

Queensland



LIQUOR AMENDMENT ACT 2001

Act No. 39 of 2001

Queensland



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CONSEQUENTIAL AND MINOR AMENDMENTS

Queensland



Liquor Amendment Act 2001

Act No. 39 of 2001

An Act to amend the *Liquor Act 1992*

[Assented to 7 June 2001]

The Parliament of Queensland enacts—**1 Short title**

This Act may be cited as the *Liquor Amendment Act 2001*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Act amended

This Act amends the *Liquor Act 1992*.

4 Insertion of new s 3A

After section 3—

insert—

‘3A Principle underlying this Act for facilitating and regulating the liquor industry

‘(1) The underlying principle of this Act in relation to the sale and supply of liquor is—

- (a) a person may obtain a licence to sell or supply liquor as part of conducting a business on premises; and
- (b) liquor may only be sold or supplied on the licensed premises as part of the person conducting a business, on the licensed premises, that is the primary purpose under the licence.

‘(2) This Act states the primary purpose of a business that may be conducted under each type of licence.

‘(3) This Act must be administered in accordance with the underlying principle of this Act.

‘(4) In interpreting this Act, a construction promoting the underlying principle is to be preferred to a construction that would not promote it.’

5 Amendment of s 4 (Definitions)

(1) Section 4, definitions “executive officer” and “unlicensed person”—
omit.

(2) Section 4—
insert—

‘ **“detached bottle shop”** means premises approved by the chief executive as mentioned in section 59(1)(d), even if the premises are subsequently relocated under section 154A or transferred under section 154B.

“disciplinary action”, relating to a licence, means—

- (a) cancelling the licence; or
- (b) suspending the licence—
 - (i) for a stated period; or
 - (ii) until further ordered by the chief executive up to a maximum period of 1 year; or
- (c) closing the licensed premises, or part of the licensed premises, for a stated period; or
- (d) varying the licence by—
 - (i) stating in the licence a condition to which it is to be subject; or
 - (ii) otherwise limiting the authority conferred by the licence; or
- (e) reducing the times at which the licensee may conduct business under authority of the licence; or
- (f) disqualifying the licensee from holding a licence or permit—
 - (i) for a stated period; or
 - (ii) until further ordered by the chief executive up to a maximum period of 5 years; or
- (g) requiring the licensee to pay to the department an amount of not more than \$10 000;¹ or

1 The department may require the licensee to pay the department an amount of not more than \$10 000 for each ground for which disciplinary action is taken—see part 5, division 3, subdivision 3 (Disciplinary action relating to licences).

(h) reprimanding the licensee.

“entertainment”, for an on-premises (cabaret) licence, see section 4AA.

“executive officer”, of a corporation, in sections 4C and 107B, means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.

“interested person”, in section 43 and part 5, division 3, subdivision 3, means a person who—

- (a) is an owner, lessee or mortgagee of licensed premises or a secured creditor of a licensee whose interest is likely to be affected by cancellation of the licence for the premises; and
- (b) has, under section 44A(2), given the chief executive particulars of the person’s interest in the licence.

“on-premises (cabaret) licence” means an on-premises licence for conducting a business with the primary purpose stated in section 71A(1).

“on-premises (function) licence” means an on-premises licence for conducting a business with the primary purpose stated in section 70A(1).

“on-premises (meals) licence” means an on-premises licence for conducting a business with the primary purpose stated in section 73(1).

“on-premises (other activity) licence” means an on-premises licence for conducting a business with the primary purpose stated in section 80(1).

“on-premises (presentations) licence” means an on-premises licence for conducting a business with the primary purpose stated in section 75A(1).

“on-premises (tourist) licence” means an on-premises licence for conducting a business with the primary purpose stated in section 78(1).

“on-premises (transport) licence” means an on-premises licence for conducting a business with the primary purpose stated in section 74A(1).

“ordinarily set aside for dining”, for a part of licensed premises, means the part of the licensed premises that is set aside as the regular or usual

place for dining on the licensed premises, but does not include a part of the licensed premises set aside merely for a particular day.

“private event” see section 102D.

“provisional licence” means a licence issued under section 123(2).

“public event” see section 102D.

“register” means the register kept under section 43.

“relevant action”, relating to an adult entertainment permit, means—

- (a) cancel the permit; or
- (b) suspend the permit for a stated period; or
- (c) impose conditions on, or vary conditions of, the permit.

“staged development approval” see section 123A(2).

“unlicensed person” means a person who is not the holder of—

- (a) a licence under this Act; or
- (b) a licence under the *Wine Industry Act 1994*; or
- (c) an approval, however described, under a law of the Commonwealth or a State that allows the approval holder to sell liquor.’.

(3) Section 4, definition “cabaret”, paragraph (a), from ‘providing on the premises’ to ‘the entertainment’—

omit, insert—

‘providing entertainment on premises’.

(4) Section 4, definition “interest in a brothel”, ‘section 6’—

omit, insert—

‘section 7’.

(5) Section 4, definition “secretary”, ‘of a club’—

omit, insert—

‘, of a club,’.

6 Insertion of new s 4AA

After section 4—

insert—

‘4AA Meaning of “entertainment”

‘(1) “**Entertainment**”, for an on-premises (cabaret) licence, means entertainment provided by a person—

- (a) who is physically present when providing the entertainment; and
- (b) whose function is to present the entertainment.

‘(2) However, “**entertainment**”, for an on-premises (cabaret) licence, does not include entertainment using facilities that do not require a person present to provide the entertainment.

Examples of facilities that do not require a person to be present—

- 1. Pool tables
- 2. Jukeboxes.’.

7 Amendment of s 6 (Acceptable evidence of age)

(1) Section 6(a)(iii), ‘and’—

omit, insert—

‘or’.

(2) Section 6(a)—

insert—

- ‘(iv) another form of identification approved in writing by the chief executive; and’.

8 Amendment of s 7 (Presumed quantity of liquor)

(1) Section 7, ‘740’—

omit, insert—

‘700’.

(2) Section 7, ‘370’—

omit, insert—

‘345’.

(3) Section 7, at the end of paragraph (a)—

insert—

‘and’.

9 Amendment of s 9 (Ordinary trading hours)

Section 9(3)(a)(i), after ‘eaten on the premises’—

insert—

‘between 10 a.m. and 1 p.m., or the period between 6 a.m. and 1 p.m. that the chief executive approves in a particular case’.

10 Insertion of new s 10A

After section 10—

insert—

‘10A When meal is taken not to have been prepared and served to be eaten on premises

‘(1) For this Act, a meal is taken not to have been prepared and served to be eaten on premises if the preparation does not involve adding value to the food comprising the meal.

‘(2) Without limiting subsection (1), a person does not add value to food comprising a meal by merely heating a product the person purchased.

