

Queensland



INDIGENOUS COMMUNITIES LIQUOR LICENCES ACT 2002

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(Act not amended up to this date)**

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This Act is reprinted as at 24 September 2002.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have been made to—

- omit provisions that are no longer required (s 40)
- omit the enacting words (s 42A)
- correct minor errors (s 44)
- make all necessary consequential amendments (s 7(1)(k)).

See endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including table of corrected minor errors.**

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INDIGENOUS COMMUNITIES LIQUOR LICENCES ACT 2002

[reprinted as in force on 24 September 2002]

An Act about preventing harm in indigenous community areas caused by alcohol abuse and misuse and associated violence, and for other purposes

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Indigenous Communities Liquor Licences Act 2002*.

2 Commencement

(1) Sections 45, 89 and 91 commence on the day the *Community Services Legislation Amendment Act 2002*, section 38, commences.

(2) Section 62 commences on a day to be fixed by proclamation.

3 Purpose of Act

(1) The purpose of this Act is to prevent harm in community areas caused by alcohol abuse and misuse and associated violence.

(2) The purpose is to be achieved particularly by—

- (a) establishing community liquor licence boards in community areas to manage canteens in the areas; and
- (b) providing for the implementation by boards of particular recommendations of community justice groups for community areas; and

- (c) providing for the transfer of general licences for canteens to boards; and
- (d) providing for restrictions on applications for, and the transfer of, general licences for canteens.

4 Definitions

The dictionary in the schedule defines particular words used in this Act.

PART 2—COMMUNITY LIQUOR LICENCE BOARDS

Division 1—Establishment and related provisions

5 Establishment

A community liquor licence board for a community area may be established under a regulation.

6 Legal status

(1) A board—

- (a) is a body corporate with perpetual succession; and
- (b) has a common seal; and
- (c) may sue and be sued in its corporate name.

(2) A board's name is the '[*insert name of community*] Community Liquor Licence Board'.

(3) A board does not represent the State.

Division 2—Functions and powers

7 Functions and powers

(1) The functions of a board are to—

- (a) manage the canteen in the community area for which it is established; and
- (b) carry out other functions given to it under this or another Act.

(2) A board must perform its functions in a way that achieves the purpose of this Act.¹

(3) A board has power to do all things reasonably necessary to be done for performing its functions.

(4) Without limiting subsection (3), a board has the powers conferred on it by this or another Act.

8 Board to implement recommendations of community justice group

(1) A board must ensure that every written recommendation of the community justice group for the board's community area about responsible practices relating to the service, supply or promotion of liquor in the operation of the canteen in the area is implemented as soon as practicable.²

(2) However, if the board decides not to implement a recommendation mentioned in subsection (1) because it would not be in the best interests of the community or the board, the board must give written notice to the group stating the board's reasons for its decision.

(3) The notice must be given within 14 days after the board becomes aware of the group's recommendation.

(4) At the end of the 14 days mentioned in subsection (3), the board or group may refer the matter to the chief executive for liquor for decision.

1 Under section 3(1), the purpose of the Act is to prevent harm in community areas caused by alcohol abuse and misuse and associated violence. Also, the *Financial Administration and Audit Act 1977*, section 46C(a), provides as follows—

Each statutory body shall—

- (a) ensure that its operations are carried out efficiently, effectively and economically;

2 For functions and powers of a community justice group relating to the operation of the canteen in the group's area, see the *Community Services (Aborigines) Act 1984*, section 45D(1)(c) and (2) or *Community Services (Torres Strait) Act 1984*, section 43D(1)(c) and (2).

(5) In deciding the matter, the chief executive must have regard to the reasons for the group's recommendation and the board's reasons for its decision.

(6) The board must ensure the chief executive's decision is implemented as soon as practicable.

Division 3—Financial provisions

9 Payments to be made to indigenous councils

(1) A board must, within 28 days after the end of each quarter of a financial year, pay to the indigenous council for the board's community area an amount representing 75% of the board's net profits for the quarter.

(2) The board must, within 14 days after the board receives the auditor-general's report under the *Financial Administration and Audit Act 1977*, section 46G, pay to the indigenous council the amount representing the board's net profits for the year less the total of the payments made under subsection (1) to the indigenous council.

(3) For subsection (2), the board's net profits for the year is—

- (a) the amount of the board's net profits stated in its annual financial statements published under the *Financial Administration and Audit Act 1977*, section 46F(8); or
- (b) if the auditor-general states another amount for the board's net profits in the report prepared under section 46G of that Act—the other amount.

