

Queensland



ANNO TRICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE



No. 81 of 1985

An Act to amend the Liquor Act 1912-1984 in certain particulars; and in connexion therewith to amend the Community Services (Aborigines) Act 1984 and the Community Services (Torres Strait) Act 1984 each in certain particulars

[ASSENTED TO 20TH NOVEMBER, 1985]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title. This Act may be cited as the *Liquor Act and Other Acts Amendment Act 1985*.

2. Commencement. (1) This section and sections 1 and 35 shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act shall commence on a day appointed by Proclamation, save that different days may be appointed by Proclamation as days upon which different provisions of this Act shall respectively commence and, in that event, any such provision shall commence on the day appointed by Proclamation in relation to it.

3. Principal Act and citation as amended. (1) In this Act the *Liquor Act 1912-1984* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Liquor Act 1912-1985*.

4. Amendment of s. 4. Interpretation. Section 4 of the Principal Act is amended by, in subsection (1), inserting after the words "intoxicating nature" occurring in the meaning of the term "Liquor" the words "the term includes any beverage intended for human consumption in respect of which the level of ethyl alcohol (ethanol) is more than five millilitres per litre (0.5%) at 20°C".

5. Amendment of s. 5F. Proceedings of Licensing Court. Section 5F of the Principal Act is amended by, in subsection (5), inserting after the words "by its" the words "Chairman or".

6. Amendment of s. 6. Section 6 of the Principal Act is amended by—

(a) in subsection (2)—

(i) omitting the words "(save the *ex officio* member)";

(ii) omitting the words "(other than the *ex officio* member)" where twice occurring;

(iii) omitting the words "The Executive Officer shall be *ex officio* a member of the Commission.";

(iv) omitting the words "An appointed" where twice occurring and substituting the word "A" in each case;

(v) omitting the last paragraph, being the paragraph commencing with the words "The member of the Commission";

(b) in subsection (3), omitting the words "and the *ex officio* member" occurring in paragraph (a);

(c) in subsection (5), omitting the word "a" occurring before the word "Executive" and substituting the word "an".

7. Amendment of s. 8C. Commission may delegate its powers and functions. Section 8C of the Principal Act is amended by, in subsection (1), inserting after the words “any member of the Commission” the words “or to the Executive Officer”.

8. Amendment of s. 16. Licenses. Section 16 of the Principal Act is amended by, in subsection (1), adding after paragraph (u) the following paragraphs:—

- “;
- (v) casino liquor license;
 - (w) public facility license;
 - (x) canteen license.”.

9. Amendment of s. 18. Annual fees. Section 18 of the Principal Act is amended by—

(a) in subsection (1), inserting after paragraph (xvii) the following paragraphs:—

- “;
- (xviii) For a casino liquor license—a sum equal to eight per centum of the gross amount (including all duties thereon) paid or payable for or in respect of all liquor which during the twelve months ended on the last day of June in the preceding year was purchased or otherwise obtained for the licensed premises;
 - (xix) For a public facility license—a sum equal to eight per centum of the gross amount (including all duties thereon) paid or payable for or in respect of all liquor which during the twelve months ended on the last day of June in the preceding year was purchased or otherwise obtained for the licensed premises;
 - (xx) For a canteen license—a sum equal to eight per centum of the gross amount (including all duties thereon) paid or payable for or in respect of all liquor which during the twelve months ended on the last day of June in the preceding year was purchased or otherwise obtained for the licensed premises.”;

(b) in subsection (4), omitting the words “or tourist park” and substituting the words “, cabaret license, historic inn license, tourist park license, cultural centre license, casino liquor license, public facility license or canteen”;

(c) in subsection (7E), inserting after the words “per annum” the words “or, where some other rate is determined by Order in Council, that other rate”.

10. Amendment of s. 18B. Apportionment of licensed victuallers' license fees. Section 18B of the Principal Act is amended by inserting after subsection (1) the following subsection:—

“(1A) Any agreement under which a licensed victualler as referred to in paragraph (i) of subsection (1) or an owner who is a tenant of another person as referred to in paragraph (ii) of subsection (1) is required—

- (a) to repay a sum deducted or recovered under that subsection or any part of the sum;
- (b) to pay an equivalent or similar sum to offset the deduction or recovery of a sum under that subsection; or
- (c) to forfeit or lose in any other way in whole or in part a benefit arising out of the provisions of that subsection

is an “agreement to the contrary” for the purposes of that subsection and is not enforceable against the licensed victualler or owner as aforesaid and action does not lie for damages for an alleged breach thereof.”.

11. Amendment of s. 22. Persons and premises disqualified. Section 22 of the Principal Act is amended by omitting subsection (4) and substituting the following subsection:—

“(4) Except—

- (a) that a licensed victualler or the holder of a tavern license or a licensed spirit merchant may hold a bottler's license;
- (b) that a licensee may hold a packet license as well as another license under this Act with the approval of the Licensing Court on the recommendation of the Commission first had and obtained on application made to the Court in that behalf;
- (c) where any other provision to the contrary is made in this Act,

a person shall not hold more than one license at one and the same time.”.

12. Amendment of s. 23. Booth permits. Section 23 of the Principal Act is amended by—

(a) in subsection (1), inserting after the words “convention or other like gathering,” the words “function held by or under the auspices of a community organization,”;

(b) in subsection (4), inserting after the words “under this Act or not” the words “, and shall be made on behalf of the association, organization or body that is to hold or conduct the activity in question

as referred to in subsection (1) or under the auspices of which the activity is to be held or conducted”.

13. Repeal of and new s. 24. The Principal Act is amended by repealing section 24 and substituting the following section:—

“24. Packet licenses. (1) The Licensing Court may grant packet licenses under and subject to this Act.

(2) Application for a packet license may be made by the owner or lessee of any vessel carrying passengers or plying within any port or harbour or on any river in Queensland or making passages and conveying passengers from and to any port or place within Queensland or from any port or place within Queensland to any other port or place.

(3) The application shall—

- (a) be made to the Commission;
 - (b) be in the prescribed form;
 - (c) be accompanied by the prescribed fee;
 - (d) identify the vessel to which the application relates with such particularization as the Commission requires;
- and
- (e) contain and be accompanied by such other information and particulars as the Commission requires.

