

Queensland



**LIQUOR AMENDMENT ACT
(No. 2) 1994**

Act No. 59 of 1994

Queensland



LIQUOR AMENDMENT ACT (No. 2) 1994

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Queensland



Liquor Amendment Act (No. 2) 1994

Act No. 59 of 1994

An Act to amend the *Liquor Act 1992*, and for another purpose

[Assented to 4 November 1994]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

- 1.** This Act may be cited as the *Liquor Amendment Act (No. 2) 1994*.

Commencement

2.(1) Section 8(3), (4) and (7) (Amendment of s 9) commences on 1 December 1994.

(2) Sections 67(4) (Amendment of s 203(2)), 81 (Insertion of new s 238A) and 82 (Amendment of s 239) are taken to have commenced on 1 July 1992.

(3) The remaining provisions commence on a day to be fixed by proclamation.

PART 2—AMENDMENT OF LIQUOR ACT 1992

Amended Act

- 3.** This Part and Schedules 1 and 2 amend the *Liquor Act 1992*.

Amendment of s 4 (Interpretation)

4.(1) Section 4, heading—

omit, insert—

‘Definitions’.

(2) Section 4, definitions **“function”** and **“liquor”**—
omit.

(3) Section 4—
insert—

‘**“exempt minor”**’ see section 155.

“function” see section 4A.

“liquor” see section 4B.

“member of a reciprocal club”, in relation to a club with a club licence or restricted club permit, means a member of another club whose members have privileges at the club with the club licence or restricted club permit because of arrangements between the clubs.’.

(4) Section 4, definition **“investigator”**, ‘for a particular occasion’—
omit.

Insertion of new ss 4A and 4B

5. After section 4—
insert—

‘Meaning of **“function”**’

4A.(1) “Function” is an event or occasion to which persons are invited by, or for, the organiser of the event or occasion.

(2) However, “function” does not include an event or occasion organised—

- (a) by the owner or licensee of the licensed premises where the event or occasion is held if the event or occasion is for the owner’s or licensee’s own benefit; or
- (b) by someone else if the owner or licensee of the premises where the event or occasion is held is entitled to receive a benefit other than a charge for using the premises and providing catering facilities.

‘Meaning of “liquor”

‘4B.(1) “Liquor” is a spiritous or fermented fluid of an intoxicating nature intended for human consumption.

‘(2) “Liquor” also includes any other substance intended for human consumption in which the level of ethyl alcohol (ethanol) is more than 5mL/L (0.5%) at 20°C.

‘(3) However, “liquor” does not include a fluid, that would otherwise be liquor, if it is used merely as a preservative or medium in which fruit is offered for sale to the public in sealed containers and with the contents visible.’.

Replacement of s 5 (Who is a responsible adult in relation to a minor)

6. Section 5—

omit, insert—

‘Who is a responsible adult for a minor

‘5. Each of the following persons is a responsible adult for a minor—

- (a) a parent, step-parent or guardian of the minor;
- (b) an adult who, while the minor is on licensed premises or in public places, has parental rights and responsibilities for the minor.’.

Amendment of s 6 (Acceptable evidence of age)

7. Section 6(a)(i)—

omit, insert—

- ‘(i)** a proof of age card issued to the person—
 - (A) by a department prescribed by regulation or an entity of another State or a Territory performing functions similar to the functions of the department; or
 - (B) by an entity approved in writing by the chief executive; or’.

Amendment of s 9 (Ordinary trading hours)**8.(1) Section 9(3)—**

omit, insert—

‘(3) On Anzac Day, ordinary trading hours—

- (a) of all licensed premises—do not include any period before 1 p.m. on Anzac Day except—
 - (i) for sale of liquor to a person to consume on the premises in association with the consumer eating a meal in a part of the premises ordinarily set aside for dining if the meal is prepared, served and intended to be eaten on the premises; or
 - (ii) as specified in paragraph (b);
- (b) of premises that are a cabaret—subject to subsection (2), include the period from 12 midnight¹ on the day immediately before Anzac Day until 3 a.m. on Anzac Day’.

(2) Section 9(4)—

omit, insert—

‘(4) Subject to subsections (2), (3) and (7), the ordinary trading hours of licensed premises to which a producer/wholesaler licence relates are the trading hours of the premises under the *Trading (Allowable Hours) Act 1990*.’

(3) Section 9(5)(a)—

omit, insert—

- ‘(a) for sale of liquor to a person to consume on the premises in association with the consumer eating a meal in a part of the premises ordinarily set aside for dining if the meal is prepared, served and intended to be eaten on the premises—between 10 a.m. and 12 midnight, or the period between 7 a.m. and 12 midnight that the chief executive approves in a particular case; or’.

¹ “Midnight” is defined by the *Acts Interpretation Act 1954* as follows—
“midnight” in relation to a particular day, means the point of time at which the day ends.

(4) Section 9(6)—*omit, insert—*

‘**(6)** Subject to subsection (2), on Good Friday and Christmas Day ordinary trading hours of premises that are a cabaret are—

- (a) for sale of liquor to a person to consume on the premises in association with the consumer eating a meal in a part of the premises ordinarily set aside for dining if the meal is prepared, served and intended to be eaten on the premises—between 10 a.m. and 12 midnight, or the period between 7 a.m. and 12 midnight that the chief executive approves in a particular case; or
- (b) for other sale of liquor—from 12 midnight on the day immediately before Good Friday or Christmas Day until 3 a.m. on Good Friday or Christmas Day’.

(5) Section 9(7)(a)—*omit, insert—*

- ‘(a) for sale of liquor, produced or made on the premises, to a person to consume on the premises in association with the consumer eating a meal in a part of the premises ordinarily set aside for dining if the meal is prepared, served and intended to be eaten on the premises; or’.

(6) Section 9(10)—*omit, insert—*

‘**(10)** Subject to subsections (2) and (3), on any day other than Good Friday or Christmas Day, ordinary trading hours of licensed premises that are a cabaret are—

- (a) for sale of liquor to a person to consume on the premises in association with the consumer eating a meal in a part of the premises ordinarily set aside for dining if the meal is prepared, served and intended to be eaten on the premises—between 10 a.m. and 5 p.m. or the period between 7 a.m. and 5 p.m. that the chief executive approves in a particular case; and
- (b) for other sale of liquor—between 5 p.m. on the day and 3 a.m. on the next day.’.

(7) Section 9—

insert—

‘(13) The ordinary trading hours of licensed premises for New Year’s Eve day are the ordinary trading hours for the premises for the day and, if the ordinary trading hours would end before 2 a.m. on New Year’s Day, the ordinary trading hours are extended until 2 a.m.’.

Replacement of s 24 (Extent of supervision of Tribunal’s exercise of jurisdiction)

9. Section 24—

omit, insert—

‘Supervision of Tribunal’s exercise of jurisdiction

‘24.(1) A participant in a proceeding before the Tribunal, who is dissatisfied with the Tribunal’s decision in the proceeding, may appeal to the Supreme Court against the decision on a ground of error of law.

‘(2) The appeal must be made within 28 days of the date of the Tribunal’s decision.

‘(3) If a question of law arises in a proceeding before the Tribunal, the Tribunal may state a case for the Supreme Court’s opinion—

- (a) on its own initiative; or
- (b) on application made to the Tribunal by a participant in the proceeding.

‘(4) If the Supreme Court finds the Tribunal’s decision is affected by error of law, it may set aside the Tribunal’s decision and remit the matter to the Tribunal for decision in accordance with law.’.

Insertion of new s 29A

10. Before section 30 in Part 2, Division 3—

insert—

‘Definition

‘29A. In this Division—

“**submission**” does not include a submission made under section 118A (Submissions on public need).’.

Replacement of s 34 (Arranging the hearing of appeal)

11. Section 34—

omit, insert—

‘Arranging the hearing of appeal

‘**34.(1)** An appeal to the Tribunal is by a rehearing of the matter unaffected by the decision appealed against.

‘**(2)** Within 28 days after a notice of appeal is filed with the registrar of the Tribunal, the appeal must be set down for hearing.

‘**(3)** At least 3 days before the hearing of the appeal is to start, the registrar must give written notice of the time and place of the hearing to the following persons—

- (a) the appellant;
- (b) the chief executive;
- (c) as far as is practicable—each person whose name and address have been given to the registrar under section 33 (Notification to interested persons).

‘**(4)** Each person mentioned in subsection (3)(a) to (c) is entitled—

- (a) to be heard personally at the hearing of the appeal; and
- (b) with the leave of the Tribunal—to be represented by a solicitor or counsel.

‘**(5)** In deciding whether to grant leave under subsection (4)(b), the Tribunal must consider—

- (a) whether complex questions of law may arise; or
- (b) whether a party to the appeal may be disadvantaged by the decision.

‘**(6)** An appeal that has been properly started cannot be withdrawn or abandoned without the Tribunal’s leave.’.

Replacement of s 36 (Determination of appeal)

12. Section 36—

omit, insert—

‘Powers of Tribunal on appeal

‘36.(1) In deciding an appeal, the Tribunal may—

- (a) confirm the chief executive’s decision; or
- (b) set aside the chief executive’s decision, in whole or part, and—
 - (i) substitute its decision; or
 - (ii) return the matter, in whole or part, to the chief executive with the directions it considers appropriate.