Example for subsection (2)—

A person does not add value to food if the person heats a prepackaged pie or other item and serves it.

‘(3) However, the preparation of a meal is taken to involve adding value to the food comprising the meal if the meal forms part of a menu and the majority of menu items offered and available are meals the preparation of which otherwise involves adding value to the food comprising the meals.’.

11 Amendment of s 12 (Exemptions)

Section 12(2)—

omit, insert—

‘(2) Also, this Act does not apply to the following—

- (a) a sale in good faith of spirituous or distilled perfume as perfumery;
- (b) a sale of spirituous cooking essence, other than for use as a beverage or for manufacturing a beverage, if—
 - (i) the essence is sold in a container containing not more than—
 - (A) if the essence is vanilla essence—100 mL; or
 - (B) in any other case—50 mL; or
 - (ii) the sale is by wholesale;
- (c) a sale of liquor in a refreshment room of Parliament House by permission and under control of the Parliament;
- (d) a sale of liquor in the lawful operation of an Australian Defence Force canteen;
- (e) a sale in good faith of spirits or wine by a pharmacist within the meaning of the *Pharmacy Act 1976*, section 5 as medicine or for medicinal or chemical purposes;
- (f) a sale at auction conducted by a licensed auctioneer—
 - (i) of liquor for a person who is authorised by this Act to sell the liquor; or
 - (ii) by order of a trustee under the *Bankruptcy Act 1966* (Cwlth), of liquor held by the trustee as trustee under that Act; or
 - (iii) by order of the executor, administrator or trustee of the estate of a deceased person, of liquor that is the property of the deceased's estate; or
 - (iv) by order of the public trustee, of liquor that is the property of an estate in the course of administration by the public trustee;
- (g) a sale, during actual flight of an aircraft, of liquor to a passenger on the aircraft made for the aircraft's operator and for consumption during the flight;
- (h) a sale of liquor by a provider of bed and breakfast accommodation or host farm accommodation to a guest of the provider for consumption on the premises at which the accommodation is provided.

‘(3) Also, this Act does not apply to carrying or exposing liquor for sale in an aircraft, as permitted by subsection (2)(g).

‘(4) In this section—

“**aircraft**” means an aircraft that is not licensed premises.

“**bed and breakfast accommodation**” means accommodation that—

- (a) includes the provision of accommodation and breakfast for guests; and
- (b) is conducted on premises (other than a caravan, caretaker’s or manager’s residence, flat, home unit, hostel, hotel, lodging house, motel or relocatable home) by a person who lives on the premises; and
- (c) caters for a maximum of 6 guests at the same time; and
- (d) may be provided for a guest for a maximum continuous period of 14 days.

“**host farm accommodation**” means accommodation that—

- (a) includes the provision of accommodation and meals, or food for preparing meals, for guests; and
- (b) is conducted on a farm involved in primary production by a person who manages, and lives on, the farm; and
- (c) caters for a maximum of 6 guests at the same time; and
- (d) may be provided for a guest for a maximum continuous period of 30 days.’.

12 Insertion of new ss 20A and 20B

Part 2, division 1—

insert—

‘20A Protection of members

‘A member of the Tribunal has, in the performance of the member’s duties as a member of the Tribunal, the same protection and immunity as a District Court judge has in the performance of the judge’s duties.

‘20B Annual report

‘As soon as practicable each year, but not later than 31 August, the chairperson of the Tribunal must give the Minister a written report containing a review of the operation of the Tribunal during the 12 months ending on the preceding 30 June.’.

13 Amendment of s 21 (Jurisdiction and powers of Tribunal)

(1) Section 21(1)(c)—

omit, insert—

‘(c) the taking of disciplinary action relating to, or the urgent suspension of, a licence, the cancellation or suspension of a permit or the imposition or variation of the conditions of a permit; or

(ca) the surrender of a licence or permit; or’.

(2) Section 21(1), after ‘other appeals’—

omit, insert—

‘or applications’.

14 Amendment of s 22 (Constitution of Tribunal)

Section 22—

insert—

‘(2) However, for a minor appeal, the Tribunal may be constituted by a single member who is qualified as mentioned in section 15.²

‘(3) In this section—

“**minor appeal**” means an appeal against a decision of the chief executive other than the following—

- (a) a decision on an application for a new licence under this Act or the *Wine Industry Act 1994*;
- (b) a decision on an application for an extended hours permit, or variation of an extended hours permit, that would extend trading hours on a regular basis;

2 Section 15 (Qualification for appointment)

-
- (c) a decision on an application for, or for relocation or transfer of, a detached bottle shop;
 - (d) a decision on an application for, or the cancellation, suspension or imposition or variation of conditions on, an adult entertainment permit;
 - (e) a decision under section 137A(1) or (4)³ to take disciplinary action relating to a licence;
 - (f) a decision on a variation of a licence.’.

15 Replacement of s 23 (Way of exercising jurisdiction)

Section 23—

omit, insert—

‘23 Way of exercising jurisdiction

‘The Tribunal’s jurisdiction is exercised in a proceeding by—

- (a) for a minor appeal for which the Tribunal is constituted by a single member—the member constituting the Tribunal in the proceeding; or
- (b) otherwise—the unanimous or majority decision of the Tribunal’s members constituting the Tribunal in the proceeding.’.

16 Amendment of s 26 (Powers of Tribunal in proceedings)

Section 26(2)—

omit, insert—

‘(2) The member, or any of the members, constituting the Tribunal in a proceeding, and any person authorised by the member, or any of the members, to do so, may administer an oath to a person appearing as a witness in the proceeding.’.

3 Section 137A (Decision about disciplinary action)

17 Insertion of new s 26A

After section 26—

insert—

‘26A Directions

‘(1) The Tribunal may hold a conference for considering, or giving directions at or after the conference about, any matter or proceeding within its jurisdiction.

‘(2) Without limiting subsection (1), the Tribunal may consider or give directions about the following as it considers appropriate—

- (a) the conduct of the matter or proceeding;

Example for paragraph (a)—

The Tribunal may direct, in the case of conflicting experts’ reports, that the experts prepare a joint report identifying the points of agreement and highlighting the points of disagreement.

- (b) requiring parties to make discovery or allow inspection of evidentiary material;
- (c) requiring parties to file pleadings;
- (d) giving a party leave to be represented by a lawyer;
- (e) striking out the matter or proceeding on the ground that it is frivolous or vexatious;
- (f) staying a decision of the chief executive.

‘(3) A conference may be held and directions given—

- (a) on the application of a participant or on the Tribunal’s own initiative; and
- (b) before a matter or proceeding starts or at any time during the matter or proceeding; and
- (c) by telephone, video link or another form of communication that allows reasonably contemporaneous and continuous communication.

‘(4) A direction given by the Tribunal under this section may be in the form of an order of the Tribunal.’