(4) The applicant shall nominate a master or masters as the master or masters from time to time to be in command or charge of the vessel to which the application relates and to represent him directly in the conduct of the vessel as licensed premises.

(5) A master so nominated shall be a fit and proper person who is not disqualified under this Act from holding a license.

(6) The Commission shall refer to the Licensing Court—

- (a) the application;
- and
- (b) information and particulars required to be supplied to the Commission pursuant to subsections (3) and (4),

and shall make such observations and recommendations with respect to the application and the grant of a packet license as it thinks fit.

(7) Before making a determination with respect to the grant of a license, the Licensing Court shall hear and determine all objections thereto made personally or by petition to it by—

- (a) the owner or lessee of a vessel, other than the one to which the application relates, operating in a manner referred to in subsection (2) within or in the locality

of the port or harbour or on or in the locality of the river or between or in the locality of the ports or places specified in the application within, in or on or between which or in the locality of which the vessel to which the application relates will ply;

(b) the owner or licensee of licensed victualler's premises in the locality of any port or other place specified in the application and to or from which the vessel will ply.

(8) An objection to the granting of a packet license may be made on any one or more of the following grounds:—

(a) that the vessel to which the application relates is not suitable (regard being had to the sea-worthiness, size, nature, necessary conveniences and any other prescribed matters and things) for licensing in accordance with the application;

(b) in the case of an objection by the owner or licensee of licensed victualler's premises, that (regard being had to the requirements of the locality of the port or other place specified in the application and to or from which the vessel will ply) the granting of the license will adversely affect the economy of the business as such of the licensed victualler in those premises to an undue extent;

(c) any other ground deemed by the Licensing Court to be sufficient.

(9) The Licensing Court, after due consideration and after hearing and determining any objections, may grant a packet license or may refuse to grant a packet license.

(10) A license shall have endorsed thereon the names of any masters nominated under subsection (4) and approved by the Commission.

(11) A packet license shall permit the holder or any master whose name is endorsed on the license to sell or supply liquor on the vessel specified in the license subject to such terms, conditions and restrictions as are prescribed or, if not or to the extent not prescribed, as are set out in the license.

(12) The terms and conditions may, if the Licensing Court thinks fit in any particular case, include provision for liquor to be sold or supplied, in addition to the times and in the circumstances provided under subsection (11) in relation to the passage of a vessel, for a period of 60 minutes before commencement of a passage and 30 minutes after completion of a passage.

(13) On application to the Commission by the owner or lessee of a vessel during the currency of a license, the name of another master approved by the Commission may be—

- (a) endorsed on the license in addition to any other names endorsed thereon;
- (b) endorsed on the license in substitution for the name of a master previously endorsed,

or the name of a master endorsed on the license may be removed.

(14) A licensee or master who contravenes or fails to comply with a term, condition or restriction to which the packet license is for the time being subject is guilty of an offence against this Act.

(15) Where any act of a master or omission by him in respect of a packet license is in contravention of any provision of this Act, the licensee is liable also for such contravention and may be proceeded against and punished accordingly.

(16) The Licensing Court may at any time forfeit a packet license upon such grounds as it deems sufficient, and for that purpose the provisions of section 47B, with all necessary adaptations, shall extend accordingly.

(17) (a) A packet license subsisting immediately prior to the commencement of section 13 of the *Liquor Act and Other Acts Amendment Act 1985* shall continue as a subsisting license on such commencement and, in respect thereof, the provisions of section 24 of this Act as in force immediately prior to such commencement shall continue in force as if this section had not been substituted therefor save in respect of this provision:

Provided, however, that where a packet license is granted pursuant to an application under this section in respect of a vessel the subject of a subsisting license as aforesaid, such lastmentioned license shall on such grant be superseded and cease to exist.

(b) Where a packet license continues as a subsisting license pursuant to paragraph (a), the owner or lessee of the vessel in question and the licensee may make a joint application to the Commission for the transfer of the license to the owner or lessee.

A form of application and a transfer fee may be prescribed in respect of an application.

The Commission may grant the application and, where it does so, the owner or lessee shall be the licensee in lieu of the master and the names of any masters nominated by the new licensee and approved by the Commission shall be endorsed on the license.

A license so transferred shall be taken to be a license granted under this section.

(c) In the case of a subsisting license pursuant to paragraph (a) and in the case of a transferred license pursuant to paragraph

(b), the Commission may on the application of the licensee if it considers that it is appropriate to do so in a particular case add to or vary the terms and conditions to which the license is subject so that liquor may be sold or supplied during additional periods as provided in subsection (12).”.

14. Amendment of s. 28. Vigneron-vintner’s license. Section 28 of the Principal Act is amended by inserting after subsection (5) the following subsection:—

“(6) (a) A holder of a vigneron-vintner’s license may make application in writing to the Commission—

(i) for exemption from the provisions of subsection (5);
or

(ii) that the days or times when he is not permitted to keep his licensed premises open for the sale of wine or to sell or otherwise dispose of wine on those premises be varied as specified by him in his application.

(b) The Commission shall consider the application for exemption or variation and, in a case where it is prepared to recommend such exemption or variation, may make the recommendation to the Minister.

(c) The Minister may reject the application or he may approve it subject to such terms and conditions as he thinks fit.

(d) The exemption or variation is effective upon publication in the Gazette of the approval of the Minister thereto.

(e) Upon such publication—

(i) subsection (5) shall not be applicable to the licensee in the case of exemption;

(ii) in the case of variation, subsection (5) shall be applicable to the licensee subject to the notified variation.

(f) The Minister may revoke the exemption or variation by notification thereof published in the Gazette and, upon such publication, the licensee shall be subject to the provisions of subsection (5) as enacted.”.

15. Amendment of s. 29. Transfer of licenses, etc. Section 29 of the Principal Act is amended by omitting subsection (4).