‘(2) The Tribunal may decide an appeal to remedy an injustice or adverse effect the Tribunal considers was caused to the appellant by the chief executive’s decision even though someone failed to take, or properly to take, an action required by this Act.

‘(3) The Tribunal may make orders it considers appropriate to give effect to its decision.’.

Replacement of s 41 (Tribunal’s determination to be written and reasoned)

13. Section 41—

omit, insert—

‘Tribunal’s decision to be written and include reasons

‘41.(1) The Tribunal must make its decision on an appeal in writing.

‘(2) The decision must include the Tribunal’s reasons for the decision.

‘(3) A copy of the decision must be given to each party to the appeal.’.

Amendment of s 42 (Power of delegation)

14. Section 42(1), ‘the department’—

omit, insert—

‘a unit of the public sector’.

Insertion of new s 44A

15. After section 44—

insert—

‘Owner, lessee, mortgagee and secured creditors to give particulars to chief executive

‘**44A.(1)** This section applies to—

- (a) an owner, lessee and mortgagee of licensed premises; and
- (b) a secured creditor of the licensee whose interest is likely to be affected by cancellation of the licence for the premises.

‘**(2)** The persons mentioned in subsection (1) must give the chief executive particulars sufficient to identify their interest in the licence within 28 days of—

- (a) acquiring the interest; or
- (b) if the person holds the interest at the time the licence is granted—the granting of the licence.

‘**(3)** A person who has given particulars under subsection (2) of the person’s interest in a licence must give the chief executive notice that the person no longer holds the interest within 28 days of ceasing to hold the interest.

Maximum penalty for subsection (3)—1 penalty unit.’.

Amendment of s 46 (Orders in respect of licensed premises)

16.(1) Section 46, heading—

omit, insert—

‘Orders for licensed premises etc.

(2) Section 46(1)—

omit, insert—

‘46.(1) The chief executive may issue an order to a licensee, permittee, nominee, owner or other person shown in the Register of Licences and Permits as a person who has an interest in licensed premises, or premises to which a restricted club permit relates, about—

- (a) altering the premises to make the premises suitable for the conduct of business under authority of the licence or permit; or
- (b) increasing or decreasing the area of the premises; or
- (c) complying with laws about noise coming from the premises; or
- (d) complying with laws about fire safety for the premises and hygienic practices in the conduct of business under authority of the licence or permit; or
- (e) complying with this Act.’

Omission of Pt 3, Div 2

17. Part 3, Division 2—

omit.

Amendment of s 58 (Available licences)

18. Section 58(1)(f) to (h)—

omit, insert—

- ‘(f) special facility licence;
- (g) limited licence.’

Replacement of s 59 (Authority of general licence)

19. Section 59—

omit, insert—

‘Authority of general licence

‘59.(1) A general licence authorises the licensee—

- (a) to sell liquor on the licensed premises, for consumption on or off the premises, during ordinary trading hours or ordinary trading

hours extended by an extended hours permit; and

- (b) to sell liquor on the licensed premises, for consumption on or off the premises, at any time to a resident on the premises; and
- (c) to sell liquor on the licensed premises, for consumption on the premises, at any time to a guest of a resident on the premises while the guest is in the resident's company; and
- (d) to sell liquor on premises approved by the chief executive for sale of liquor under authority of the general licence, for consumption—
 - (i) off the premises; or
 - (ii) on the premises in the amount and in the circumstances prescribed by regulation.

‘(2) If the chief executive specifies in the licence, the authority of a general licence extends to the sale of liquor off the licensed premises, for consumption off the premises, while the licensee is catering for a function if—

- (a) the sale is ancillary to the function at the place where the liquor is consumed; and
- (b) the liquor is sold for consumption by persons genuinely attending the function.

‘(3) The authority under subsection (1) or (2) is subject to this Act and the conditions specified in a particular licence or extended hours permit.

‘(4) Premises approved by the chief executive for sale of liquor under the authority of a general licence are taken to be part of the licensed premises to which the licence relates.’.

Amendment of s 62 (Authority of residential licence)

20.(1) Section 62, ‘subject’ to ‘permit’—

omit.

(2) Section 62—

insert—

‘(2) If the chief executive specifies in the licence, the authority of a

residential licence extends to the sale of liquor on premises, other than the licensed premises, for consumption on the other premises.

‘(3) The authority under subsection (1) or (2) is subject to this Act and the conditions specified in a particular licence or extended hours permit.’.

Amendment of s 64 (Consumption of liquor on premises by residents and guests)

21.(1) Section 64(1), after ‘consumption on the premises’—

insert—

‘at any time other than ordinary trading hours, or ordinary trading hours extended by an extended hours permit,’.

(2) Section 64(2)(a) and (b)—

omit, insert—

- ‘(a) if the liquor is supplied to a person in a residential unit—must be supplied only by personal room service at the resident’s request; and
- (b) must be consumed in a residential unit, or a private dining room, on the premises.’.

Amendment of s 65 (Consumption of liquor with meals)

22.(1) Section 65, heading—

omit, insert—

‘Consumption of liquor with meals or when meals are being served’.

(2) Section 65—

insert—

‘(2) If the chief executive specifies in the licence, the authority of a residential licence extends to the supply of liquor to persons on the premises other than in association with the persons eating meals.

‘(3) The number of persons who may at any time be supplied with liquor under subsection (2) must not be more than 20% of the number of persons

who can be seated to eat a meal in the part of the licensed premises ordinarily set aside for dining.’.

Amendment of s 68 (Authority of on-premises licence)

23.(1) Section 68, ‘, subject’ to ‘permit’—

omit.

(2) Section 68—

insert—

‘**(2)** If the chief executive specifies in the licence, the authority of an on-premises licence extends to the sale of liquor on premises other than the licensed premises for consumption on the other premises.

‘**(3)** The authority under subsection (1) or (2) is subject to this Act and the conditions specified in a particular licence or extended hours permit.’.

Insertion of new s 72A

24. After section 72, in Subdivision C—

insert—

‘Restriction on sale and supply of liquor at cabarets

‘**72A.(1)** If the chief executive specifies in the licence, the authority of an on-premises licence to sell liquor for consumption on licensed premises used for the primary purpose of a cabaret extends to the sale and supply during ordinary trading hours², or ordinary trading hours extended by an extended hours permit—

- (a) to or for persons genuinely attending a function on the premises;
or
- (b) to persons on the premises other than in association with the persons eating meals.

‘**(2)** The number of persons who may at any time be supplied with liquor under subsection (1)(b) must not be more than 20% of the number of

² Section 9(10) sets out the ordinary trading hours of licensed premises that are a cabaret.

persons who can be seated to eat a meal in the part of the licensed premises ordinarily set aside for dining.’.

Replacement of s 73 (Restriction on sale of liquor)

25. Section 73—

omit, insert—

‘Restriction on sale of liquor under on-premises licence

‘73.(1) The authority of an on-premises licence to sell liquor for consumption on licensed premises used for the primary purpose of eating meals prepared and served to be eaten on the premises—

- (a) is restricted to sale in association with the consumer eating a meal on the premises; and
- (b) if the chief executive specifies in the licence—may extend to sale and supply—
 - (i) to or for persons genuinely attending a function on the premises; or
 - (ii) to persons on the premises other than in association with the persons eating meals.

‘(2) The number of persons who may at any time be supplied with liquor under subsection (1)(b)(ii) must not be more than 20% of the number of persons who can be seated to eat a meal in the part of the licensed premises ordinarily set aside for dining.’.

Amendment of Sdiv G (Railway refreshment rooms)

26. Subdivision G, heading, ‘Subdivision G’—

omit, insert—

‘Subdivision H’.

Insertion of new Subdivision heading

27. After section 77—

insert—

‘Subdivision G—Premises used for tourist attraction’.

Amendment of s 83 (Restriction on grant of producer/wholesaler licence)

28. Section 83(c)—

omit, insert—

‘(c) supplying liquor wholesale to a person engaged in an activity to which this Act is prescribed by regulation not to apply.’.

Amendment of s 84 (Restriction on sale of liquor under producer/wholesaler licence)

29.(1) Section 84(1)(d)—

renumber as section 84(1)(e).

(2) Section 84(1)(c)—

omit, insert—

‘(c) a person engaged in an activity mentioned in section 206(a) (Factors affecting assessment of fees) if the sale is for the activity; or

(d) a person authorised by a law of another State or a Territory or foreign country to sell liquor, or the person’s agent; or’.

(3) Section 84—

insert—

‘**(4)** This section does not apply to the holder of a producer/wholesaler licence who holds a brewery licence within the meaning of section 77A of the *Excise Act 1901* (Cwlth).’.

Amendment of s 88 (Requirements of club and secretary)

30.(1) Section 88(2) (including penalty)—

omit, insert—

‘**(2)** The regulations may prescribe amendments to which

subsection (1)(b)(i) does not apply.