18 Replacement of ss 30 and 31

Sections 30 and 31—

omit, insert—

‘30 Persons entitled to appeal

‘An appeal against a decision of the chief executive may be made only by a person—

- (a) who—
 - (i) made an application, submission or objection in the proceeding in which the decision was made; or
 - (ii) if the decision is to take disciplinary action relating to, or the urgent suspension of, a licence, to cancel or suspend a permit or to impose or vary the conditions of a permit—the licensee or permittee; and
- (b) who is aggrieved by the decision.

‘31 Start of appeal

‘(1) A person who wishes to appeal against a decision of the chief executive must start the appeal under this section.

‘(2) An appeal is started by filing a notice of appeal with the registrar of the Tribunal.

‘(3) The notice of appeal must be filed with the registrar within 28 days after the day on which the person received written notice of the chief executive’s decision.

‘(4) The registrar must give a copy of the notice of appeal to the chief executive within 3 days of receiving the notice.

‘(5) Subsection (6) applies if the chief executive fails to notify an applicant of the grant or refusal of an application within 30 days after the end of the time within which all steps required or permitted by this Act to be taken relating to the application must be taken.

‘(6) For the purposes of an appeal, the chief executive is taken to have given to the applicant notice of a decision to refuse the application at the end of the period of 30 days.’

19 Amendment of s 34 (Arranging the hearing of appeal)

(1) Section 34(1)—

omit, insert—

‘(1) An appeal to the Tribunal against a decision of the chief executive is by a rehearing on the evidence that was before the chief executive.’.

(2) Section 34(2), ‘28 days’—

omit, insert—

‘2 months’.

20 Insertion of new s 35A

After section 35—

insert—

‘35A Tribunal may give leave for appeal to be based on new evidence and related matters

‘(1) This section applies despite section 34(1).

‘(2) The Tribunal may grant a participant in a proceeding for an appeal against a decision of the chief executive leave to adduce fresh, additional or substituted evidence (“**new evidence**”) if the Tribunal is satisfied—

- (a) the person seeking to adduce the new evidence did not know, or could not reasonably be expected to have known, of the existence of the new evidence on or before the day of the chief executive’s decision; or
- (b) in the special circumstances of the case, it would be unfair not to allow the person to adduce the new evidence.

‘(3) If the Tribunal gives leave under subsection (2), the Tribunal may—

- (a) adjourn the proceeding to allow the chief executive to reconsider the decision appealed against together with the new evidence; or
- (b) if the Tribunal considers it appropriate for the applicant to make a new application—require the applicant to make a new application to the chief executive; or
- (c) continue with the appeal by way of rehearing on the evidence that was before the original decision-maker and on the new evidence.

‘(4) Despite subsection (3), if the chief executive applies for an adjournment to allow the chief executive to reconsider the decision appealed against together with the new evidence, the Tribunal must adjourn the proceeding for a stated reasonable time.

‘(5) In deciding if it is appropriate for the applicant to make a new application, the Tribunal must consider whether—

- (a) the new evidence substantially changes the application the subject of the appeal; or
- (b) additional people may be affected by the application and the additional people should have an opportunity to comment on or object to the application.’.

21 Amendment of s 38 (Costs on appeal)

(1) Section 38(1), ‘subsection (2)’—

omit, insert—

‘subsections (2) and (2A)’.

(2) Section 38—

insert—

‘(2A) Also, if the Tribunal directs an expert to prepare a report in relation to a proceeding within its jurisdiction, the Tribunal may make the order it considers appropriate in relation to the costs for the preparation of the report.’.

22 Replacement of s 39 (Summary decision on appeal)

Section 39—

omit, insert—

‘39 Appeal without hearing

‘(1) This section applies if—

- (a) an appellant asks the Tribunal to deal with an appeal without holding a hearing; and
- (b) the other parties to the appeal consent.

‘(2) The Tribunal may proceed to deal with the appeal, or part of the appeal, without holding a hearing.’.

23 Insertion of new s 41A

Part 2, after section 41—

insert—

‘41A Tribunal to keep record of its decisions

‘(1) The Tribunal must keep, in the way it considers appropriate, a record of its written decisions.

‘(2) Subject to an order under subsection (3) or (4), the record is available for inspection by members of the public.

‘(3) If, at the time of a proceeding, a participant in the proceeding applies to the Tribunal to suppress sensitive information about a person, the Tribunal may order that the information is not to form part of the record available under subsection (2).

‘(4) If, after a proceeding, a person who was a participant in the proceeding applies to the Tribunal for an order to suppress sensitive information about the person, the Tribunal may order that the information is not to form part of the record available under subsection (2) from a day stated in the order.

‘(5) However, the Tribunal must—

- (a) before making an order under subsection (4)—ask the chief executive to provide information about the extent of any existing publication of the sensitive information under section 47A⁴ and the period reasonably needed for the removal of the sensitive information from the information under the control of the chief executive; and
- (b) in making the order—have regard to the extent of any publication under section 47A and the period for removal stated by the chief executive.

‘(6) In this section—

“sensitive information”, about a person, means information about the person’s reputation, history of behaviour or attitude to the management and discharge of the person’s financial obligations.’.

4 Section 47A (Publication of information on internet etc.)

24 Amendment of s 42 (Power of delegation)

(1) Section 42(1) and (2), from ‘to an officer’—

omit, insert—

‘to an appropriately qualified public service employee, police officer or person employed by a local government.’.

(2) Section 42(2), ‘An officer’—

omit, insert—

‘A person’.

(3) Section 42—

insert—

‘(3) In this section—

“appropriately qualified” includes having the qualifications, experience or standing appropriate to exercise the power.

Example of ‘standing’—

For a public service employee, the employee’s position in a department.’.

25 Replacement of s 43 (Register of licences and permits)

Section 43—

omit, insert—

‘43 Register of licences, permits and applications to be kept

‘(1) The chief executive must keep a register of licences, permits and applications, in a form or forms the chief executive considers appropriate.

‘(2) The register is to contain the following—

- (a) particulars of licences and permits;
- (b) particulars of licensees, permittees, nominees of licensees or permittees and interested persons;
- (c) addresses of licensed premises or places to which permits relate;
- (d) trading hours that apply to licences or permits;
- (e) particulars of applications required under section 118(1) to be advertised that have not been decided.

‘(3) However, the chief executive must ensure the register does not include any of the following—

- (a) sensitive information about a person;
- (b) information the chief executive reasonably considers is commercially sensitive;
- (c) particulars given to the chief executive under section 45.⁵

‘(4) For subsection (3)(b), a person may ask the chief executive to consider a written submission by the person about whether information is commercially sensitive.

‘(5) In this section—

“sensitive information”, about a person, see section 41A(6).’.

26 Amendment of s 45 (Court officials to furnish particulars for Register)

Section 45, heading, ‘for Register’—

omit.