16. Amendment of s. 47A. Forfeiture of licenses for cause. Section 47A of the Principal Act is amended by, in subsection (2)—

(a) inserting after the word “prostitutes” occurring in paragraph (c) the words “, drug dealers, sexual perverts or deviants, child molesters”;

(b) inserting after paragraph (e) the following paragraph:—

“(e1) That the licensee has supplied liquor or permitted liquor to be supplied to a person or persons apparently under the age

of 18 years or has permitted a person or persons apparently under the age of 18 years to enter or remain in a bar of the licensed premises or any other room or place on or in the licensed premises entry to which by persons under the age of 18 years is prohibited;"

(c) inserting in paragraph (j)—

(i) after the words "reasonable quantities" the words "to the satisfaction of the Commission";

(ii) after the words "Queensland by the licensee" the words "and are likely, in the opinion of the Commission, to be required by the public to be available at the premises of the licensee".

17. Amendment of s. 48C. Regulation of Licensing Court's power to remove licensed victualler's license. Section 48C of the Principal Act is amended by, in subsection (2), inserting after the words "sale of the license," the words "(which payment shall be made forthwith upon the tenderer being notified of the acceptance of the tender)".

18. New s. 50A. The Principal Act is amended by inserting after section 50 the following section:—

"50A. Licensee and holder of a permit to keep books of account and records, provide information, etc. (1) The Commission may require books of account and records to be kept by a licensee or holder of a permit and its requirements may vary according to the type of license or permit held.

(2) A licensee or holder of a permit shall comply with the requirements of the Commission in relation to the books of account and records kept or to be kept by him and the entries made or to be made therein.

(3) Without limiting the generality of the foregoing, a licensee or holder of a permit shall keep up-to-date records containing particulars relating to the value and volume by measurement in litres of—

(a) all liquor purchased or otherwise acquired by him or to be sold by him on behalf of another in any manner whatsoever;

(b) all liquor sold or supplied to a person authorized to sell liquor;

(c) all liquor sold to unlicensed persons where the particulars are connected with the business carried on pursuant to the license or permit or the liquor is to be sold at a function or an event.

(4) A licensee or holder of a permit shall make his books of account and records available for inspection by the Commission or an inspector at any time it or he requires to inspect them, and shall permit the Commission or an inspector to take away any such books of account or records for further and better inspection.

(5) Where the Commission is satisfied that it is necessary for the calculation or assessment of the appropriate license fee or for a purpose related to the calculation of the appropriate license fee so to do, it may require a licensee by notice in writing to furnish to the Commission within 14 days of receipt of the notice particulars of the value and volume by measurement in litres of all liquor purchased or otherwise acquired from any source during a period stipulated in the notice by the Commission commencing on 1 July then last occurring and concluding on the date stipulated in that behalf by the Commission.

(6) A licensee required by the Commission to furnish particulars as provided in subsection (5) shall furnish the particulars within the period referred to in that subsection.

(7) A licensee or holder of a permit who contravenes or fails to comply with any provision of this section is guilty of an offence.

(8) A licensee or holder of a permit guilty of an offence under this section is liable to a fine not exceeding \$20 000 or, in the case of a licensee, where there is evidence before the Magistrates Court sufficient to satisfy the Court as to the amount of any license fee evaded in connexion with the commission of the offence, a fine not exceeding twice the amount of the license fee found to be so evaded, whichever is the greater amount.

(9) Where it appears to the Commission that there has been, by a licensee, a contravention of or a failure to comply with any provision of this section applicable to him, it may call upon the licensee, irrespective of whether proceedings as for an offence have been taken against him with respect to the matter, to show cause before the Licensing Court why his license should not be forfeited; and the Licensing Court may, upon the licensee being afforded the opportunity to show cause and having regard to all the circumstances, order the forfeiture of the license if it thinks it is appropriate to do so.

The provisions of section 47B, with all necessary adaptations, shall apply and extend to proceedings in respect of forfeiture of a license under this section.”.

19. Amendment of s. 58. Supplying liquor to intoxicated persons, young persons, lunatics, etc. Section 58 of the Principal Act is amended by—

(a) in the note to the section, omitting the word “lunatics,”;

(b) in subsection (1)—

(i) omitting the words “licensed victualler or licensed spirit merchant or holder of a resort license” and substituting the words “licensee or holder of a permit under this Act”;

(ii) omitting the word “the” occurring after the words “third conviction,” and substituting the word “a”.

20. **Repeal of and new s. 61A.** Section 61A of the Principal Act is repealed and the following section is substituted:—

“61A. Card of identification or certificate as indicating age.

(1) If a licensee or holder of a permit under this Act or his servant or agent suspects that any person who is on the licensed premises with respect to which the license of the licensee is issued or on or at the premises, place or ground or the relevant part thereof with respect to which the permit is granted, as the case may be, may be under the age of 18 years, the licensee or holder of the permit or his servant or agent may request that person—

(a) to produce for his inspection a card of identification issued to him under the provisions of the *Elections Act 1983* as amended;

or

(b) to furnish him with a certificate in the prescribed form, signed by that person, specifying the true age of that person,

at the option of that person.

(2) If a person, on being requested to produce a card of identification or to furnish a certificate under this section—

(a) does neither of those things;

(b) in the case of a card, produces a card—

(i) that has been issued to a person other than himself;

or

(ii) that has been so altered or otherwise tampered with that it is false or misleading in any material particular;

or

(c) in the case of a certificate, furnishes a certificate that is false or misleading in any material particular,

he is guilty of an offence against this Act.

(3) A licensee or holder of a permit under this Act or his servant or agent may refuse to admit to the licensed premises with respect to which the license of the licensee is issued or to the premises, place or ground or relevant part thereof with respect to which the permit is granted, as the case may be, any person whom he suspects to be under the age of 18 years unless that person produces a card of identification or furnishes a certificate as hereinbefore referred to in this section to the licensee or holder of the permit or his servant or agent.

(4) A person who, having been refused admission to the licensed premises or to the premises, place or ground or relevant part thereof as aforesaid on his failure or refusal to produce a card of identification or to furnish a certificate, enters the licensed premises or the premises, place or ground or relevant part thereof is guilty of an offence against this Act.”.