‘(3) An amendment to which subsection (1)(b)(i) does not apply takes effect as soon as it is adopted by the club.

‘(4) Subsection (1)(d) does not apply to a person who is—

- (a) a minor; or
- (b) a visitor mentioned in section 85(3) or (4) (Authority of club licence).

‘(5) A person must not make an entry in a register, or give information to someone else to enter in a register, mentioned in subsection (1)(c) or (d) that the person knows is false, misleading or incomplete in a material particular.

Maximum penalty for subsection (5)—35 penalty units.

‘(6) It is enough for a complaint against a person for an offence against subsection (5) to state that the information entered was false, misleading or incomplete to the person’s knowledge.’.

Omission of Pt 4, Div 7 (Restricted club licence)

31. Part 4, Division 7—

omit.

Replacement of s 93 (Authority of special facility licence)

32. Section 93—

omit, insert—

‘Authority of special facility licence

‘**93.(1)** A special facility licence authorises the licensee to sell liquor on the licensed premises, for consumption on or off the premises, during the times specified in the licence³.

³ Because of the nature of a special facility licence, there are no ordinary trading hours.

‘(2) The authority under subsection (1) is subject to this Act and the conditions that the chief executive has specified in the particular licence.’.

Replacement of s 95 (Authority of licence)

33. Section 95—

omit, insert—

‘Authority of limited licence

‘**95.(1)** A limited licence authorises the licensee, during the times specified in the licence⁴—

- (a) to sell liquor on the licensed premises, for consumption on the premises; or
- (b) to sell liquor on the licensed premises, for consumption off the premises, if the amount of each sale is not more than—
 - (i) if the chief executive specified an amount in the licence—the amount specified by the chief executive; or
 - (ii) in any other case—2L; or
- (c) if the chief executive specified in the particular licence—to sell liquor on premises other than the licensed premises for consumption on the premises on which the liquor is sold.

‘(2) The authority under subsection (1) is subject to this Act and the conditions that the chief executive has specified in the particular licence.’.

Amendment of s 103 (Restriction on grant of extended hours permit)

34. Section 103(2)—

omit.

Amendment of Div 13 (Additional authority of licence and permit)

35. Division 13, heading, ‘Division 13’—

⁴ Because of the nature of a limited licence, there are no ordinary trading hours.

omit, insert—

‘Division 14’.

Insertion of new Pt 4, Div 13

36. After Part 4, Division 12—

insert—

‘Division 13—Restricted club permit

‘Authority of restricted club permit

‘103A.(1) A restricted club permit authorises the permittee to sell and supply liquor on the premises to which the permit relates to the following persons, for consumption on the premises—

- (a) a member of the club;
- (b) a guest of a member of the club in the member’s company;
- (c) a member of a reciprocal club;
- (d) a guest of a member of a reciprocal club in the member’s company.

‘(2) The authority under subsection (1) is subject to this Act and the conditions specified in the permit.

‘Restriction on grant of restricted club permit and other related matters

‘103B.(1) The chief executive may grant a restricted club permit only if the chief executive is satisfied that the club is a non-proprietary club.

‘(2) The chief executive must include the following matters in a restricted club permit—

- (a) the times, totalling not more than 21 hours a week, for the sale of liquor under the permit;
- (b) the area to which the permit relates.

‘(3) On application by the holder of a restricted club permit, the chief

executive may extend the times specified in the permit for sale and consumption of liquor for special occasions celebrated by the club.

‘(4) The chief executive may extend the hours under subsection (3) by not more than 10 hours a month.

‘Duration of permit

‘103C. The chief executive may grant a restricted club permit for a period of at least 3 months but no longer than 1 year.

‘Requirements of club and secretary

‘103D.(1) A restricted club permit is subject to the following conditions—

- (a) the rules of the club must comply with the Schedule, unless the chief executive has given written permission to the club to vary the rules;
- (b) if an amendment of the rules of the club is adopted by the club—
 - (i) within 14 days after adoption of the amendment, the club’s secretary must give the chief executive a certified copy of the amendment; and
 - (ii) the amendment takes effect at the end of 28 days after the chief executive receives the certified copy unless the chief executive has disallowed the amendment by written notice given to the club’s secretary;
- (c) the club’s secretary must keep on the club premises a register of—
 - (i) the name and address of each club member; and
 - (ii) particulars of the most recent membership subscription paid by the member;
- (d) the club’s secretary must keep on the club premises a register of—
 - (i) the name and current address of each guest of a member; and

- (ii) the name of each member of a reciprocal club, on the premises, and the name of the reciprocal club; and
 - (iii) the name and current address of each guest of a member of a reciprocal club mentioned in subparagraph (ii);
- (e) the club's secretary must keep the registers mentioned in paragraphs (c) and (d) open for inspection by an investigator at any time when the club is open.

'(2) The regulations may prescribe amendments to which subsection (1)(b)(i) does not apply.

'(3) An amendment to which subsection (1)(b)(i) does not apply takes effect as soon as it is adopted by the club.

'(4) A person must not make an entry in a register, or give information to someone else to enter in a register, mentioned in subsection (1)(c) or (d), that the person knows is false, misleading or incomplete in a material particular.

Maximum penalty for subsection (4)—35 penalty units.

'(5) It is enough for a complaint against a person for an offence against subsection (4) to state that the information entered was false, misleading or incomplete to the person's knowledge.'

Insertion of new s 109A

37. After section 109—

insert—

'Application for grant of extended hours permit

'**109A.** An applicant for a licence, or a licensee, may apply for an extended hours permit for the premises that are, or are to be, the licensed premises.'

Amendment of s 110 (Application for grant of extended hours permit)

38.(1) Section 110, heading—

omit, insert—

‘Application for grant of extended hours permit not on regular basis’.

(2) Section 110(1) to (3)—

omit, insert—

‘**110.(1)** This section applies to an application for an extended hours permit that would not extend the trading hours of licensed premises on a regular basis.

‘(2) An applicant for an extended hours permit must, at or about the time the application is given to the chief executive, also give a copy of the application to the Assistant Commissioner in charge of the Police Service in the locality in which the relevant premises are situated.

‘(3) The Assistant Commissioner may comment or object to the chief executive about the application within 14 days of receiving the copy of the application.’.

(3) Section 110(5)(a)—

omit, insert—

‘(a) the previous conduct of the applicant in discharging any duties under this Act previously placed on the applicant, especially for the premises for which the extension is sought;’.

Amendment of s 111 (Variation of licence)

39. Section 111—

insert—

‘(3) This section does not apply to an application for the chief executive’s approval to conduct business between 7 a.m. and 10 a.m.

‘(4) An application mentioned in subsection (3) may only be made by application for an extended hours permit under section 109A (Application for grant of extended hours permit).’.

Replacement of s 114 (Restriction on transfer of licence or permit)

40. Section 114—

omit, insert—

‘Restriction on transfer of licence

‘114. The chief executive may transfer a licence only if all fees relating to the licence, and payable under this Act, have been paid in full.’

Amendment of s 115 (Chief executive’s responsibility on application for transfer or franchising of a licence)

41.(1) Section 115(c)—

omit, insert—

- ‘(c) the right to sell liquor be let or sublet; or
- (d) a franchise, or management rights of a similar nature, be granted for licensed premises, or a part of licensed premises;’.

(2) Section 115—

insert—

‘(2) If a nominee is nominated under this section because of section 109(9) (Nominees), the chief executive must discharge the responsibility under section 107(1) (Restrictions on grant of licence or permit) to the nominee as if the nominee were the proposed transferee, lessee, sublessee, franchisee or proposed holder of management rights.’.

Replacement of ss 116–118

42.(1) Sections 116 to 118—

omit, insert—

‘Public need relevant to applications

‘116.(1) This section applies to an application for—

- (a) a licence other than a club licence; or
- (b) an approval under section 59(1)(d) (Authority of general licence);
or
- (c) an extended hours permit that would extend trading hours on a regular basis.

‘(2) The applicant must satisfy the chief executive that the licence, approval or permit applied for is necessary to provide for the reasonable

requirements of the public for liquor and related services in the locality to which the application relates.

‘(3) For the purpose of satisfying the chief executive about the reasonable requirements of the public as mentioned in subsection (2), an applicant must give information to the chief executive about the following—

- (a) the number and condition of licensed premises already existing in the locality;
- (b) the distribution of licensed premises already existing throughout the locality;
- (c) the extent and quality of services provided, or to be provided, by licensed premises already existing in the locality;
- (d) whether the services proposed to be provided could be adequately provided by licensed premises already existing in the locality by way of orders of the chief executive or requisitions of investigators;
- (e) any other relevant information that the chief executive asks the applicant to provide.

‘(4) In deciding the reasonable requirements of the public for liquor and related services in a locality, the chief executive must take into account information about the matters mentioned in subsection (3) and must have regard to—

- (a) the population and demographic trends in the locality; and
- (b) the number and kinds of persons residing in, resorting to or passing through the locality, or likely in the foreseeable future to do so, and their respective requirements or expectations; and
- (c) the extent to which any requirement or expectation—
 - (i) varies during different periods or at different times; and
 - (ii) is lawfully met by other premises, licensed or unlicensed; and
- (d) the likely health and social impact that granting the application would have on the population of the locality.