27 Insertion of new s 47A

After section 47—

insert—

‘47A Publication of information on internet etc.

‘The chief executive may publish the following information in a way the chief executive considers appropriate, including, for example, by means of the internet or through some other telecommunication medium—

- (a) all or part of the register;
- (b) under an arrangement with the Tribunal, decisions, or parts of decisions, of the Tribunal that are available for inspection by members of the public as mentioned in section 41A.⁶.

⁵ Section 45 (Court officials to furnish particulars)

⁶ Section 41A (Tribunal to keep record of its decisions)

28 Amendment of s 48 (Preservation of confidentiality)

(1) Section 48(2)(b)—

renumber as section 48(2)(e).

(2) Section 48(2)—

insert—

- (b) disclosing information in the register; or
- (c) disclosing information about the status of an application required to be advertised under section 118(1); or
- (d) disclosing information about the status of an appeal started in the Tribunal and the names of the parties to the appeal; or’.

29 Amendment of s 58 (Available licences)

Section 58(2)—

omit, insert—

‘(2) Only 1 licence may be granted or held for premises, or part of premises, but a licence may be granted or held for the premises or part even though there is a licence under the *Wine Industry Act 1994* for the premises or part.

‘(3) However, if a licence is granted or held for premises, or part of premises, under this Act and the *Wine Industry Act 1994*—

- (a) the licensee under both Acts must be the same person; and
- (b) the nominee under this Act must be a nominee for the licence under the *Wine Industry Act 1994*; and
- (c) liquor may be sold under the licence under this Act only for the trading hours authorised under the licence.’.

30 Insertion of new s 58A

Part 4, division 2, before section 59—

insert—

‘58A Primary purpose of a business conducted under a general licence

‘(1) The primary purpose of a business conducted under a general licence is the sale of liquor for consumption on the premises, or on and off the premises, together with the provision of meals and accommodation as required under the licence.

‘(2) The authority under a general licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with a primary purpose as mentioned in subsection (1).

‘(3) To remove doubt, it is declared that it is inconsistent with the primary purpose of a business conducted under a general licence to only sell liquor for consumption off the premises.’.

31 Replacement of s 60 (Restriction on grant of general licence)

Section 60—

omit, insert—

‘60 Restriction on grant of general licence

‘(1) The chief executive may grant a general licence only if the chief executive is satisfied the business to be conducted under the licence on the licensed premises will have a primary purpose as mentioned in section 58A(1).

‘(2) The chief executive must not grant a general licence to a person for premises the chief executive reasonably considers are, or are to be, used primarily as a supermarket.’.

32 Insertion of new s 61A

Part 4, division 3, before section 62—

insert—

‘61A Primary purpose of a business under a residential licence

‘(1) The primary purpose of a business conducted under a residential licence is the provision of accommodation.

‘(2) The authority under a residential licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the primary purpose as mentioned in subsection (1).’.

33 Amendment of s 62 (Authority of residential licence)

(1) Section 62(1)(b)—

omit, insert—

‘(b) during ordinary trading hours or those hours extended by an extended hours permit, to any person, including a person not eating a meal, as if the residential licence were an on-premises (meals) licence relating to a part of the premises stated in the residential licence as ordinarily set aside for dining; and’.

(2) Section 62(1)(d)—

omit.

(3) Section 62(2) and (3)—

renumber as section 62(3) and (6).

(4) Section 62—

insert—

‘(2) Despite subsection (1)(b), a residential licence does not authorise the licensee to sell liquor, from the part of the premises stated in the residential licence as ordinarily set aside for dining, for consumption off the premises.’.

(5) Section 62—

insert—

‘(4) The authority conferred by a residential licence to sell liquor for consumption off the licensed premises to a person other than a resident on the licensed premises is restricted to the sale of liquor—

(a) as ancillary to a function that—

(i) happens at a place at which the liquor is consumed; and

(ii) includes the licensee providing food for the function of sufficient substance as to be ordinarily accepted as a meal for consumption by persons genuinely attending the function, even though the food may be eaten while standing and without cutlery; and

(b) for consumption by persons genuinely attending the function.

‘(5) In deciding whether the holder of, or an applicant for, a residential licence sells or proposes to sell liquor under the licence as if the licence were an on-premises (meals) licence, the chief executive must consider the

indicators mentioned in section 73(3)⁷ together with any other relevant matters.’.

(6) Section 62(6), as renumbered, ‘(2)’—
omit, insert—
 ‘(3)’.

34 Amendment of s 63 (Restriction on grant of residential licence)

Section 63(c)—
omit.

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

Section 64—
omit, insert—

‘64 Consumption of liquor on premises by residents and guests

‘(1) Liquor supplied under authority of a residential licence to a resident or guest on the licensed premises, for consumption on the premises outside ordinary trading hours, must be consumed in—

- (a) a residential unit on the licensed premises; or
- (b) a part of the licensed premises approved for the time being by the chief executive for the purpose.

‘(2) In this section—

“**guest**” means a guest of a resident in the resident’s company.

“**ordinary trading hours**”, for a residential licence, includes ordinary trading hours extended by an extended hours permit for the residential licence.’.

36 Replacement of s 65 (Consumption of liquor with meals or when meals are being served)

Section 65—

⁷ Section 73 (Primary purpose of a business under an on-premises (meals) licence)

omit, insert—

‘65 Consumption of liquor in dining area

‘Liquor supplied under authority of a residential licence to a person as if the licence were an on-premises (meals) licence must be consumed in a part of the licensed premises stated in the residential licence as ordinarily set aside for dining.’.

37 Amendment of s 67 (Restriction on sale of liquor for consumption off premises)

Section 67(2) and (3)—

omit.

38 Amendment of s 70 (Restriction on sale of liquor for consumption off premises)

Section 70(2)—

omit, insert—

‘(2) The authority conferred by an on-premises licence to sell liquor for consumption off the licensed premises is restricted to the sale of liquor—

(a) as ancillary to a function that—

- (i) happens at a place at which the liquor is consumed; and
- (ii) includes the licensee providing food for the function of sufficient substance as to be ordinarily accepted as a meal for consumption by persons genuinely attending the function, even though the food may be eaten while standing and without cutlery; and

(b) for consumption by persons genuinely attending the function.

‘(3) However, the authority conferred by an on-premises (other activity) licence to sell liquor for consumption off the licensed premises is restricted to the sale of liquor for a function relating to the activity as stated in the licence by the chief executive.

‘(4) Subsections (1) and (2) do not apply to an on-premises (meals) licence in relation to a sale or supply of liquor under section 73A(b).’.

39 Insertion of new s 70A

Part 4, division 4, subdivision 2, before section 71—

insert—

‘70A Primary purpose of an on-premises (function) licence

‘(1) The primary purpose of a business conducted under an on-premises (function) licence is the provision of premises and catering facilities for use by persons genuinely attending a function held on the licensed premises.