21. Amendment of s. 61D. Defences to charge to which age material.
Section 61D of the Principal Act is amended by—

(a) in paragraph (b)—

(i) inserting after the words “offence was committed,” the words “had had produced to him by or”;

(ii) inserting after the words “to the offence a” the words “card of identification or a”;

(b) making the section as amended subsection (1) by inserting before the words “In a proceeding” the expression “(1)”;

(c) inserting after subsection (1) the following subsection:—

“(2) Evidence that the defendant (where he is the actual offender) or his agent or employee (where he is defendant as principal or employer by reason only of his being deemed to have taken part in committing the offence) did not request the person whose age is material to the offence—

(a) to produce for his inspection a card of identification;
or

(b) to furnish him with a certificate

referred to in section 61A is evidence that any belief that the person was of or above the age of 18 years was not reasonable.”.

22. Amendment of s. 69. Licensed victualler’s hours of trading.
Section 69 of the Principal Act is amended by inserting after subsection (15) the following subsection:—

“(15A) (a) A licensed victualler may make application to the Commission for permission to establish and operate on the licensed premises a guests’ bar and shall in connexion therewith supply such information and particulars to the Commission as it requires.

(b) If the Commission considers that in any particular case, having regard to all the circumstances, it is appropriate to do so, it may grant the licensed victualler permission to so establish and operate a guests’ bar on the licensed premises subject to such terms, conditions and restrictions as the Commission determines.

(c) Nothing herein contained shall be construed as preventing the Commission from refusing to grant permission to establish and operate a guests’ bar if in any case it considers permission should not be granted.

(d) Liquor may be sold or supplied to or drunk or consumed by or permitted to be drunk or consumed by a lodger at a guests’ bar permitted to operate under this subsection or a guest of such a lodger on any day and at any time on any day provided there is compliance in all respects with the terms, conditions and restrictions determined by the Commission.

(e) Nothing contained in this subsection affects the applicability of sections 58, 59, 60, 64 and 80.”

23. Amendment of s. 78. Prohibition of gaming and disorderly persons, etc. Section 78 of the Principal Act is amended by—

(a) in provision (b), inserting after the word “thieves,” the words “drug dealers, sexual perverts or deviants, child molesters”;

(b) inserting in the second paragraph, being the paragraph commencing with the words “The playing”, after the word “thieves” the words “, drug dealers, sexual perverts or deviants, child molesters”.

24. Amendment of s. 121. Restrictions on sale, etc., of liquor in licensed clubs. Section 121 of the Principal Act is amended by, in subsection (12)—

(a) making the existing provision paragraph (a) by inserting the expression “(a)” after the expression “(12)”;

(b) omitting the words “no more than fifty-two” and substituting the words “, subject to paragraph (b), no more than 104”;

(c) inserting after paragraph (a) the following paragraph:—

“(b) Where the Commission is satisfied that any licensed bowling club or licensed golf club, because of its size or the number of its members or because of any other reason considered sufficient by the Commission, has a particular need for permits additional to those it may be granted under paragraph (a), it may, subject to the prior approval of the Minister, grant up to three additional permits to the club in any week, provided that the number of permits granted to the club in any week does not exceed five.

Application for an additional permit shall be made to the Commission at least one month prior to the date for which it is sought.”.

25. Amendment of s. 125AD. Section 125AD of the Principal Act is amended by, in subsection (2), inserting after paragraph (d) the following paragraph:—

“;

(e) The owner of a licensed restaurant or holder of a restaurant license in respect of a restaurant in the locality of the site whereon the restaurant to which the application relates is or is to be situated.”.

26. Amendment of s. 125BA. Power to grant resort licenses. Section 125BA of the Principal Act is amended by, in subsection (3) (a), omitting subparagraph (ii) and substituting the following subparagraph:—

“(ii) so situated on the mainland of Queensland that, in the opinion of the Commission contained in a recommendation

to the Licensing Court, there are special circumstances justifying the grant of a resort license;”.

27. Repeal of s. 125BC. Maximum number of resort licenses. Section 125BC of the Principal Act is repealed.

28. Amendment of s. 125ED. Restrictions on the granting of cabaret licenses. Section 125ED of the Principal Act is amended by, in subsection (2), inserting after paragraph (d) the following paragraph:—

“;

- (e) the owner of a licensed cabaret or holder of a cabaret license in respect of a cabaret in the locality of the site whereon the cabaret to which the application relates is or is to be situated.”.

29. Amendment of s. 125EE. Restrictions on sale and supply of liquor under cabaret license. Section 125EE of the Principal Act is amended by—

(a) in subsection (2), inserting after the words “and not otherwise” the words “, save that, after the hour of ten o’clock after noon, liquor may be sold or supplied in a dining room of the cabaret or in a reception area as aforesaid of the cabaret to persons who are not persons partaking or intending to partake of a meal in the dining room in question for consumption by them in the dining room or reception area provided that food in such quantities and of such type as approved by the Commission is immediately available upon demand for supply to them in the dining room”;

(b) in subsection (3), omitting paragraph (c) and substituting the following paragraph:—

“(c) on any other day between six o’clock after noon and three o’clock before noon on the next following day, save that the license does not authorize the sale, supply or serving of liquor at any time on Good Friday or Christmas Day.”;

(c) inserting after subsection (3) the following subsections:—

“(3A) The Commission may in any particular case on application made to it in that behalf authorize the extension of the finishing time of three o’clock before noon referred to in subsection (3) (c) to five o’clock before noon where in its opinion there are exceptional circumstances justifying the extension; and in respect of any case where it does so the reference to three o’clock before noon in subsection (3) (c) shall be read as a reference to five o’clock before noon.

(3B) (a) The Commission may permit in writing the use of a licensed cabaret for the holding of a function at which there is provided a meal or entertainment and a meal on a day other than Good Friday or Christmas Day between the hours of eleven o’clock before noon and three o’clock after noon and may authorize the sale, supply or serving of liquor at the function.

(b) Application for the holding of such a function shall be made in writing to the Commission by the holder of the cabaret license.

(c) The Minister may lay down guidelines to be followed by the Commission in considering whether to grant a permit under this subsection and, where he does so, the Commission shall follow the guidelines accordingly.

(3c) The holder of a cabaret license may impose reasonable standards of dress, grooming and behaviour as a condition of a person's entry to the cabaret."