‘(5) A reference in this section to licensed premises already existing

includes a reference to premises for which a licence or permit to which this section applies is in force.

‘Advice about application etc.

‘117.(1) As soon as practicable after the chief executive receives an application to which section 116 (Public need relevant to applications) applies or an application for a club licence, the chief executive must tell the following about the application—

- (a) the local government for the relevant locality; and
- (b) if the application is for an extended hours permit—the Assistant Commissioner in charge of the Police Service for the locality.

‘(2) The local government or Assistant Commissioner may—

- (a) comment on the reasonable requirements of the public in the locality; or
- (b) object to the grant of the application on the grounds that the amenity, quiet or good order of the locality would be lessened.

‘(3) The comment or objection must be given to the chief executive—

- (a) if the application was required to be advertised⁵—on or before the last day for filing objections to the application; and
- (b) in any other case—within 14 days of receiving advice about the application.

‘Advertisement of applications

‘118.(1) An application for the following must be advertised under this section—

- (a) a licence or variation of a licence;
- (b) an approval under section 59(1)(d) (Authority of general licence);
- (c) an extended hours permit, or variation of an extended hours permit, that would extend trading hours on a regular basis;

⁵ See section 118 (Advertisement of applications).

(d) another application that the chief executive requires, by written notice to the applicant, to be advertised.

‘(2) If an application must be advertised, the applicant must—

(a) in a form, and on days, approved by the chief executive generally or in a particular case, publish notice of the application, at the applicant’s expense—

(i) once in the Gazette; and

(ii) twice in a newspaper circulating in the locality; and

(b) display a copy of the notice on the premises to which the application relates on a sign the dimensions of which (including dimensions of the print) are approved by the chief executive, generally or in a particular case; and

(c) ensure the copy is displayed conspicuously for 28 days immediately before the last day for making submissions about the reasonable requirements of the public in the locality or filing objections to the application.

‘(3) The chief executive may waive or vary the publication and display requirements for an application if the chief executive is satisfied that publication and display under subsection (2) is not necessary because of—

(a) the remote location of the premises; or

(b) other special circumstances.

‘(4) Subject to subsection (5), the applicant must give to the chief executive evidence of satisfying the publication and display requirements under subsection (2) or (3).

‘(5) The chief executive may approve publication and display that—

(a) substantially complies with subsection (2); or

(b) has already taken place for another purpose and substantially complies with subsection (2).

‘(6) The chief executive must make available for inspection, in the office of the department at Brisbane, a list of all applications currently before the chief executive that are required under subsection (1) to be advertised.

‘(7) The list must include—

- (a) the nature of each application; and
- (b) the location of premises to which each application relates.

‘Submissions on public need

‘118A.(1) If a notice about an application to which section 116 (Public need relevant to applications) applies is published as required by section 118 (Advertisement of applications), a member of the public may make a written submission to the chief executive about—

- (a) the reasonable requirements of the public in the locality to which the application relates; and
- (b) the matters to which the chief executive must have regard under section 116.

‘(2) A submission must be in writing and given to the chief executive on or before the last day for making submissions stated in the notice.

‘(3) In this section—

“member of the public” has the meaning given by section 119 (Objection to grant of applications).’.

Replacement of ss 120 and 121

43. Sections 120 and 121—

omit, insert—

‘Requirements of objection by petition

‘120.(1) An objection purporting to be by petition to the grant of an application is ineffective, and may be disregarded, unless—

- (a) each sheet of the petition has an identical heading clearly stating the subject matter of the petition and positioned to be clearly legible to every person whose signature on the petition is sought; and
- (b) each signatory to the petition adds particulars of his or her connection with the locality to which the application relates; and
- (c) each sheet of the petition states the name of the petition’s sponsor

with whom all contact between the chief executive and the signatories to the petition is to take place.

‘(2) A notice given by the chief executive, or the registrar of the Tribunal, to the sponsor of the petition is taken to be given to all signatories to the petition.

‘Conference of concerned persons and decision by chief executive

‘121.(1) This section applies if the chief executive—

- (a) is given an application or a notice of objection under this Act and is required to decide an issue; and
- (b) considers it desirable that a conference of all persons concerned be held.

‘(2) The chief executive may take part in the conference.

‘(3) If a notice of objection is given under section 112 (Procedure for variation by chief executive) or 119 (Objection to grant of applications) for an application, a conference under subsection (1) must be held.

‘(4) If—

- (a) a conference is held; and
- (b) because of the conference, agreement is reached between the conferring persons about the terms of the chief executive’s decision that are acceptable to the persons; and
- (c) the agreed terms are put in writing and signed by the conferring persons; and
- (d) the chief executive is satisfied a decision in the agreed terms is lawful;

the chief executive may make a decision consistent with the terms.

‘(5) In deciding whether to—

- (a) if a conference was held—make a decision consistent with the agreed terms under subsection (4); or
- (b) if a conference was not held—grant an application;

the chief executive must have regard to—

- (c) if the application is an application to which section 116 (Public need relevant to applications) applies—
 - (i) whether the applicant has satisfied the chief executive under section 116(2); and
 - (ii) the matters mentioned in section 116(4); and
- (d) objections made to the grant of the application; and
- (e) comments from the local government for the area to which the application relates; and
- (f) for an extended hours permit—comments from the Assistant Commissioner in charge of the Police Service in the locality to which the application relates; and
- (g) the impact on the amenity of the community concerned; and
- (h) for an extended hours permit for extension of hours beyond 2 a.m.—
 - (i) the previous conduct of the applicant in discharging any duties under this Act previously placed on the applicant, especially for the premises for which the extension is sought; and
 - (ii) the applicant's ability to control the noise and behaviour of the number of persons that could reasonably be expected to be on and in the vicinity of the premises if the extension were granted; and
 - (iii) the suitability of the premises and its facilities for the purpose for which the extension is sought.

‘(6) If the chief executive grants an extended hours permit for extension of hours beyond 3 a.m., the permit remains in force for a maximum period of 6 months and may be renewed only on application to the chief executive.

‘(7) Evidence of anything said or done during a conference is inadmissible in a proceeding before the Tribunal unless the parties to the proceeding otherwise agree.

‘Renewal of permits for extension of hours beyond 3 a.m.

‘121A.(1) As soon as practicable after the chief executive receives an application for renewal under section 121(6) (Conference of concerned persons and decision by chief executive) of a permit for extension of hours beyond 3 a.m., the chief executive must tell the following about the application—

- (a) the local government for the area to which the application relates; and
- (b) the Assistant Commissioner in charge of the Police Service for the locality to which the application relates.

‘(2) The local government or Assistant Commissioner may comment on, or object to, the application by giving written comments or objections to the chief executive within 14 days of receiving the chief executive’s advice about the application.

‘(3) In considering the application, the chief executive must have regard to—

- (a) comments and objections received under subsection (2); and
- (b) the matters mentioned in section 121(5)(h) (Conference of concerned persons and decision by chief executive); and
- (c) the impact on the amenity of the community concerned.’.

Replacement of s 129 (Executors etc. may conduct business)

44. Section 129—

omit, insert—

‘Applications to continue trading in certain circumstances

‘129.(1) The following persons may apply to the chief executive to conduct the business of a licensee on licensed premises—

- (a) if a licensee is dead—a person entitled to be appointed as the legal personal representative of the deceased licensee;
- (b) if the licensee is bankrupt or has taken advantage of the laws of bankruptcy—a person in possession of the licensed premises who is entitled to administer the affairs of the licensee;

- (c) if the licensee is a corporation—a person in possession of the licensed premises who has been appointed to manage or wind up the affairs of the licensee;
- (d) a guardian of a licensee or an administrator or manager of the estate of a licensee.

‘(2) If any of the following circumstances happen in relation to a licence or licensed premises, the owner or mortgagee of the licensed premises, or the owner of a financial interest in the trading of the licensed premises, may also apply to the chief executive to conduct the business of the licensee on the licensed premises—

- (a) a licensee ceasing to conduct business on the premises under authority of the licence;
- (b) the lessee or sublessee of the right to sell liquor ceasing to conduct business on the premises under authority of the licence;
- (c) a licensee who holds the licence as a member of a partnership ceasing to be a member of the partnership;
- (d) the chief executive has ordered cancellation of the licence but the order has not taken effect.

‘(3) If the application is made in circumstances mentioned in subsection (2)(d), the order for cancellation is stayed until the application is disposed of by the chief executive.’.

Replacement of s 131 (Continuance of trading in emergency)

45. Section 131—

omit, insert—

‘Nominees when application to continue trading in certain circumstances

‘**131.** An applicant under section 129 (Applications to continue trading in certain circumstances)—

- (a) must nominate a nominee in circumstances where, if the application were an application for a licence, the applicant would be required under this Act to nominate a nominee; and
- (b) may nominate a nominee in any other circumstances.

‘Decision by chief executive on application to continue trading in certain circumstances

‘131A.(1) This section applies if an application is made under section 129 (Applications to continue trading in certain circumstances).