Division 4—Membership

10 Composition of board

(1) A board comprises the number of members prescribed under a regulation.

(2) The regulation must make provision about the appointment of a member as chairperson of the board.

(3) Also, a regulation may make provision about the following—

- (a) eligibility for appointment, and appointment, of persons as members;
- (b) terms and duration of appointment of persons as members.

(4) However, a member of an indigenous council is not eligible for appointment as a member.

11 Remuneration

A member is entitled to be paid the remuneration and allowances decided by the Governor in Council.

12 Criminal history checks

(1) A regulation may provide for the disclosure by the commissioner of the police service to a stated entity of a person's criminal history for deciding whether the person is suitable to be appointed as a member.

(2) The entity must—

- (a) not use the information for any purpose other than for the purpose mentioned in subsection (1); and
- (b) as soon as practicable after the information is no longer needed for the purpose, destroy it.

(3) In this section—

“criminal history”, of a person, means the convictions, other than spent convictions, recorded against the person for offences, in Queensland or elsewhere, whether before or after the commencement of this section.

“spent conviction” means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

Division 5—Business and conduct of board meetings**13 Conduct of business**

Subject to this division, a board may conduct its business, including its meetings, in the way it considers appropriate.

14 Times and places of meetings

(1) A board must meet at least once every 3 months when and where it decides.

(2) The chairperson—

- (a) may at any time call a meeting of the board; and
- (b) must call a meeting if asked, in writing, by—
 - (i) the community justice group for the board's community area; or
 - (ii) at least the number of members forming a quorum for the board.

(3) Notice of each meeting, including an adjourned meeting, must be given to each member at least 2 days before the day of the meeting unless it is impracticable to give the notice.

(4) The notice must be given in writing, unless each member has agreed, in writing, that notice of meetings under subsection (1) may be given orally.

(5) The notice must state—

- (a) the day and time of the meeting; and
- (b) the business to be conducted at the meeting.

15 Quorum

A quorum for a board is the number equal to one-half of the number of members or, if one-half is not a whole number, the next highest whole number.

16 Presiding at meetings

(1) The chairperson must preside at all board meetings at which the chairperson is present.

(2) If the chairperson is absent from a board meeting the member chosen by the members present must preside.

17 Conduct of meetings

(1) A question at a board meeting is decided by a majority of the votes of the members present.

(2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.

(3) A member present at the meeting who abstains from voting is taken to have voted for the negative.

(4) A board may hold meetings, or allow members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.

Example of technology—

Teleconferencing.

(5) A member who takes part in a board meeting under subsection (4) is taken to be present at the meeting.

(6) A resolution is validly made by a board, even if it is not passed at a board meeting, if—

- (a) a majority of its members gives written agreement to the resolution; and
- (b) notice of the resolution is given under procedures approved by the board.

18 Minutes

A board must keep—

- (a) minutes of its meetings; and
- (b) a record of any resolutions made under section 17(6).

19 Disclosure of interests by members

(1) This section applies to a member of a board if—

- (a) the member has a direct or indirect interest in an issue being considered, or about to be considered, by the board; and
- (b) the interest could conflict with the proper performance of the member's duties about the consideration of the issue.

(2) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a board meeting.

(3) Unless the board otherwise directs, the member must not—

- (a) be present when the board considers the issue; or
- (b) take part in a decision of the board about the issue.

(4) The member must not be present when the board is considering whether to give a direction under subsection (3).

(5) If there is another member who must, under subsection (2), also disclose an interest in the issue, the other member must not—

- (a) be present when the board is considering whether to give a direction under subsection (3) about the member; or
- (b) take part in making the decision about giving the direction.

(6) If—

- (a) because of this section, a member is not present at a board meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and
- (b) there would be a quorum if the member were present;

the remaining members present are a quorum of the board for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.

(7) A disclosure under subsection (2) must be recorded in the board's minutes.

(8) A contravention of this section does not invalidate any decision of the board or the performance of a function or exercise of a power by the board.

Division 6—Administration

20 Appointment of administrator

(1) This section applies if the Minister is satisfied on reasonable grounds—

- (a) a board has acted unlawfully or corruptly; or
- (b) official misconduct, under the *Crime and Misconduct Act 2001*, is involved in the performance of the board’s functions or exercise of the board’s powers; or
- (c) a board has acted, or is about to act, in a way that—
 - (i) caused, or may cause, a significant deterioration in its financial viability; or
 - (ii) will or may cause it to become insolvent; or
- (d) a board is unable to perform its functions under the Act.