30. Amendment of s. 125EF. Liquor not to be consumed in licensed cabaret save during specified times. Section 125EF of the Principal Act is amended by inserting after the words "authorized by the license" the words "or otherwise authorized under this Part".

31. Amendment of s. 125LD. Public notice of application. Section 125LD of the Principal Act is amended by, in subsection (2), inserting after paragraph (c) the following paragraph:—

“;

(d) the owner of a tourist park the subject of a subsisting tourist park license or the holder of a tourist park license in respect of a tourist park in the locality of the site whereon the tourist park to which the application relates is, or is to be, situated.”

32. Amendment of s. 125LF. Times in relation to sale or supply of liquor. Section 125LF of the Principal Act is amended by inserting after subsection (1) the following subsection:—

“(1A) The Commission may if it thinks fit in any particular case on application made to it in that behalf and subject to such conditions as it thinks fit authorize the extension of the finishing time of ten o'clock after noon referred to in subsection (1) (c) to twelve o'clock midnight; and in respect of any case where it does so the reference to ten o'clock after noon in subsection (1) (c) shall be read as a reference to twelve o'clock midnight.”

33. Amendment of s. 127. Unlawful sale of wine. Section 127 of the Principal Act is amended by—

(a) in subsection (2), inserting after the expression “1974-1978” the words “and subsection (3) of this section,”;

(b) inserting after subsection (2) the following subsection:—

“(3) The Commission in its discretion may grant permission to the holder of a license or the holder of a certificate of registration under the *Wine Industry Act 1974-1982* to offer, at wine shows, annual shows and similar functions, gratuitous samples of wine produced by him from grapes or other fruit grown by him, notwithstanding that such shows or functions are

not held in the licensed premises or the premises or a place referred to in the certificate of registration.”.

34. New ss. 130A and 130B. The Principal Act is amended by inserting after section 130 the following sections:—

“130A. Owner of unlicensed premises liable for sale of liquor.

(1) The owner of any unlicensed premises who knowingly allows liquor to be sold on those premises shall be subject to the penalties imposed upon persons for the sale of liquor contrary to this Act.

(2) The owner of any unlicensed premises on which any liquor is sold shall be presumed to have knowingly allowed liquor to be sold on those premises in the circumstances following, that is to say:—

- (a) on 3 or more occasions during the period of 12 months immediately preceding the sale of the liquor a person has been convicted of selling liquor on the premises;
- (b) the owner was the owner of the premises when those offences were committed;
- and
- (c) a copy of the minute of conviction with respect to each of 3 such convictions has been served on him personally or sent to him by certified mail addressed to him at his address last known to the complainant or prosecutor in the case in question or at his address shown in the records of the Department of the Valuer-General.

(2) A certified copy of a minute of conviction shall be made available to the complainant or prosecutor at his request by the clerk of the court by which the conviction was pronounced for the purpose of effect being given to subsection (2) (c).

130B. Owner may evict occupier of unlicensed premises on which sale of liquor occurs. (1) The owner of any unlicensed premises, upon receipt of copies of 2 minutes of conviction referred to in section 130A relating to offences committed in respect of a period during which the occupier has been occupier of the premises, may serve on the occupier a notice to quit.

(2) The service of the notice to quit shall determine, as from the seventh day after the date of such service, any tenancy under which the occupier may hold, whether as tenant or sub-tenant, as if the same had expired by effluxion of time.

(3) The owner may thereupon, without any authority other than this Act, take legal proceedings to evict, and may evict, the occupier.

(4) The notice to quit shall be served on the occupier personally save that, if he cannot be found, service may be effected by posting a copy of the notice on some conspicuous part of the premises.”.

35. New s. 164J and heading. The Principal Act is amended by inserting after section 164I the following heading and section:—

“CASINO LIQUOR LICENSES

164J. Granting of casino liquor licenses. (1) In this section—

(a) each of the terms “casino”, “casino lease”, “casino licence”, “casino management agreement” and “hotel-casino complex” has the meaning it has in the *Casino Control Act 1982*;

(b) the term “casino licensee” means the holder for the time being of a casino licence: the term includes a person who, while not at the material time the holder of a casino licence, is a person to whom it is proposed to grant a casino licence under and in accordance with an agreement as referred to in section 19 of the *Casino Control Act 1982* and ratified by Parliament.

(2) Casino liquor licenses shall be granted by the Licensing Court under and subject to this Act.

(3) The grant of a casino liquor license shall be subject to its prior authorization by the Governor in Council.

(4) Application for a casino liquor license shall—

(a) be made to the Commission by a casino licensee;

(b) be in such form as the Commission requires;

(c) identify the hotel-casino complex to which the application relates, with such particularization as to—

(i) its boundaries;

(ii) areas desired to be included in or excluded from the operation of the license;

and

(iii) other details

as the Commission requires;

and

(d) contain or be accompanied by such other information and particulars as the Commission requires.

(5) (a) The applicant shall nominate a fit and proper person who is not disqualified under this Act from holding a license to represent him directly in the conduct of the hotel-casino complex as licensed premises.

(b) He may nominate one such person in respect of the casino and another such person or other such persons in respect of the hotel-casino complex or parts thereof excluding the casino.

(c) In nominating such a person or persons, the applicant shall have regard to the existence in relation to the hotel-casino complex of a casino lease or casino management agreement.

(d) The provisions of section 15 are applicable in the case of any such nomination to the same extent as they are applicable where, pursuant to that section, a nominee represents a licensee directly in the conduct of the licensed premises.

(6) A sum of money is payable by the applicant for the grant to him of a casino liquor license and, upon application being made to the Commission for the license, the Commission shall negotiate with the applicant with a view to determining the sum of money to be so paid.

(7) The Commission shall forward to the Governor in Council—

- (a) the application and other information and particulars referred to in subsection (4);
- (b) information with respect to the sum of money negotiated pursuant to subsection (6) or advice that a sum of money has not been agreed upon;
and
- (c) such observations and recommendations with respect to the application and the grant of a casino liquor license and terms and conditions thereof as it thinks fit.