‘(2) The authority under an on-premises (function) licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the primary purpose as mentioned in subsection (1).’

40 Insertion of new s 71A

Part 4, division 4, subdivision 3, before section 72—

insert—

‘71A Primary purpose of a business under an on-premises (cabaret) licence

‘(1) The primary purpose of a business under an on-premises (cabaret) licence is—

- (a) for the ordinary trading hours for the sale of liquor as mentioned in section 9(10)(b)—the provision of entertainment; and
- (b) if the chief executive so states in the licence—the provision of meals prepared and served to be eaten on the licensed premises for the ordinary trading hours for the sale of liquor as mentioned in section 9(10)(a).

‘(2) The authority under an on-premises (cabaret) licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with a primary purpose as mentioned in subsection (1).

‘(3) In deciding whether the holder of, or an applicant for, an on-premises (cabaret) licence conducts or will conduct a business that complies or will comply with subsection (1)(b), the chief executive must consider the indicators mentioned in section 73(3) together with any other relevant matters.’

41 Replacement of s 72A (Restriction on sale and supply of liquor at cabarets)

Section 72A—

omit, insert—

‘72A Authority to sell and supply liquor when primary purpose includes provision of meals

‘If the primary purpose of an on-premises (cabaret) licence includes the provision of meals as mentioned in section 71A(1)(b), the authority of the licence to sell or supply liquor during the ordinary trading hours mentioned in section 9(10)(a) extends to the sale or supply of liquor to a person on the premises other than in association with the person eating a meal.

‘72B Extension of authority to sell or supply liquor under on-premises (cabaret) licence

‘The chief executive may state in an on-premises (cabaret) licence that the licensee may, subject to the conditions the chief executive states in the licence, sell and supply liquor to or for persons genuinely attending a function held on the licensed premises.’

42 Replacement of s 73 (Restriction on sale of liquor under on-premises licence)

Section 73—

omit, insert—

‘73 Primary purpose of a business under an on-premises (meals) licence

‘(1) The primary purpose of a business conducted under an on-premises (meals) licence is the provision of meals prepared and served to be eaten on the licensed premises.

‘(2) The authority under an on-premises (meals) licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the primary purpose as mentioned in subsection (1).

‘(3) In deciding whether the holder of, or an applicant for, an on-premises (meals) licence conducts or will conduct a business that complies or will comply with subsection (1), the following are indicators that must be considered—

- (a) the existing or proposed seating and standing arrangements;
- (b) the existing or proposed number of staff for preparing and serving meals;
- (c) the existing or proposed kitchen arrangements, including, for example, the hours of operation of the kitchen;
- (d) for an existing business, a comparison of the number of meals consumed and the amount of liquor sold.

‘(4) Subsection (3) does not limit the matters that may be considered when deciding if a business complies or will comply with subsection (1).’

‘73A Restriction on sale of liquor under an on-premises (meals) licence

‘The authority of an on-premises (meals) licence is restricted to the following—

- (a) the sale and supply of liquor for consumption on the licensed premises—
 - (i) in association with a consumer eating a meal on the premises; and
 - (ii) to persons on the premises other than in association with the persons eating meals;
- (b) the sale and supply of 1 opened and 1 unopened bottle of wine for consumption off the premises to each adult consumer eating a meal.

‘73B Extension of authority to sell or supply liquor under on-premises (meals) licence

‘The chief executive may state in an on-premises (meals) licence that the licensee may, subject to the conditions the chief executive states in the licence, sell and supply liquor to or for persons genuinely attending a function held on the licensed premises.’

43 Replacement of s 74 (Display of menu, liquor list and authority to sell liquor)

Section 74—

omit, insert—

‘74 Display of menu and liquor list

‘The holder of an on-premises (meals) licence must display details of the menu and the liquor list available to consumers on the premises so the details and list are—

- (a) in a conspicuous place on the premises to which the licence relates; and
- (b) clearly visible from outside the premises.

Maximum penalty—25 penalty units.’.

44 Insertion of new s 74A

Part 4, division 4, subdivision 5, before section 75—

insert—

‘74A Primary purpose of a business under an on-premises (transport) licence

‘(1) The primary purpose of a business conducted under an on-premises (transport) licence is carrying passengers commercially on an aircraft, boat, train or vehicle.

‘(2) The authority under an on-premises (transport) licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the primary purpose as mentioned in subsection (1).’.

45 Amendment of s 75 (Restriction on sale of liquor)

(1) Section 75, from ‘on-premises licence’ to ‘is restricted to’—

omit, insert—

‘on-premises (transport) licence that relates to an aircraft, boat, train or vehicle is restricted to the’.

(2) Section 75, ‘the boat, vehicle or aircraft’—

omit, insert—

‘the aircraft, boat, train or vehicle’.

46 Insertion of new s 75A

Part 4, division 4, subdivision 6, before section 76—

insert—

‘75A Primary purpose of a business under an on-premises (presentations) licence

‘(1) The primary purpose of a business conducted under an on-premises (presentations) licence is the provision of facilities for sporting, cultural, theatrical or cinematographic presentations.

‘(2) The authority under an on-premises (presentations) licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with a primary purpose as mentioned in subsection (1).’.

47 Amendment of s 76 (Location of liquor outlets specified in licence)

Section 76(1), from ‘on-premises licence’ to ‘presentations’—

omit, insert—

‘on-premises (presentations) licence’.

48 Amendment of s 77 (Number of liquor outlets)

Section 77(1), ‘on-premises licence’—

omit, insert—

‘on-premises (presentations) licence’.

49 Replacement of pt 4, div 4, sdivs 7 and 8

Part 4, division 4, subdivisions 7 and 8—

omit, insert—

‘Subdivision 7—On-premises (tourist) licences

‘78 Primary purpose of a business under an on-premises (tourist) licence

‘(1) The primary purpose of a business conducted under an on-premises (tourist) licence is the provision of entertainment or visual instruction to tourists on premises developed as a tourist attraction.

‘(2) The authority under an on-premises (tourist) licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with a primary purpose as mentioned in subsection (1).

‘79 Restriction on sale of liquor under on-premises (tourist) licence

‘(1) The authority under an on-premises (tourist) licence is restricted to the sale of liquor at a liquor outlet stated in the licence for consumption within that liquor outlet.

‘(2) The chief executive may state in an on-premises (tourist) licence that the licensee may sell and supply liquor to or for persons genuinely attending a function held on the licensed premises only on the conditions the chief executive states in the licence.

‘Subdivision 8—Other activity**‘80 Primary purpose of a business under an on-premises (other activity) licence**

‘(1) The primary purpose of a business conducted under an on-premises (other activity) licence is the provision by the licensee of an activity stated in the licence for persons on the licensed premises.