‘(2) If an applicant or the applicant’s nominee is the occupier or is entitled to possession of the licensed premises, the chief executive may authorise the applicant or the applicant’s nominee to conduct business on licensed premises under authority of the licence on an interim basis.

‘(3) The authority under subsection (2) continues until the earliest of the following happens—

- (a) the application on which it is made is disposed of by the chief executive;
- (b) the authority is revoked by the chief executive because the applicant or the nominee contravenes this Act or a condition of the licence;
- (c) the authority expires.

‘(4) While the authority under subsection (2) continues, the applicant, and the applicant’s nominee (if any), are each subject to liabilities under this Act as if each were the licensee of the licensed premises.

‘(5) If the chief executive is satisfied that the applicant, and, if the applicant has nominated a nominee, the nominee, is a fit and proper person to conduct the business under the authority of the licence, the chief executive may—

- (a) authorise the applicant and the nominee to conduct the business until the licence is transferred, cancelled, surrendered or suspended; and
- (b) if the application is made because of an order for cancellation of a licence—the order is set aside.

‘(6) If the chief executive is not satisfied about the matters mentioned in subsection (5), the chief executive must reject the application and may make an order under section 132 (Discharge of licensee or permittee from obligations).

‘(7) On the chief executive’s rejection of the application—

- (a) if an authority under subsection (2) is still in force—the authority is revoked; and
- (b) if the application was made because of an order for cancellation of a licence—the chief executive’s order for cancellation of the licence takes effect.

‘Section 129 applicants may apply under s 113

‘**131B.** A person who may apply under section 129 (Applications to continue trading in certain circumstances), may apply under section 113 (Application for transfer of licence) for the transfer of the licence even though the person is not a person mentioned in section 113.’.

Amendment of s 132 (Discharge of licensee or permittee from obligations)

46. Section 132(e)(ii), ‘section 131’—

omit, insert—

‘section 131A’.

Amendment of s 134 (Cancellation and suspension of permits)

47.(1) Section 134, heading, ‘and suspension’—

omit, insert—

‘, suspension or variation’.

(2) Section 134, ‘cancel’ to ‘extended hours permit’—

omit, insert—

‘cancel, suspend or vary a general purpose, restricted club or extended hours permit’.

Replacement of s 135 (Summary cancellation or suspension under s 134)

48. Section 135—

omit, insert—

‘Summary cancellation, suspension or variation

‘**135.** Cancellation, suspension or variation of a permit under section 134 (Cancellation, suspension or variation of permits) takes effect when written notice of the cancellation, suspension or variation is given to the permittee.’

Amendment of s 136 (Cancellation of licences)

49. Section 136(3)(b)(ii) and (iii)—

omit, insert—

- ‘(ii) each person who has given the chief executive particulars of his or her interest in the licence under section 44A (Owner, lessee, mortgagee and secured creditors to give particulars to chief executive) and is likely to be affected by cancellation of the licence.’

Replacement of s 145 (Production of licence or permit)

50. Section 145—

omit, insert—

‘Keeping licence or permit at licensed premises

‘**145.** A licensee or permittee must keep the licence or permit at the premises to which the licence or permit relates, unless the licensee or permittee has a reasonable excuse for not doing so.

Maximum penalty—25 penalty units.

‘Production of licence or permit on request

‘**145A.(1)** An investigator may ask the person who appears to the investigator to be in control of premises to which a licence or permit relates to produce for inspection the licence or permit for the premises.

‘**(2)** The person must produce the licence or permit immediately for inspection by the investigator unless the person has a reasonable excuse for not producing it.

Maximum penalty—25 penalty units.

‘(3) A person does not commit an offence against subsection (2) if at the time the investigator asked the person to produce the licence or permit under subsection (1), the person was not, in fact, in control of the premises.

‘Prohibition on sale to a minor

‘**145B.** A person must not sell liquor to a minor.

Maximum penalty—

- (a) if the person is a licensee, permittee, nominee or manager of licensed premises—250 penalty units;
- (b) in any other case—40 penalty units.’.

Amendment of s 151 (Unlawful betting or gaming)

51.(1) Section 151(1)(a)—

insert—

‘(iii) for conducting an art union authorised to be conducted under the *Art Unions and Public Amusements Act 1992*; or’.

(2) Section 151(2)—

omit.

Amendment of s 152 (Prohibition on other use of premises)

52. Section 152, ‘The holder of a general licence’—

omit, insert—

‘A licensee’.

Replacement of s 153 (Subletting of licensed premises)

53. Section 153—

omit, insert—

‘Letting or subletting of licensed premises

‘**153.(1)** A licensee must not, without the chief executive’s approval—

- (a) let or sublet all of the licensed premises; or
- (b) enter into a franchise or management agreement for all of the licensed premises.

Maximum penalty—40 penalty units.

‘**(2)** A licensee must not—

- (a) let or sublet part of the licensed premises; or
- (b) enter into a franchise or management agreement for part of the licensed premises.

Maximum penalty—40 penalty units.

‘**(3)** Subsections (1) and (2) do not apply to the holder of a special facility licence who, with the chief executive’s approval—

- (a) lets or sublets part of the licensed premises; or
- (b) lets or sublets the right to sell liquor; or
- (c) enters into a franchise or management agreement for part of the licensed premises.’.

Replacement of s 154 (Alteration and maintenance of licensed premises)

54. Section 154—

omit, insert—

‘Alteration and maintenance of licensed premises

‘**154.(1)** The owner and licensee of licensed premises must give notice to the chief executive before altering or rebuilding the licensed premises.

Maximum penalty—25 penalty units.

‘**(2)** The owner or licensee of licensed premises must not, without the chief executive’s approval, attempt to change the area of the licensed premises by—

- (a) using an area that is not included in the licence as licensed

premises, as if the area were part of the licensed premises; or

- (b) not using an area that is included in the licence as licensed premises, as if the area were not part of the licensed premises.

Maximum penalty—25 penalty units.

‘(3) The licensee of licensed premises must keep the premises clean and in good repair.

Maximum penalty—25 penalty units.’

Replacement of s 155 (Eviction of minors from premises)

55. Section 155—

omit, insert—

‘Minors on premises

‘**155.(1)** This section applies to all minors other than an exempt minor.

‘(2) A licensee, permittee or person in control of the premises to which the licence or permit relates must ensure that a minor is not on the premises.

‘(3) If a minor is on the premises, the licensee, permittee and other person in control of the premises each commits an offence.

Maximum penalty—100 penalty units.

‘(4) In this section—

“exempt minor” means a minor on premises to which a licence or permit relates if—

- (a) the minor is a resident on the premises; or
- (b) the minor is on the premises to—
- (i) perform duties as an employee of the owner, or occupier, of the premises or a part of the premises; or
 - (ii) perform duties in the conduct of a lawful business; or
 - (iii) perform duties while receiving training for employment or work experience; or
- (c) the minor is attending a function being held on the premises; or
- (d) the premises are premises to which a club licence or restricted

club permit relates and the minor's presence does not contravene the club's rules or a condition of the licence or permit; or

- (e) the minor is on the premises for a purpose, and in circumstances, approved by the chief executive; or
- (f) the minor—
 - (i) is eating a meal on the premises; or
 - (ii) is accompanied by a responsible adult who is responsibly supervising the minor.

‘(5) However, a minor is not an exempt minor merely because the minor is eating a meal on the premises or accompanied by a responsible adult if—

- (a) the minor is on premises after 5 p.m.; and
- (b) the premises are premises mentioned in section 72 (Seating accommodation in cabarets) to which an on-premises licence relates; and
- (c) the premises are being used for cabaret.’.

Amendment of s 156 (Liquor prohibited to certain persons)

56.(1) Section 156(2), after ‘relates,’—

insert—

‘or in a public place’.

(2) Section 156, after subsection (3)—

insert—

‘Maximum penalty for subsections (1) to (3)—

- (a) if the person is the licensee, permittee, nominee or manager of the premises—250 penalty units;
- (b) in any other case—40 penalty units.’.

(3) Section 156(4)—

omit, insert—

‘(4) Subsection (2) does not apply to the supply of liquor to a minor in a public place, designated under section 173C (Local authority may designate

public places where liquor may be consumed), if the minor is accompanied by a responsible adult who is responsibly supervising the minor.’.

Replacement of s 157 (Prohibitions affecting minors)

57. Section 157—

omit, insert—

‘Prohibitions affecting minors

‘157.(1) A minor who is not an exempt minor must not be on premises to which a licence or permit relates.

Maximum penalty—25 penalty units.

‘(2) A minor must not, on premises to which a licence or permit relates or in a public place—

- (a) consume liquor; or
- (b) be in possession of liquor.

Maximum penalty—25 penalty units.

‘(3) Subsection (2) does not apply to a minor in a public place, designated under section 173C (Local authority may designate public places where liquor may be consumed), if the minor is accompanied by a responsible adult who is responsibly supervising the minor.

‘(4) Subsection (2)(b) does not apply to a minor who is on the premises for a purpose mentioned in section 155(4)(b) (Minors on premises) if the minor is in possession of liquor in the course of performing the duties mentioned in the paragraph.’.