(8) Where the Governor in Council after due consideration authorizes the grant of a casino liquor license to the applicant, he shall—

- (a) determine the sum of money to be paid for the grant of the license in a case where a sum of money has not been agreed upon;
- (b) communicate the authorization (and the sum of money determined by him in an applicable case) and the terms and conditions of the license to the Commission.

(9) The Commission shall refer to the Licensing Court the matters relating to—

- (a) the application;
- (b) the authorization by the Governor in Council;
- (c) the sum of money payable by the applicant;
and
- (d) the terms and conditions of the license,

and the Licensing Court, upon payment of the sum of money by the applicant to the Commission, shall grant the casino liquor license.

(10) (a) The license shall—

- (i) set out the terms and conditions to which it is subject and shall permit the licensee, his nominee, a lessee under a casino lease or a manager of the hotel-casino complex or the casino under a casino management

agreement in accordance with terms and conditions of the license to sell or supply liquor—

- (A) in respect of the whole of the hotel-casino complex save the casino and save any part of the complex excluded from the operation of the license, for consumption in the complex and any part or parts thereof, on the days and between the hours, if any, that are specified in the license;
 - (B) in respect of the casino, for consumption in the casino on the days and between the hours that the casino is open for operation and use by the public;
 - (C) by retail sales in bottles or other containers, on the days and between the hours, if any, that are specified in the license, for consumption off the hotel-casino complex;
- (ii) set out particulars of the permission to sell or supply liquor as that permission relates to the casino licensee, a nominee, a lessee under a casino lease or, according to the circumstances of the case in question, a manager of the hotel-casino complex or the casino under a casino management agreement;
 - (iii) subject to the terms and conditions set out therein and to the other provisions of this section, permit the holder of the license to otherwise carry on the business of a licensed victualler as if the license were a licensed victualler's license.

(b) (i) Permission to the licensee to sell or supply liquor pursuant to paragraph (a) includes, for the purposes of clause 49 of each of them the agreement referred to in section 2 of the *Jupiters Casino Agreement Act 1983* and the agreement referred to in section 2 of the *Breakwater Island Casino Agreement Act 1984*, permission to the Manager and any person claiming through or under him (as referred to in the said clause 49) to sell or supply liquor pursuant to the said paragraph (a).

(ii) "Manager" has the meaning it has in the agreement in question.

(iii) Where there is, in respect of the hotel-casino complex or the casino, a casino lease or a casino management agreement, the Licensing Court, notwithstanding any other provision of law, may determine in a case where more than one person may otherwise be permitted to sell or supply liquor pursuant to paragraph (a) that a particular person may so sell or supply liquor and not another or others; and where a determination is so made the particular person in question shall be the person to sell or supply liquor accordingly.

(11) The grant of a casino liquor license to a casino licensee in respect of a hotel-casino complex shall be made contemporaneously with the grant to him of a casino licence

pursuant to Part III of the *Casino Control Act 1982* in respect of the casino forming part of that complex.

(12) Terms and conditions to which a casino liquor license is subject may be rescinded, extended or varied and other terms and conditions may be added from time to time by the Licensing Court upon application by the licensee or recommendation of the Commission and after the licensee, in the case of a recommendation of the Commission, or the Commission, in the case of an application by the licensee, has had the opportunity of being heard.

(13) A casino liquor license shall continue to operate notwithstanding the forfeiture, cancellation, surrender or suspension of a casino licence in respect of the hotel-casino complex in question unless the Licensing Court upon the recommendation of the Commission makes an order to the contrary; and a casino licence shall continue to operate notwithstanding the forfeiture, cancellation, surrender or suspension of a casino liquor license in respect of the hotel-casino complex in question unless the Governor in Council by Order in Council makes a determination to the contrary.

(14) (a) Subject to paragraph (b), the holder of a casino liquor license, with the consent of the Commission, may—

- (i) add to or alter or rebuild any buildings or structures on the licensed premises;
 - (ii) increase or decrease the area of the licensed premises;
 - (iii) properly and securely enclose the licensed premises or any part thereof;
- or
- (iv) separate and keep separated the licensed premises from adjoining or non-licensed premises,

and the casino liquor license shall apply fully and effectually to the premises as so changed or altered.

(b) If anything to be done pursuant to paragraph (a) will affect the areas constituting the casino, the holder of the casino liquor license shall not carry out the work that will so affect those areas unless the consent of the Minister for the time being charged with the administration of the *Casino Control Act 1982* is first had and obtained.

(15) Any provision of this Act that is applicable to and extends to a licensed victualler's license, licensed victualler's premises or the holder of a licensed victualler's license shall, with all necessary adaptations thereof and to the extent that it may reasonably do so and unless a contrary intention appears in this or any other Act, apply and extend to and in respect of a casino liquor license, the premises licensed thereunder or, as the case may be, the holder thereof, according to the tenor thereof."

36. New s. 164k and heading. The Principal Act is amended by inserting after section 164j as inserted by this Act the following heading and section:—

“PUBLIC FACILITY LICENSES

164k. Granting of public facility licenses. (1) In this section, the term “public facility” means a facility or development of such a kind or nature as to provide a substantial benefit to the public and to the State by the attraction of tourists or by the provision of entertainment or services for the public.

(2) For the purposes of this section, a determination whether a particular facility or development is a public facility shall be made by the Minister.

(3) Public facility licenses shall be granted by the Licensing Court under and subject to this Act.

(4) The grant of a public facility license shall be subject to its prior authorization by the Governor in Council.

(5) Application for a public facility license shall—

(a) be made to the Commission;

(b) be in such form as the Commission requires;

(c) identify the facility or development to which the application relates, with such particularization as to—

(i) its boundaries;

(ii) areas desired to be included in or excluded from the operation of the license;

and

(iii) other details

as the Commission requires;

and

(d) contain or be accompanied by such other information and particulars as the Commission requires.

(6) The Commission shall forward to the Minister—

(a) the application and other information and particulars; and

(b) such observations and recommendations with respect to the application and the grant of a public facility license and terms and conditions thereof as it thinks fit,

and, if the Minister determines that the facility or development is a public facility, he shall refer the application and papers relating thereto to the Governor in Council.