‘(2) The authority under an on-premises (other activity) licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the primary purpose as mentioned in subsection (1).

‘81 Extension of authority to sell liquor under an on-premises (other activity) licence

‘The chief executive may state in an on-premises (other activity) licence that the licensee may, subject to the conditions the chief executive states in

the licence, sell liquor to or for persons on the licensed premises genuinely attending a function relating to the activity as stated in the licence.’.

50 Insertion of new s 81A

Part 4, division 5, before section 82—

insert—

‘81A Primary purpose of business under producer/wholesaler licence

‘(1) The primary purpose of a business conducted under a producer/wholesaler licence is either or both of the following—

- (a) the production and wholesale sale on the licensed premises of liquor made on the licensed premises;
- (b) the wholesale sale on the licensed premises of liquor.

‘(2) The authority under a producer/wholesaler licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with a primary purpose as mentioned in subsection (1).’.

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

Section 83, from ‘that the primary purpose’—

omit, insert—

‘the business to be conducted under the licence on the licensed premises will have a primary purpose as mentioned in section 81A(1).’.

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

(1) Section 84(1)(c)—

omit.

(2) Section 84(1)(d) and (e), before ‘another State or a Territory’—

insert—

‘the Commonwealth.’.

(3) Section 84(1)—

insert—

- ‘(f) a person who purchases the liquor for export; or
- (g) a person who purchases the liquor for stock in a duty free store; or
- (h) a person who purchases the liquor to provide it for consumption on ships or aircraft on international journeys; or
- (i) a person who purchases the liquor to provide it at Government House, or at a foreign embassy or consulate, as part of official activities at the place; or
- (j) a person who purchases the liquor for a religious entity for sacramental purposes.’.

(4) Section 84(2)—

omit, insert—

‘(2) The holder of a producer/wholesaler licence who is a producer of liquor may—

- (a) sell the licensee’s liquor and liquor for which the licensee is a wholesaler to a visitor to the licensed premises for consumption on the premises in association with the visitor 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; and
- (b) sell the licensee’s liquor, for consumption on or off the licensed premises, to a visitor to the licensed premises, if the liquor is sold as a souvenir of the visit.’.

(5) Section 84(4), after ‘(Cwlth)’—

insert—

‘in relation to the sale by the licensee of the licensee’s liquor’.

(6) Section 84—

insert—

‘(5) In this section—

“**licensee’s liquor**” means liquor produced on the premises to which the licence relates.’.

53 Insertion of new s 84A

Part 4, division 6, before section 85—

insert—

‘84A Primary purpose of business under club licence

‘(1) The primary purpose of a business conducted under a club licence is the provision of facilities and services to the club’s members and the achievement of the club’s objects.

‘(2) The authority under a club licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the primary purpose as mentioned in subsection (1).’.

54 Amendment of s 85 (Authority of club licence)

(1) Section 85(1)(a)(v), ‘40’—

omit, insert—

‘15’.

(2) Section 85(1)(a)(vi), ‘and’—

omit, insert—

‘or’.

(3) Section 85(1)(a)—

insert—

‘(vii)for a club that is a RSL or Services Club—a defence member for consumption on the premises; and’.

(4) Section 85—

insert—

‘(1A) Despite subsection (1)(a)(vi), if the chief executive states in a club licence that the licensed premises include particular premises (the “**other premises**”) that the club owns or has a legal right to occupy and the other premises may be used on an infrequent basis for an event, the club licence authorises the licensee to sell liquor within a defined area on the other premises for the event for consumption within the defined area stated in the licence if—

- (a) the sale is during ordinary trading hours for the club licence to members of the public attending the event on the other premises; and
- (b) the event is the playing of a sport or game for which the club is established; and

Example of sport or game for which a club is established—

If a rugby union club is established but the club allows other clubs to use its premises for bridge or darts, or encourages the rugby union club's members to play those games, the rugby union club is established for rugby union and not other sports or games (like bridge or darts) that may be played on its premises.

- (c) the club is catering for the event on the other premises; and
- (d) at least 14 days before the date of the event, the club gives written notice about the event to the police officer in charge of the locality in which the event is to be held.

Example for subsection (1A)—

A football club may have premises with an adjacent field in 1 suburb that are used on a weekly basis for training and regular games. The club may also own a second field in another suburb which is used a few times a year for the club's games. The chief executive may state in the club licence that the licensed premises includes defined areas at 1 or both fields. The club licence authorises the club to sell liquor within the defined areas.

(1B) For subsection (1A), the area of the other premises defined in the licence forms part of the licensee's licensed premises for the period the licensee is authorised to sell liquor on the other premises.

(1C) Despite section 84A(1), a club licence does not authorise the sale or supply of liquor from a facility ordinarily known as a drive-in or drive through bottle shop.'

(5) Section 85(2), 'subsection (1)'—

omit, insert—

'subsections (1) and (1A)'.
'

(6) Section 85(5)—

insert—

“defence member” means any of the following persons in possession of a current service identity card—

- (a) a member of the Permanent Naval Forces, the Australian Regular Army, the Regular Army Supplement or the Permanent Air Force;

- (b) a member of the Emergency Forces or the Reserve Forces who is rendering continuous full-time service.’

55 Amendment of s 86 (Restrictions on grant of club licence)

Section 86(1)(a)—

omit, insert—

- ‘(a) the business to be conducted under the club licence on the licensed premises will have a primary purpose as mentioned in section 84A(1); and’.

56 Omission of s 87 (Restriction on sale of liquor for consumption off premises)

Section 87—

omit.

57 Insertion of new s 92

Part 4, division 8, before section 93—

insert—

‘92 Primary purpose of a business under a special facility licence

‘(1) The primary purpose of a business conducted under a special facility licence is the provision of an activity, facility or presentation that—

- (a) provides enlightenment, entertainment or services to the public;
or
(b) forms part of the tourist development of the State.

‘(2) The authority under a special facility licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with a primary purpose as mentioned in subsection (1).’.

58 Amendment of s 94 (Restriction on grant of special facility licence)

(1) Section 94(1), from ‘the sale of liquor’—

omit, insert—

‘the chief executive is satisfied the business to be conducted under the licence on the licensed premises will have a primary purpose as mentioned in section 92(1).’.

(2) Section 94—

insert—

‘(3) Also, the chief executive must not grant a special facility licence to a person for premises the chief executive reasonably considers are, or are to be, used primarily as a supermarket.’.

59 Insertion of new s 94A

Part 4, division 9, before section 95—

insert—

‘94A Primary purpose of a business under a limited licence

‘(1) The primary purpose of a business conducted under a limited licence is the provision of an activity, matter or service to which the sale of liquor is a subsidiary aspect.

‘(2) The authority under a limited licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with a primary purpose as mentioned in subsection (1).’.