Amendment of s 158 (False representation of age)

58.(1) Section 158(1), ‘with the intent of being supplied with liquor.’—

omit, insert—

‘for a wrongful purpose.’.

(2) Section 158—

insert—

‘(3) A person must not falsely represent to an entity that the person has reached 18 years to obtain a proof of age card mentioned in section 6(a)(i) (Acceptable evidence of age) knowing the representation to be false.

Maximum penalty—25 penalty units.

‘(4) In subsection (1)—

“**wrongful purpose**” of a minor means—

- (a) intending to be supplied with liquor; or
- (b) entering into premises to which a licence or permit relates.’.

Amendment of s 159 (Wrongful dealing with genuine evidence of age)

59. Section 159(1)—

omit, insert—

‘**159.(1)** A person must not knowingly give a document that is evidence of age of the person mentioned in the document (the “**specified person**”) to someone else, if the person giving the document knows or has reasonable grounds to suspect that the document may be used—

- (a) as evidence of age, under this Act, of someone other than the specified person; or
- (b) to obtain a proof of age card mentioned in section 6(a)(i) (Acceptable evidence of age) for someone other than the specified person.

Maximum penalty—40 penalty units.’.

Replacement of s 162 (Taking liquor onto or away from premises subject to on-premises licence)

60. Section 162—

omit, insert—

‘**Taking liquor onto or away from premises subject to on-premises licence**

‘**162.(1)** A person must not take liquor onto premises to which an on-premises licence relates for consumption on the premises, unless the

premises are premises mentioned in section 73 (Restriction on sale of liquor under on-premises licence).

Maximum penalty—25 penalty units.

‘(2) A person must not take liquor from premises to which an on-premises licence relates, unless the premises are premises mentioned in section 73 and—

- (a) the liquor was supplied to the person on the premises in a bottle or other container and the bottle or other container has been opened on the premises; or
- (b) the person brought the liquor onto the premises.

Maximum penalty—25 penalty units.’.

Amendment of s 172 (Offer to purchase liquor made elsewhere than at licensed premises)

61.(1) Section 172(2)—

renumber as subsection (3).

(2) Section 172—

insert—

‘(2) Subsection (1) does not apply to the holder of a producer/wholesaler licence for orders taken to supply liquor by wholesale to a person mentioned in section 84(1) (Restriction on sale of liquor under producer/wholesaler licence).’.

Amendment of s 173C (Local authority may designate public places where liquor may be consumed)

62.(1) Section 173C(1), ‘, by resolution,’—

omit.

(2) Section 173C(2), ‘, in the resolution or by another resolution,’—

omit.

Amendment of s 173D (Local authority must advertise designation and place signs)

63.(1) Section 173D(1), after ‘advertise’—

insert—

‘, or cause someone else to advertise.’.

(2) Section 173D(3), after ‘erect’—

insert—

‘, or cause someone else to erect.’.

(3) Section 173D—

insert—

‘**(5)** A local government does not have to comply with subsections (1) to (3) if the designation is for a public place adjacent to premises used for the primary purpose of eating meals prepared, served and intended to be eaten on the premises.

‘**(6)** However, written local government approval for the use of the public place mentioned in subsection (5) must be conspicuously displayed in the place.

‘**(7)** Subsection (1) does not apply to a Council.’.

Amendment of s 173E (Local authority must advertise repeal or amendment of designation and remove or alter signs)

64. Section 173E(1), after ‘advertise’—

insert—

‘, or cause someone else to advertise.’.

Replacement of s 187 (Abatement of nuisance or dangerous activity)

65. Section 187—

omit, insert—

‘Abatement of nuisance or dangerous activity

‘**187.(1)** This section applies if an investigator believes on reasonable grounds that—

- (a) noise coming from licensed premises or a utility area for licensed premises is—
 - (i) a nuisance to persons resident on the licensed premises or occupying other premises near the licensed premises; or
 - (ii) in contravention of an order under section 46 (Orders for licensed premises etc.); or
- (b) because of activity in or near the licensed premises, there is a danger to persons or property that is likely to be aggravated by the continued supply of liquor in the locality.

‘**(2)** The investigator may give written notice to the licensee, permittee, or person who appears to be in charge of the premises, requiring that—

- (a) the noise stop or be reduced to, and kept at, a level that is no longer a nuisance; or
- (b) the premises be closed immediately.

‘**(3)** If the notice is contravened, the investigator may take all steps necessary and reasonable to ensure compliance, or continued compliance, with the notice.

‘**(4)** A person who contravenes a requisition under subsection (2) commits an offence.

Maximum penalty—25 penalty units.

‘**(5)** In this section—

“licensed premises” includes premises to which a restricted club permit relates.

“utility area”, for licensed premises, includes an area containing plant or equipment that is not part of the licensed premises, but is used for the benefit of the licensed premises.

Example—

An area containing an airconditioning plant for licensed premises may be a utility area.’.

Replacement of ss 199 and 200

66. Sections 199 and 200—

omit, insert—

‘Elements of gross amount paid or payable for liquor

‘199.(1) In this Part—

“gross amount paid or payable for liquor” means—

- (a) the price, worked out under subsection (2), for liquor paid or payable by or to a person who is required by this Act to pay a licence fee assessed by reference to the gross amount; or
- (b) if the chief executive suspects on reasonable grounds that a greater amount should have been disclosed than the amount that was disclosed as the gross amount by a person required to pay a licence fee—an amount decided by the chief executive having regard to all relevant circumstances.

‘(2) In working out the gross amount paid or payable for liquor, regard must be had to—

- (a) the amount attributable to the liquor purchased, or otherwise obtained, or supplied; and
- (b) the amount attributable to bottles or other containers and items of packaging in which the liquor is delivered to or from the person required to pay the licence fee; and
- (c) the amount attributable to expenses for any of the following incurred in relation to the liquor at any stage of its movement to or from the person required by this Act to pay the licence fee—
 - (i) importation, handling and storage;
 - (ii) delivery other than for freight charges;
 - (iii) packaging, labelling and advertising;
 - (iv) credit charges and penalties;
 - (v) imposts under law, other than a licence fee payable under this Act recovered by a supplier of liquor from the purchaser of the liquor.

‘Licence and assessment periods

‘200.(1) The licence period for a licence is a financial year.

‘(2) The assessment period for a licence is the financial year before the licence period.

Example—

The fee to be paid for the licence period from 1 July 1994 until 30 June 1995 is worked out on the assessment period from 1 July 1993 until 30 June 1994.’.

Amendment of s 203 (Assessment of fees)

67.(1) Section 203(1)(a)(ii)—

omit.

(2) Section 203(1)(a)(iii)—

renumber as section 203(1)(a)(ii).

(3) Section 203(1)(b)(i), ‘restricted club licences’—

omit, insert—

‘restricted club permits’.

(4) Section 203(2)—

omit, insert—

‘(2) If premises are used for only part of a licence period, the fee payable on any of the following is to be assessed under subsection (1) and, subject to subsection (4), using an estimate made by the chief executive of what the relevant gross amount would have been if the licensee had been able to trade on the licensed premises during the entire assessment period, proportionately reduced for the period that has expired since the start of the licence period—

- (a) grant of a licence; or
- (b) provisional grant of a licence under section 123 (Provisional grant of licence); or
- (c) resumption of trading under a licence removed from another place.’.

Amendment of s 205 (Filing of returns)

68.(1) Section 205(2)(b)—

omit.

(2) Section 205(2)(c)—

renumber as section 205(2)(b).

(3) Section 205(4)—

omit, insert—

‘**(4)** A return under subsection (2) or (3) must contain the particulars, and be accompanied by the material, prescribed by regulation.

‘**(5)** If the chief executive is not satisfied a return filed under subsection (2) or (3) is accurate, the chief executive may, by written notice given to the holder of the licence or certificate, require the holder to file with the chief executive a further return of the same type, certified to be accurate by the person responsible for auditing the accounting records of the business to which the licence or certificate relates.

‘**(6)** A person given a notice under subsection (5) must comply with the notice within the period stated in the notice.

Maximum penalty—25 penalty units.’

Amendment of s 206 (Factors affecting assessment of fees)

69. Section 206—

insert—

‘**(2)** In assessing the fee payable for a licence under section 203 (Assessment of fees), the chief executive may also allow for theft, loss or damage of liquor.’

Amendment of s 208 (Payment of fees)

70.(1) Section 208(2) and (3)—

omit, insert—

‘**(2)** A fee payable in relation to a licence is payable to the department on

the day stated as the date for payment in the notice of assessment of the fee given to the licensee.’.

Amendment of s 209 (Suspension and cancellation for failure to pay fee)

71.(1) Section 209, after ‘subject to’—

insert—

‘subsection (2) and’.

(2) Section 209—

insert—

‘**(2)** If, within the 14 days, the fee is paid to the department in cash or by bank cheque or electronic funds transfer, the suspension is lifted and the cancellation does not take effect.’.

