted by the Director-General.

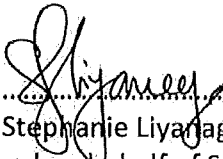
PROVISION OF DOCUMENTS:

21. The address for providing the Director-General with any document or notice is:

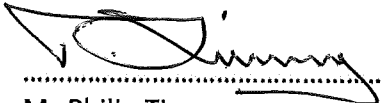
The Director-General of Licensing
GPO Box 1154
DARWIN NT 0801

22. The address for providing SG with any document or notice is:

Mrs Stephanie Liyanage
Director
Spice Garden NT Pty Ltd
2 Pavonia Place
DARWIN NT 0810


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Mrs Stephanie Liyanage, Director
For and on behalf of Spice Garden NT Pty Ltd

Accepted by the Director-General of Licensing under section 72A(1)(b) of the *Liquor Act*.


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Mr Philip Timney
A/Deputy Director-General (Operations)

3. 8. 2016.
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Date