60 Amendment of s 96 (Restriction on grant of limited licence)

Section 96—

insert—

‘(2) Also, the chief executive must not grant a limited licence to a person for premises the chief executive reasonably considers are, or are to be, used primarily as a supermarket.’.

61 Amendment of s 97 (Available permits)

(1) Section 97(c) and (d)—

renumber as section 97(d) and (e).

(2) Section 97—

insert—

‘(c) a catering away permit;’.

62 Replacement of s 103 (Restriction on grant of extended hours permit)

Section 103—

omit, insert—

‘102A Restriction on grant of extended hours permit

‘The chief executive must not grant an extended hours permit that would purport to authorise the sale of liquor at any time on Good Friday, Christmas Day or Anzac Day, otherwise than as prescribed by section 9.

‘102B Application for an extended hours permit on a regular basis that includes trading between 5 a.m. and 7 a.m.

‘(1) This section applies to—

- (a) an application for an extended hours permit that, if granted, would extend trading hours on a regular basis to include trading between 5 a.m. and 7 a.m.; and
- (b) an application for the renewal of the extended hours permit.

‘(2) The chief executive must—

- (a) give a copy of the application to the local government for the area in which the licensed premises are situated; and
- (b) ask the local government to give the chief executive written recommendations and written reasons for the recommendations, within a stated reasonable period, about the application; and
- (c) have regard to the local government’s recommendations and reasons received within the stated reasonable period and, to the fullest extent practicable and consistent with this Act’s objects, adopt the recommendations in deciding the application.

‘(3) The extended hours permit, or any renewal of the extended hours permit, must be for a period stated in the permit or renewal of not more than 6 months.

‘(4) An extended hours permit may be renewed more than once.

‘(5) This section does not limit the application of any other section that applies to an application for an extended hours permit, or renewal of an extended hours permit, that would extend trading hours on a regular basis, including, for example, sections 116, 118, 121 and 121A.⁸

‘102C Other application for an extended hours permit that includes trading between 5 a.m. and 7 a.m.

‘(1) This section applies to an application for an extended hours permit that would result in trading hours that include trading between 5 a.m. and 7 a.m., other than an application to which section 102B applies.

‘(2) The chief executive must not grant the application, unless—

- (a) the extension of the trading hours is restricted to a time coinciding with an event the chief executive reasonably considers to be a special event; and
- (b) the special event—
 - (i) happens in the locality in which the licensed premises are situated; or
 - (ii) is, in the chief executive’s opinion, of particular significance or special interest to the regular patrons of the licensed premises.

Example of special events—

Premier sporting fixtures.

‘(3) This section does not limit the application of any other section that applies to an application for an extended hours permit that would not extend trading hours of licensed premises on a regular basis, including, for example, section 110.⁹

‘Division 12A—Catering away permits for public events

⁸ Sections 116 (Public interest relevant to applications), 118 (Advertisement of applications), 121 (Conference of concerned persons and decision by chief executive) and 121A (Renewal of permits for extension of hours beyond 3 a.m.)

⁹ Section 110 (Application for grant of extended hours permit not on regular basis)

‘102D Definitions for div 12A

‘In this division—

“licence” means each of the following types of licences for which the authority under the licence is extended to allow the sale of liquor on premises that are not the licence’s main premises—

- (a) general licence;
- (b) residential licence;
- (c) on-premises licence;
- (d) limited licence.

“main premises” means licensed premises described in a licence.

“private event” means an event or occasion, held at premises other than main premises, if—

- (a) the event or occasion is not publicly advertised or is not open to the public or casual attendance; or
- (b) attendance at the event or occasion is restricted by personal invitation of the function’s host; or
- (c) admission to the event or occasion does not involve paying a fee for admission, or for entertainment or services provided at the event or occasion.

Examples of a private event—

A 21st birthday party, boardroom lunch, company cocktail party and wedding.

“public event”, in relation to a licensee, means an event or occasion held at premises other than the licensee’s main premises, that is not a private event.

Examples of a public event—

A festival, public ball, race meeting and rock concert.

‘102E Licensee to obtain a permit for selling or supplying liquor at public events

‘(1) A licensee who proposes to sell or supply liquor at a public event under the licence must apply for the grant of a catering away permit to sell or supply the liquor at the public event.

‘(2) Without limiting section 105,¹⁰ an application must—

- (a) describe the area where the liquor will be sold or supplied and consumed and the area where any catering to be provided by the licensee will take place; and
- (b) be accompanied by a proposed event management plan for the public event stating all matters about which the chief executive is to be satisfied under section 102F(1).

‘102F Restriction on grant of catering away permit

‘(1) The chief executive must not grant a catering away permit for a public event unless the chief executive is satisfied about all of the following—

- (a) the licensee would, in catering for the public event, be complying with the primary purpose of the business conducted under the licence;
- (b) premises in which liquor may be sold, supplied and consumed at the public event are properly defined and will be appropriately monitored;
- (c) the public event will not create any undue annoyance, disturbance or inconvenience to residents of the locality in which the public event is to be held;
- (d) the public event will not create an unsafe or unhealthy environment for persons employed at and attending the public event or residents of the locality in which the public event is to be held;
- (e) appropriate planning for the public event has been carried out with the police service and local government for the area in which the public event is to be held;
- (f) the proposed event management plan satisfactorily provides for any other matter required under a regulation.

‘(2) Subsection (1)(a) does not apply to an application for a catering away permit to extend the authority of a residential licence.

10 Section 105 (Requirements for applications)

‘(3) The chief executive must not grant a catering away permit for a public event that would purport to authorise the sale of liquor at any time on Good Friday or Christmas Day or before 1.00 p.m. on Anzac Day.

‘102G Area in catering away permit forms part of licensed premises

‘The area defined in a catering away permit for a public event forms part of the licensee’s licensed premises for the period the licensee is authorised to sell or supply liquor at the public event under the catering away permit.

‘103 Authority of catering away permit

‘(1) Subject to this Act, a catering away permit authorises the permittee to sell or supply liquor—

- (a) at the public event stated in the permit; and
- (b) at the times on the day or days stated in the permit; and
- (c) subject to the conditions stated in the permit.

‘(2) The authority of a catering away permit extends to the sale or supply of liquor for consumption within the defined area at the public event, stated in the permit.’.

63 Amendment of s 103G (Authority of adult entertainment permit)

(1) Section 103G(1)(b)—

omit, insert—

‘(b) during the hours stated in the permit.’.

(2) Section 103G(2)—

omit.

(3) Section 103G(3)—

renumber as section 103G(2).

64 Insertion of new s 103K

Part 4, division 13A—

insert—

‘103K Restriction on grant of adult entertainment permit

‘(1) The chief executive must not grant an adult entertainment permit that would relate to premises at which a public event or private event is to be held other than for—

- (a) if the applicant is a licensee—the main premises under the licence; or
- (b) if the applicant is the holder of a general purpose permit or restricted club permit—the premises to which the permit relates.