Amendment of s 210 (Appeal concerning failure to pay fee)

72.(1) Section 210(1)(a) and (b)—

omit, insert—

- ‘(a) the business conducted under authority of the licence or permit having been adversely affected by a natural disaster; or
- (b) the licensee ceasing to conduct business on the premises under authority of the licence; or
- (c) the owner, lessee or mortgagee of the premises to which the licence relates starting a proceeding for possession of the premises; or
- (d) a personal hardship for the licensee.’.

(2) Section 210—

insert—

‘**(5)** In this section—

“**person aggrieved**” includes any of the persons who gave the chief executive particulars of their interest under section 44A (Owner,

lessee, mortgagee and secured creditors to give particulars to chief executive).’.

Replacement of ss 211 and 212

73. Sections 211 and 212—

omit, insert—

‘Powers of Tribunal on appeal

‘211.(1) The Tribunal must decide an appeal under section 210(1) (Appeal concerning failure to pay fee) within 30 days after notice of appeal is filed with the registrar.

‘(2) If it appears to the Tribunal that an appellant is not prosecuting an appeal diligently, it may strike out the appeal.

‘(3) In deciding an appeal, the Tribunal may—

- (a) allow the appeal on condition that the fee is paid to the department within a period stated by the Tribunal (the **“time allowed”**); or
- (b) dismiss the appeal.

‘(4) The time allowed must be at least 7 days, and not more than 28 days, after the day on which the appeal is allowed.

‘(5) If an appeal is allowed and the fee is paid to the department within the time allowed, the suspension of the licence or permit ceases on payment of the fee.

‘(6) The licence or permit is immediately cancelled if an appeal is—

- (a) dismissed or struck out; or
- (b) allowed but the fee payable is not paid within the time allowed.

‘(7) If a licence or permit is cancelled under subsection (6), the part of the fee assessed or payable for the entire licence period in which it was suspended that is proportionate to the part of the licence period that had ended before the suspension happened is a debt payable to the State.

‘Reassessment of fee

‘212.(1) This section applies if—

- (a) the licence fee has been paid; or
- (b) the licence fee has been assessed and no fee is payable; or
- (c) the licence has been cancelled.

‘(2) The chief executive may on the chief executive’s own initiative, and must on application made by the licensee, review an assessment for the fee payable in relation to the licence if—

- (a) an error or miscalculation in the assessment is suspected; or
- (b) the assessment was based on incorrect or incomplete information; or
- (c) for an assessment under section 203(2) (Assessment of fees)—the assessment was based on an incorrect assumption about the nature, scale or duration of the business to be conducted under authority of the licence.

‘(3) A review may be made under subsection (2) only within 5 years after the date of the assessment.

‘(4) If on review under subsection (2) an assessment is changed, an adjustment is to be made and—

- (a) any amount overpaid must be—
 - (i) refunded to, or as directed by, the licensee; or
 - (ii) credited against future fees that may become payable by the licensee in relation to the licence;as the chief executive, by written notice given to the licensee, elects; and
- (b) any amount underpaid must, subject to section 213 (Liability for reassessed fee in certain cases), be paid to the department by the licensee within 14 days after the licensee is given notice of the reassessment.

‘(5) Despite subsection (4)(a), if the chief executive is satisfied the amount overpaid was paid by a person for the licensee, the chief executive may refund the amount to, or as directed by, the person.

‘(6) If a reassessment is made of the fee payable for a licence period in which 2 or more persons held the licence, the chief executive may apportion

an entitlement to refund, or a liability to pay, among the persons as the chief executive considers just, and the persons are entitled to refund, or are liable to make payment, as apportioned.

‘(7) If a licence is surrendered or cancelled, any amount credited under subsection (4)(a) in relation to the licence must be refunded to, or as directed by, the former licensee.

‘(8) The chief executive may impose on the licensee a supplementary fee in relation to the licence if—

- (a) a fee as reassessed is more than the fee as previously assessed; and
- (b) the chief executive is satisfied that the fee was previously assessed on the basis of information disclosed by the licensee that was known, or ought to have been known, by the licensee to be incorrect.

‘(9) The supplementary fee must be—

- (a) at least the amount by which the fee as reassessed is more than the fee previously assessed; and
- (b) not more than 3 times the amount.

‘(10) The licensee must pay the supplementary fee to the department within 14 days after the licensee is given notice of the imposition of the supplementary fee.

‘(11) Sections 210 to 212 apply to payment of a fee as reassessed or a supplementary fee imposed.’.

Amendment of s 217 (Records to be kept by licensee)

74.(1) Section 217(1), after ‘transactions’—

insert—

‘(the “**transactions record**”)’.

(2) Section 217(2), ‘The record—’—

omit, insert—

‘The transactions record—’.

(3) Section 217(2)(b)(i), ‘prescribed particulars’—

omit, insert—

‘particulars prescribed by regulation’.

(4) Section 217(2)(b)(ii), ‘determined’—

omit, insert—

‘decided’.

(5) Section 217(2)(c), ‘5 years’—

omit, insert—

‘6 years’.

(6) Section 217(3) and (4)—

renumber as section 217(6) and (7).

(7) Section 217—

insert—

‘**(3)** A licensee must establish accounting records of a business conducted under authority of the licence that correctly record and explain the transactions and financial position of the business.

Maximum penalty—350 penalty units.

‘**(4)** The following persons must keep accounting records on the licensed premises to which they relate, or in some other place approved by the chief executive, for 6 years after the day on which the record is made—

- (a) the licensee by or for whom the records are made;
- (b) if the licence has since been transferred—the licensee to whom it was last transferred.

‘**(5)** A licensee commits an offence if—

- (a) the licensee’s transactions record is not kept as required by subsection (2); or
- (b) the licensee’s accounting records are not kept as required by subsection (4).

Maximum penalty—350 penalty units.’.

Replacement of s 218 (Powers of examination by investigator)

75. Section 218—

omit, insert—

‘Powers of examination by investigator

‘218.(1) This section applies to—

- (a) a licensee or a former licensee; and
- (b) if a licensee is, or former licensee was, a corporation—the directors and shareholders, and former directors and shareholders, of the corporation.

‘(2) An investigator may, on reasonable notice, require a person to whom this section applies—

- (a) to produce to the investigator, at a reasonable place stated in the notice, the following records of which the person has control—
 - (i) a record made and kept under section 217 (Records to be kept by licensee); or
 - (ii) an accounting record or other record about the business conducted under authority of the licence; and
- (b) to permit the investigator to examine the record and—
 - (i) to make copies of, or take extracts from, the record; or
 - (ii) if the investigator considers, on reasonable grounds, that it is necessary to remove the record to examine or copy it—to remove the record from the person’s control.

‘(3) A person must comply with a requirement under subsection (2) unless the person has a reasonable excuse.

Maximum penalty—25 penalty units.

‘(4) While an investigator has custody or control of a record removed under subsection (2)—

- (a) section 217(2)(c) is taken to be complied with; and
- (b) the investigator must permit, at all reasonable times—
 - (i) inspection of the record; and

(ii) the making of additions to the record;

by a person who, if the record had not been removed, would be entitled to inspect the record or make the additions.

‘(5) The investigator who has removed a record under subsection (2) must, as soon as is practicable after the removal—

- (a) examine, and if the investigator considers it necessary, copy the record; and
- (b) return it to the person from whom it was removed.’

Replacement of Pt 9, Div 2

76. Part 9, Division 2—

omit, insert—

‘Division 2—Assessment and payment of premiums

‘Payment of premium for general licence and special facility licence

‘**219.(1)** The chief executive may grant a general licence or special facility licence only if the applicant has paid a premium to the department.

‘(2) The amount of the premium is to be fixed by the chief executive under section 220 (Basis of calculation of premium).

‘Basis of calculation of premium

‘**220.** In fixing the amount of a premium, the chief executive must have regard to—

- (a) the extent and nature of the locality to be served by the proposed licensed premises; and
- (b) the premiums fixed for premises of a similar size and type in the locality; and
- (c) the premiums fixed for premises in a locality of a similar size and with similar industries and potential market; and
- (d) the nature of the business proposed to be conducted on the proposed licensed premises; and

- (e) the size of the proposed licensed premises; and
- (f) the number and size of liquor outlets on the proposed licensed premises; and
- (g) any other matter the chief executive considers relevant.’.

Replacement of s 231 (False or misleading statements or documents)

77. Section 231—

omit, insert—

‘False or misleading statements

‘231.(1) A person must not—

- (a) state anything for this Act that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made for this Act anything without which the statement is, to the person’s knowledge, misleading in a material particular.

Maximum penalty—100 penalty units or imprisonment for 6 months.

‘(2) It is enough for a complaint against a person for an offence against subsection (1)(a) or (b) to state that the statement made was false or misleading to the person’s knowledge.

‘False, misleading or incomplete documents

‘231A.(1) A person must not give a document for this Act containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—100 penalty units or imprisonment for 6 months.

Example—

A minor knowingly using a forged driver’s licence or a licence belonging to someone else.

‘(2) Subsection (1) does not apply to a person who, when giving the document—

- (a) informs the person to whom the document is given, to the best of

the person's ability, how it is false, misleading or incomplete; and

- (b) if the person giving the document has, or can reasonably obtain, the correct information—gives the correct information.