(7) If the Governor in Council—

(a) is satisfied the applicant is not able to apply for any other type of license under this Act that would be

adequate or appropriate in the conduct of the public facility;

and

- (b) after due consideration authorizes the grant of a public facility license to the applicant,

he shall communicate the authorization and the terms and conditions of the license to the Commission.

(8) The Commission shall refer to the Licensing Court the matters relating to the application, the authorization by the Governor in Council and the terms and conditions of the license, and the Licensing Court shall grant the public facility license.

(9) The license shall set out the terms and conditions to which it is subject and shall authorize the licensee to sell and dispose of liquor for consumption on the premises or part or parts thereof specified in the license on the days and between the hours that are specified in the license.

(10) Terms and conditions to which a public facility license is subject may be rescinded, extended or varied and other terms and conditions may be added from time to time by the Licensing Court upon application by the licensee or recommendation of the Commission and after the licensee, in the case of a recommendation of the Commission, or the Commission, in the case of an application by the licensee, has had the opportunity of being heard.

(11) Any provision of this Act that is applicable to and extends to a licensed victualler's license, licensed victualler's premises or the holder of a licensed victualler's license shall, with all necessary adaptations thereof and to the extent that it may reasonably do so and unless a contrary intention appears, apply and extend to and in respect of a public facility license, the premises licensed thereunder or, as the case may be, the holder thereof, according to the tenor thereof."

37. New s. 164L and heading. The Principal Act is amended by inserting after section 164K as inserted by this Act the following heading and section:—

“APPLICATION OF ACT TO TRUST AREAS FOR ABORIGINES AND ISLANDERS

164L. Sale and supply of liquor in trust areas. (1) In this section—

- (a) the term “Aborigine” has the meaning it has in the *Community Services (Aborigines) Act 1984*;
- (b) the term “Islander” has the meaning it has in the *Community Services (Torres Strait) Act 1984*;
- (c) the term “trust area” in relation to Aborigines has the meaning it has in the *Community Services*

(Aborigines) Act 1984 and in relation to Islanders has the meaning it has in the *Community Services (Torres Strait) Act 1984*, and where used without qualification is referable both to a trust area in relation to Aborigines and a trust area in relation to Islanders unless the contrary intention appears;

- (d) the terms “Aboriginal Council” and “Island Council” mean an Aboriginal Council and an Island Council as referred to in Part III of the *Community Services (Aborigines) Act 1984* and Part III of the *Community Services (Torres Strait) Act 1984* respectively.

(2) The provisions of this Act apply to trust areas subject to the following provisions of this section.

(3) (a) Where application is made by an applicant other than an Aboriginal Council or an Island Council for a license or permit under this Act to be granted within a trust area, it shall be referred by the Commission to the appropriate Aboriginal Council or Island Council for its consideration.

(b) If the Aboriginal Council or Island Council approves the making of the application by the applicant, the application shall be referred by the Commission, with the Commission’s recommendation and comments, to the Governor in Council.

(c) In any case where the Aboriginal Council or Island Council does not approve the making of an application by an applicant, the applicant may require the Commission to refer the matter to the Governor in Council and, where he does so, the Commission shall refer the application, with its recommendation and comments, to the Governor in Council.

(4) An application may be made by an Aboriginal Council or Island Council on behalf of a person or group of persons and, where it does so, the Commission shall refer the application, with its recommendation and comments, to the Governor in Council.

(5) If the Governor in Council approves the making of an application referred to him pursuant to subsection (3) (b) or (c) or subsection (4), the application may then proceed and shall be dealt with in accordance with the provisions of this Act appropriate in the case of the license or permit applied for.

(6) (a) Without prejudice to the making of any other application for a license or permit under this Act within a trust area, application may be made for the grant within a trust area of a license called a canteen license.

(b) The Licensing Court may grant canteen licenses under and subject to this Act.

(c) An application for a canteen license shall, subject to subsections (3), (4) and (5)—

- (i) be made to the Licensing Court;
- (ii) be in the prescribed form and accompanied by the prescribed fee; and
- (iii) give particulars of the premises in respect of which the license is sought and where they are or are to be situated,

and shall include or be accompanied by such plans and further information and particulars as are prescribed or as the Commission requires.

(d) The Registrar shall give public notice at the time or times and in the manner prescribed of an application to the Licensing Court for a canteen license.

(e) Before granting a canteen license, the Licensing Court shall be satisfied that the Governor in Council has approved the making of the application and shall hear and consider objections, if any, made personally or by petition to it by any body that or person who in its opinion has an interest sufficient to entitle it or him to be heard.

(f) An objection to the granting of a canteen license may be upon any one or more of the grounds that might be taken pursuant to section 122 where an application is one for a license under Part VI.

(g) The Licensing Court, after due consideration and after hearing and determining any objections, may grant a canteen license or may refuse to grant a canteen license.

(h) The grant of a canteen license shall be subject to such terms, conditions and restrictions as are set out in the license and shall authorize the licensee, subject to subsection (7), to sell and supply liquor in the licensed premises on the days and between the hours that are specified in the license.

(i) A licensee who contravenes or fails to comply with a term, condition or restriction to which the canteen license is for the time being subject is guilty of an offence against this Act.

(j) Terms, conditions and restrictions to which a canteen license is subject may be rescinded, extended or varied and other terms, conditions and restrictions may be added from time to time by the Licensing Court upon application by the licensee or recommendation of the Commission and after the licensee, in the case of a recommendation of the Commission, or the Commission, in the case of an application by the licensee, has had the opportunity of being heard.

(k) Any provision of this Act that is applicable to and extends to a licensed victualler's license, licensed victualler's premises or the holder of a licensed victualler's license shall, with all necessary adaptations thereof and to the extent that it may reasonably do so and unless a contrary intention appears,

apply and extend to and in respect of a canteen license, the premises licensed thereunder or, as the case may be, the holder thereof, according to the tenor thereof.

(7) (a) An Aboriginal Council or Island Council may in respect of a trust area or a part thereof make application to the Commission for a determination by it that the area or part is a restricted place and that—

(i) a certain type of liquor;

(ii) certain types of liquor;

or

(iii) liquor save that type or those types specified shall not be sold or supplied therein.