(2) The Governor in Council may, by gazette notice, appoint as administrator of the board (the “**administrator**”) a person the Minister considers has appropriate qualifications and experience to be the administrator.

(3) The administrator must be appointed for the term, and on the conditions, decided by the Governor in Council.

(4) The administrator—

- (a) holds office subject to the direction of the Minister; and
- (b) unless the administrator earlier ceases holding office—ceases holding office when the term of the appointment ends or, if an earlier day is stated by the chief executive by gazette notice as the day the administration ends, on the earlier day.

21 Members go out of office

On the appointment of the administrator, the members go out of office.

22 Functions and powers of administrator

(1) For all purposes of this and other Acts, the administrator is the board.

(2) However, a regulation may limit the functions and powers of the administrator.

23 Administrator to give reports

The administrator must give the Minister—

- (a) a report, at intervals stated by the Minister, on the board's financial position, its functions and anything else the Minister requires the administrator to include in the report; and
- (b) a final report on the administration.

24 Recovery of costs of administration

(1) The Governor in Council may direct the board to pay to the Minister an amount stated in the direction as the costs and expenses of the administration.

(2) The amount may include salary and allowances payable to an officer of the public service who is appointed as administrator.

(3) The direction may state a time for payment.

(4) The amount is a debt payable to the State.

Division 7—Miscellaneous provisions

25 Delegation

(1) A board may delegate its powers under this Act to a member or an appropriately qualified employee of the board.

(2) However, a delegation does not affect the board's obligations as a licensee under the *Liquor Act 1992*.

26 Protection of members from civil liability

(1) A member is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to a member, the liability attaches instead to the State.

27 Reporting requirements

(1) A board must, within 14 days after the end of each of the board's reporting periods, give the chief executive a statement in the approved form about its operations in the preceding reporting period.

(2) The approved form must include a statement of the board's income and expenditure in each reporting period.

(3) The chairperson of the board must certify whether the statement is in agreement with the board's accounts.

(4) In this section—

“**reporting period**”, for a board, means the period prescribed under a regulation for the board or, if a period is not prescribed under a regulation, a month.

28 Application of other Acts

(1) A board is—

(a) a statutory body under the *Financial Administration and Audit Act 1977* and the *Statutory Bodies Financial Arrangements Act 1982*; and

(b) a unit of public administration under the *Crime and Misconduct Act 2001*.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B,³ states the way in which a board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

29 Board's seal

A board's seal must be kept in the custody directed by the board and may be used only as authorised by the board.

30 Judicial notice of chairperson's signature and office

Judicial notice must be taken of—

³ *Statutory Bodies Financial Arrangements Act 1982*, part 2B (Powers under this Act and relationship with other Acts)

- (a) the official signature of a person who is or has been a chairperson; and
- (b) the fact that the person holds or has held the office concerned.

31 Authentication of documents

A document made by a board, other than a document that is required to be sealed, is sufficiently made if it is signed by the chairperson or a person authorised by the board.

PART 3—PROVISIONS ABOUT GENERAL LICENCES FOR CANTEENS

32 Restriction on application for general licence

(1) An entity, other than a board or another entity prescribed under a regulation, may not apply for a general licence for premises in a community area.

(2) This section applies despite the *Liquor Act 1992*, part 5.⁴

33 Transfer of general licence

(1) A general licence for the canteen in a community area may, by regulation, be transferred from the licensee to the board for the area.

(2) The Minister may recommend the Governor in Council make the regulation, only if the Minister—

- (a) has consulted with residents of the area about the proposed transfer; and
- (b) is satisfied the transfer is necessary to achieve the purpose of this Act.⁵

4 *Liquor Act 1992*, part 5 (Grant, variation and transfer of licences and permits)

5 Under section 3(1), the purpose of the Act is to prevent harm caused by alcohol abuse and misuse and associated violence in community areas.

(3) However, failure to comply with subsection (2)(a) does not affect the regulation's validity.

(4) Immediately after commencement of the regulation, the chief executive for liquor must reissue the general licence for the canteen to the board as if it had been transferred under the *Liquor Act 1992*, section 113.

(5) This section applies despite the *Liquor Act 1992*, part 5.

34 Regulation for implementing transfer

(1) A regulation (an “**implementation regulation**”) may be made for giving effect to, or allowing or facilitating the doing of anything for giving effect to, the transfer of the general licence for the canteen from the licensee to the board.