‘(3) It is enough for a complaint against a person for an offence against subsection (1) to state that the document was false, misleading or incomplete to the person's knowledge.

‘Impersonation of investigator

‘**231B.** A person must not pretend to be an investigator.

Maximum penalty—200 penalty units.’.

Amendment of s 233 (Evidentiary provisions)

78. Section 233—

insert—

- ‘(e) if a statement of the results of the analysis of a fluid includes a certificate purporting to be the certificate of an analyst that the statement is a true statement of the results of the analysis—the statement that the fluid is liquor is evidence of the results of the analysis; and
- (f) if in a statement in a complaint for an offence against this Act it is claimed that the offence happened on licensed premises and a fluid was liquor—the statement is evidence that the fluid was liquor; and
- (g) if in a statement in a complaint for an offence against this Act it is claimed that the offence happened off licensed premises and a fluid was packed in a container of a type that usually holds liquor—the statement is evidence that the fluid was liquor.

‘(2) In this section—

“**analyst**” has the meaning given by section 5 of the *Health Act 1937*.’.

Amendment of s 235 (Regulations)

79.(1) Section 235(1)—

omit, insert—

‘**235.(1)** The Governor in Council may make regulations under this Act.’.

(2) Section 235(2)—

insert—

- ‘(f) the circumstances in which the chief executive may grant a general purpose permit; and
- (g) the circumstances in which the chief executive may approve premises mentioned in section 59 (Authority of general licence) and the conditions the chief executive may impose on the approval; and
- (h) the monitoring by local governments of the use of sections 173A to 173E; and
- (i) encouraging responsible practices in the service, supply and promotion of liquor.’.

Amendment of s 238 (Completion of proceedings in the Court)

80.(1) Section 238(2) to (5)—

renumber as section 238(3) to (6).

(2) Section 238—

insert—

‘**(2)** A proceeding to which subsection (1) applies may, with the applicant’s consent, be finished by the chief executive as if the chief executive were the Court.’.

(3) Section 238(4) (as renumbered), ‘determination’—

omit, insert—

‘decision’.

(4) Section 238(5) (as renumbered), ‘subsection (2)’—

omit, insert—

‘subsection (3)’.

Insertion of new s 238A

81. After section 238—

insert—

‘Disposal of applications for removal

‘238A.(1) An application for removal of a licence under section 49A of the repealed Act, that had not been disposed of before the proclaimed day, may be continued and disposed of as if the chief executive were the Commission.

‘(2) To remove any doubt, it is declared that—

- (a) since the proclaimed day, the chief executive has had power to perform the functions performed by the Commission under the repealed Act; and
- (b) the Court’s power under the repealed Act to order that a licence be removed has continued under this Part.

Example of subsection (2)(a)—

The chief executive has power to decide whether there is a public need in the locality to which it is proposed to remove a licence on application for removal of the licence under the repealed Act.’.

Amendment of s 239 (Termination of Court)

82. Section 239, ‘section 238(1) applies’—

omit, insert—

‘section 238(1) or 238A applies’.

Amendment of s 242 (Table of corresponding licences)

83. Section 242, Table, item ‘restricted club licence’—

omit.

Insertion of new s 243A

84. After section 243—

insert—

‘Variation of general licence (previously spirit merchant’s (retail) licence)

‘**243A.** If the holder of a general licence, that before the proclaimed day was held as a spirit merchant’s (retail) licence, applies to the chief executive to vary the conditions of the licence, the chief executive may require the applicant to satisfy the requirements of sections 116 (Public need relevant to applications), 118 (Advertisement of applications) and 219 (Payment of premium for general licence and special facility licence) of the current Act as if the applicant were an applicant for a general licence.’

Amendment of s 244 (Continuance of existing permits)

85. Section 244—

insert—

‘**(3)** A permit continued in force under subsection (1)(a) remains in force only until the review of the licence under section 247 (Review of licences).

‘**(4)** An extended hours permit that extends hours beyond 3 a.m., or an extension of hours for a licence beyond 3 a.m., in force on the day the *Liquor Amendment Act (No. 2) 1994* commenced, expires on 31 March 1995.

‘**(5)** Subsection (4) does not apply to a special facility licence or a limited licence.’

Amendment of s 247 (Review of licences)

86.(1) Section 247(2) to (4)—

renumber as section 247(3) to (5).

(2) Section 247—

insert—

‘**(2)** If the chief executive considers that the conditions of a resort licence

issued under the repealed Act, and taken to be a residential licence under section 243 (Continuance of existing licences), are more appropriate to a general licence or special facility licence under the current Act, the licence is taken to be the licence under the current Act to which the chief executive considers its conditions are more appropriate.

Insertion of new Pt 12

87. After Part 11—

insert—

‘PART 12—TRANSITIONAL PROVISIONS FOR RESTRICTED CLUB LICENCES

‘Object of Part

‘251. The object of this Part is to provide a transition from restricted club licences to restricted club permits.

‘Continuance of existing licences

‘252.(1) A restricted club licence granted under repealed section 90, that has not expired or been surrendered or cancelled before the commencement, continues in force until it expires or is earlier surrendered or cancelled.

‘(2) The chief executive may, in writing, require the holder of a restricted club licence that has expired or been surrendered or cancelled to produce the licence to the chief executive.’.

Amendment of Schedule (Rules of Clubs)

88.(1) Schedule, paragraph (b)—

omit.

(2) Schedule, paragraphs (c) to (g)—

renumber as paragraphs (b) to (f).

**PART 3—AMENDMENT OF GAMING MACHINE
ACT 1991**

Amendment—Sch 3

89. Schedule 3 amends the *Gaming Machine Act 1991*.

SCHEDULE 1**CONSEQUENTIAL AMENDMENTS**

section 3

1. Section 21(1)(a), 'a restricted club licence'—
omit, insert—
'an extended hours permit'.

2. Section 97—
insert
'(c) a restricted club permit.'

3. Section 99(b), at end—
insert—
'or restricted club permit'.

4. Section 133(3)(c) 'or restricted club licence'—
omit.

5. Section 202(1), ', other than a restricted club licence,'—
omit.

6. Section 202(2), 'a restricted club licence or'—
omit.

SCHEDULE 2

ACTS REVIEW AND OTHER MINOR AMENDMENTS

section 3

1. Sections 3(b), 39 and 77(1), ‘determine’—

omit, insert—

‘decide’.

2. Section 35, heading—

omit, insert—

‘**Stay of operation of decisions etc.**’.

3. Section 39, heading—

omit, insert—

‘**Summary decision on appeal**’.

4. Part 3, Division 1, heading—

omit.

5. Section 67(2), ‘section 62(d)’—

omit, insert—

‘section 62’.

6. Section 77, heading—

omit, insert—

‘**Number of liquor outlets**’.

SCHEDULE 2 (continued)

7. Section 82, ‘subject’ to ‘permit’—

omit.

8. Section 82—

insert—

‘(2) The authority under subsection (1) is subject to this Act and the conditions specified in a particular licence or extended hours permit.’.

9. Section 85(1), ‘subject’ to ‘permit’—

omit.

10. Section 85(2) to (4)—

renumber as section 85(3) to (5).

11. Section 85—

insert—

‘(2) The authority under subsection (1) is subject to this Act and the conditions specified in a particular licence or extended hours permit.’.

12. Section 85(4) (as renumbered), ‘subsection (2)’—

omit, insert—

‘subsection (3)’.

13. Section 113(1)(b), after ‘owner’—

insert—

‘, lessee’.

SCHEDULE 2 (continued)

14. Section 113(1)(b)(ii), after ‘lease,’—

insert—

‘sublease,’.

15. Section 123, heading—

omit, insert—

‘Provisional grant of licence’.

16. Section 123(1), ‘determines’—

omit, insert—

‘decides’.

17. Section 170, heading—

omit, insert—

‘Sale of liquor only on premises to which licence or permit relates’.

18. Section 173A, definitions “**area**” and “**road**”—

omit, insert—

‘**road**’ means—

- (a) a road within the meaning of the *Local Government Act 1993*; or
- (b) a State-controlled road under the *Transport Infrastructure Act 1994*.’.

19. Section 177(4)(b), ‘the officer’—

omit.

SCHEDULE 2 (continued)

20. Section 195(2)(a), ‘determination of’—

omit, insert—

‘decision on’.

21. Section 195(5), ‘determination of’—

omit, insert—

‘deciding’.

22. Section 204, heading—

omit, insert—

‘Additional fee for bars in certain premises’.

23. Section 204—

insert—

‘(c) an on-premises licence for premises used for cabaret;’.

24. Section 225—

omit.

SCHEDULE 3

AMENDMENT OF GAMING MACHINE ACT 1991

section 89

1. Section 121(1)—

omit, insert—

‘121.(1) A person must not knowingly give a document that is evidence of age of the person mentioned in the document (the **“specified person”**) to someone else, if the person giving the document knows or has reasonable grounds to suspect that the document may be used—

- (a) as evidence of age for this Act of someone other than the specified person; or
- (b) to obtain a document that is acceptable evidence of age for this Act of someone other than the specified person.’.

Maximum penalty—40 penalty units.’.