(b) Application for a determination may be made whether or not a license or permit has been granted or applied for.

(c) The Commission may make the determination if it considers the interests of the community in the area or part are best served by the determination being made.

(d) On a determination being made by the Commission and while it subsists, the certain type or types of liquor or liquor save that type or those types specified, the subject of the determination, shall not be sold or supplied in the trust area or part of the trust area in question.

(e) Paragraph (d) applies notwithstanding the grant of a license or permit under this Act in respect of any premises or place in the trust area or part of the trust area in question.

(8) (a) The provisions of this subsection are additional to and do not derogate from the provisions of section 64 in the case of trust areas.

(b) If it appears to an Aboriginal Council or an Island Council that any person ordinarily resident in the trust area in question, by reason of his consumption of liquor—

(i) endangers or interrupts or is likely to endanger or interrupt the peace, happiness or well-being of his family or of any person ordinarily resident in the trust area;

(ii) threatens or is likely to threaten the peace and good order of the trust area;

(iii) endangers or is likely to endanger his own health or well-being,

the relevant Council may cause to be issued to that person a notice to show cause, at a time and place specified in the notice, why he should not be made subject to a prohibition order under this subsection.

(c) If at the time and place specified in the notice or at any time and place to which the matter may be adjourned the person called upon by the notice does not show cause sufficient in the

opinion of the Council why he should not be made subject to a prohibition order, the Council shall make and direct the issue of such an order in relation to that person.

(d) Cause may be shown by written submission or by oral submission made in person by the person called on to show cause.

(e) A prohibition order—

(i) shall continue in effect for a period of one year from the date of its making or for such shorter period as is specified therein in that behalf unless it is sooner rescinded upon an appeal made pursuant to paragraph (f) in respect of the making of the order;

and

(ii) shall forbid—

(A) the person subject to the order to have in his possession or to consume liquor within the trust area in which the order is made;

(B) all persons to supply liquor to the person subject to the order in circumstances such that it is reasonable to expect that his possession or consumption of the liquor will be a breach of the order,

and a copy of the order shall be given to the person subject to it and the Aboriginal Council or Island Council shall cause a further copy to be exhibited in a prominent place within the trust area and to be kept so exhibited for as long as the order continues in effect.

(f) A person subject to a prohibition order made under this subsection may appeal against the making of the order to a Magistrates Court which may—

(i) require the appellant and the relevant Council to furnish to it such information as it considers necessary to determine the matter of the appeal;

and

(ii) confirm the order, rescind the order or vary the order in such manner as it thinks just and confirm the order as so varied,

and shall cause notification of its decision on the appeal to be given in writing to the appellant and to the relevant Council.

(g) The decision of the Magistrates Court upon an appeal shall be final and binding on the appellant, the relevant Council and all other persons.

(h) An appeal shall be made in writing within 21 days after the date of issue of the prohibition order to which it relates.

(i) A person subject to a prohibition order made under this subsection who has in his possession or consumes liquor in the

trust area in which the prohibition order was made is guilty of an offence against this Act.

(j) A person who supplies liquor to a person knowing him to be subject to a prohibition order made under this subsection in contravention of the prohibition order is guilty of an offence against this Act.

(9) (a) An Aboriginal Council or an Island Council that is, immediately prior to the commencement of section 37 of the *Liquor Act and Other Acts Amendment Act 1985*, authorized to establish and maintain within its trust area premises for the sale and supply of beer and to conduct within its trust area the business of selling and supplying beer shall on such commencement be taken to be so authorized by the Commission, but subject to such terms and conditions as the Commission imposes.

(b) If the Commission is satisfied that—

- (i) the sale or supply of beer from premises established in a trust area is, directly or indirectly, the cause of regularly occurring disorder or breaches of the peace in the area;
- (ii) beer is regularly taken away from such premises contrary to the terms and conditions imposed by it; or
- (iii) the sale or supply of beer from such premises is proving to be detrimental to the health or well-being of the members generally of the community of Aborigines or Islanders, as the case may be, resident in the trust area or a source of danger to the life or safety of members generally of the community of Aborigines or Islanders, as the case may be, resident in the trust area or to property generally in the area,

it may cancel the authorization.

(c) Subject to paragraph (b), the authorization shall expire not later than a date determined by Order in Council in that behalf.

(d) Where the Commission cancels the authorization pursuant to paragraph (b), it may take all steps necessary to terminate the conduct of the business of selling and supplying beer from the premises and remove from the trust area all beer being the stock in trade of those premises, upon payment of a fair price therefor to the relevant Council, and to dispose of such beer removed and to arrange for the payment of the proceeds of such disposal (after payment of all proper expenses of the disposal) to the Community Fund of the relevant Aboriginal Council or the Island Fund of the relevant Island Council for the benefit of the community of Aborigines or, as the case may be, Islanders resident in the trust area in question.

(e) In connexion with the business of selling and supplying beer conducted pursuant to the authorization conferred by this

subsection, surplus moneys arising therefrom may, after payment of or making proper allowance for payment of costs and expenses of conducting the business, be applied for the welfare of members of the community resident in the trust area in which the business is conducted and for works and services directed towards such welfare.”.

38. Amendment of s. 166D. Unlicensed club permits. Section 166D of the Principal Act is amended by—

- (a) omitting the word “court” wherever occurring in subsections (1) to (5) and substituting the word “Commission” in each case;
- (b) omitting subsection (6).

39. Amendment of Act No. 51 of 1984. (1) *The Community Services (Aborigines) Act 1984* is amended by—

- (a) repealing section 76;
- (b) in section 82, omitting provision 12.

(2) *The Community Services (Aborigines) Act 1984* as amended by this section may be cited as the *Community Services (Aborigines) Act 1984-1985*.

40. Amendment of Act No. 52 of 1984. (1) *The Community Services (Torres Strait) Act 1984* is amended by—

- (a) repealing sections 74 and 75;
- (b) in section 81, omitting provision 12.

(2) *The Community Services (Torres Strait) Act 1984* as amended by this section may be cited as the *Community Services (Torres Strait) Act 1984-1985*.