(2) Without limiting subsection (1), a regulation may be made about the following—

- (a) the assets and liabilities of the licensee relating to the canteen that are, or are not, assets and liabilities of the licensee or board;
- (b) the enforcement of contracts, guarantees, undertakings and securities entered into or given by or on behalf of the licensee relating to the canteen against the board;
- (c) the employment, rights and entitlements of the licensee's employees engaged in the management or operation of the canteen;
- (d) legal proceedings taken, or that could have been taken, against the licensee relating to the canteen being continued or started against the board.

(3) An implementation regulation may have retrospective operation to a day not earlier than the transfer of the licence.

(4) An implementation regulation must declare it is made under this section.

35 Compensation not payable

The State or the board is not liable to pay any entity compensation because of—

- (a) the transfer of the general licence to the board; or
- (b) the making of an implementation regulation for the transfer.

36 Restriction on transfer of general licence

(1) A board may apply for a transfer of its general licence for the canteen in its community area only if the transfer is approved by the Governor in Council under a regulation.

(2) The regulation must state the name of the entity to whom the licence may be transferred.

(3) The Minister may recommend the Governor in Council give the approval, only if the Minister is satisfied the board's management of the canteen to which the licence relates is no longer necessary to achieve the purpose of this Act.

(4) This section applies despite the *Liquor Act 1992*, part 5.

PART 4—OFFENCES AND LEGAL PROCEEDINGS

37 Obstructing members

(1) A person must not obstruct or improperly influence a member in performing the member's functions under this Act.

Maximum penalty—200 penalty units.

(2) In this section—

“**influence**” includes attempt to influence.

“**obstruct**” includes hinder, resist and attempt to obstruct.

38 Offences under Act are summary

(1) An offence against this Act is a summary offence.

(2) A proceeding for the offence must start within the later of the following periods to end—

- (a) 1 year after the commission of the offence;

- (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

39 Statement of complainant's knowledge

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

PART 5—MISCELLANEOUS PROVISIONS

40 Approved forms

The chief executive may approve forms for use under this Act.

41 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about the following—
 - (a) fees payable under this Act;
 - (b) imposing a penalty of not more than 20 penalty units for a contravention of a provision of a regulation.

SCHEDULE

DICTIONARY

section 4

“administrator” see section 20(2).

“appropriately qualified”, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

“approved form” means a form approved by the chief executive under section 40.

“board” means a community liquor licence board established under part 2, division 1.

“canteen” means premises to which a general licence relates.

“chairperson” means the chairperson of a board.

“chief executive for liquor” means the chief executive of the department in which the *Liquor Act 1992* is administered.

“community area” means the area of the State in which an indigenous council may exercise jurisdiction.

“community justice group” means a community justice group established under the *Community Services (Aborigines) Act 1984*, part 3A, or *Community Services (Torres Strait) Act 1984*, part 3A.

“general licence” means a general licence granted and held under the *Liquor Act 1992*, part 4, division 2.

“implementation regulation” see section 34(1).

“indigenous council” means—

- (a) an Aboriginal council under the *Community Services (Aborigines) Act 1984*; or
- (b) an Island council under the *Community Services (Torres Strait) Act 1984*; or

SCHEDULE (continued)

- (c) the Council of the Shire of Aurukun; or
- (d) the Council of the Shire of Mornington.

“member” means a member of a board.

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Indigenous Communities Liquor Licences Act 2002 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 List of legislation

Indigenous Communities Liquor Licences Act 2002 No. 47

date of assent 24 September 2002

ss 1–2 commenced on date of assent

ss 45, 89, 91 commence on the day the Community Services Legislation Amendment Act 2002 No. 46 s 38 commences (see s 2(1))

s 62 not yet proclaimed into force (see s 2(2))

remaining provisions commenced on date of assent

5 List of annotations

PART 6—AMENDMENT OF LIQUOR ACT 1992

pt hdg om R1 (see RA s 7(1)(k))

ss 42–85 om R1 (see RA s 40)

PART 7—AMENDMENT OF POLICE POWERS AND RESPONSIBILITIES ACT 2000

pt hdg om R1 (see RA s 7(1)(k))

ss 86–96 om R1 (see RA s 40)

6 Table of corrected minor errors

TABLE OF CORRECTED MINOR ERRORS

under the Reprints Act 1992 s 44

Provision	Description
20(1)(b)	om ‘ <i>Crimes</i> ’ ins ‘ <i>Crime</i> ’