‘(2) In this section, including in the definitions “public event” and “private event” as applying for this section—

“main premises” means licensed premises described in a licence other than—

- (a) a detached bottle shop; or
- (b) for a club licence—premises mentioned in section 85(1A).¹¹.

65 Amendment of s 104 (Additional time for consumption or removal of liquor)

Section 104(2)—

omit.

66 Amendment of s 105 (Requirements for applications)

Section 105—

insert—

‘(2) The chief executive may, by written notice given to an applicant, require the applicant to give the chief executive further information or a document about the application within the reasonable time, not less than 30 days, stated in the notice.

‘(3) The requirement must relate to information or a document that the chief executive reasonably considers is necessary to help the chief

11 Section 85 (Authority of club licence)

executive decide the application and reasonable for the applicant to provide.

‘(4) The application is taken to be withdrawn by the applicant if—

- (a) the chief executive has given the applicant a notice under subsection (2) requiring the applicant to give the chief executive further information or a document about the application; and
- (b) the applicant has failed to comply with the requirement within the time stated in the notice unless the applicant provides the chief executive with an excuse for the failure that the chief executive considers to be a reasonable excuse.’.

67 Insertion of new s 107AA

After section 107—

insert—

‘107AA Chief executive may impose conditions on licences and permits

‘The chief executive may impose conditions on licences and permits—

- (a) to ensure appropriate compliance with this Act; or
- (b) to give effect to an agreement about the management of premises that has resulted from a conference held under section 121¹² or a decision of the Tribunal.’.

68 Amendment of s 109 (Nominees)

(1) Section 109(1)(a), ‘body corporate’—

omit, insert—

‘corporation’.

(2) Section 109(1)(d)—

renumber as section 109(1)(c).

(3) Section 109(4) and (5)—

omit.

12 Section 121 (Conference of concerned persons and decision by chief executive)

69 Amendment of s 110 (Application for grant of extended hours permit not on regular basis)

(1) Section 110(2), ‘assistant commissioner for’—

omit, insert—

‘police officer in charge of’.

(2) Section 110(3), ‘Assistant Commissioner’—

omit, insert—

‘police officer’.

70 Amendment of s 112 (Procedure for variation by chief executive)

Section 112—

insert—

‘(2) This section does not apply to a variation of a licence for a disciplinary action relating to the licence under section 137A.¹³’.

71 Insertion of new s 113A

After section 113—

insert—

‘113A Transfer of licence or permit held for or on behalf of unincorporated association

‘(1) This section applies if—

- (a) a person holds a licence or permit for or on behalf of an unincorporated association; and
- (b) the association becomes incorporated.

‘(2) The licensee and the incorporated association must, within 3 months after the association is incorporated, apply to the chief executive for the licence to be transferred to the incorporated association.’.

13 Section 137A (Decision about disciplinary action)

72 Amendment of s 116 (Public need relevant to applications)

(1) Section 116, heading, ‘**need**’—

omit, insert—

‘interest’.

(2) Section 116(2)—

omit, insert—

‘(2) The applicant must satisfy the chief executive that it is in the public interest for the application to be granted.’.

(3) Section 116(3), from ‘reasonable’ to ‘subsection (2)’—

omit, insert—

‘public interest’.

(4) Section 116(3)(d)—

omit.

(5) Section 116(3)(e)—

renumber as section 116(3)(d).

(6) Section 116(4)—

omit, insert—

‘(4) In deciding the public interest relating to an application, the chief executive must take into account information about the matters mentioned in subsection (3) and must also have regard to—

- (a) the existing and projected population and demographic trends in the locality; and
- (b) the number of persons residing in, resorting to or passing through the locality, and their respective expectations; and
- (c) the likely health and social impacts that granting the application would have on the population of the locality; and
- (d) an assessment of the magnitude, duration and probability of the occurrence of the health and social impacts; and
- (e) the proximity of the proposed licensed premises to identified sub-communities within the locality, including, for example, schools and places of worship, and the likely impact on those sub-communities; and

- (f) other information the chief executive considers relevant to the reasonable requirements of the public for liquor and related services in the locality; and
- (g) the objects of the Act as mentioned in section 3 and the underlying principle of this Act as mentioned in section 3A.’.

73 Amendment of s 118 (Advertisement of applications)

(1) Section 118(1)(b)—

omit, insert—

‘(b) a detached bottle shop;’.

(2) Section 118(1)(d)—

renumber as section 118(1)(e).

(3) Section 118(1)—

insert—

‘(d) an adult entertainment permit, other than a one-off permit or subsequent permit;’.

(4) Section 118(2)(b), ‘on the premises to which the application relates’—

omit.

(5) Section 118(3)—

omit, insert—

‘(2A) For subsection (2)(b), the sign must be displayed—

- (a) if the land on which the premises to which the application relates has only 1 road frontage—conspicuously, on the front alignment of the land or on the premises, at street level and in a way that ensures it is clearly visible to the passing public; and
- (b) if the land on which the premises to which the application relates has more than 1 road frontage—conspicuously, on the land or on the premises, at street level and in a way that ensures it is clearly visible to the passing public on each road frontage.

‘(3) The chief executive may—

- (a) 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 the remote location of the premises or other special circumstances; or

- (b) vary the display requirements for an application, including by requiring the applicant to comply with other requirements, if the chief executive is satisfied that display under subsection (2) is not appropriate having regard to the specific nature of the location.’.

(4) Section 118(6) and (7)—

omit, insert—

‘**(6)** In deciding whether to require an application for an adult entertainment permit to be advertised, that is an application for a one-off permit or subsequent permit, the chief executive must have regard to—

- (a) for a one-off permit—whether the frequency, location, size or timing of the adult entertainment may cause some community concern; and
- (b) for a subsequent permit—whether a previous adult entertainment permit exists or has lapsed or whether there are specific problems relating to the locality of the licensed premises, including, for example, the use of the premises for adult entertainment, or the behaviour of persons entering or leaving the premises, may cause undue annoyance or disturbance to persons living or working or doing business in the neighbourhood of the premises.

‘**(7)** In this section—

“**one-off permit**” means an adult entertainment permit for a term of less than 4 days.

“**subsequent permit**” means an adult entertainment permit relating to a person for premises if the person was, within the preceding 6 months of the date of the application for the subsequent permit, previously the holder of an adult entertainment permit for the premises, other than a one-off permit.’.

74 Amendment of s 118A (Submissions on public need)

(1) Section 118A, heading, ‘**need**’—

omit, insert—

‘**interest**’.

(2) Section 118A(1), from ‘about—’—

omit, insert—

‘about the matters to which the chief executive must have regard under section 116.’.

75 Amendment of s 119 (Objection to grant of applications)

(1) Section 119(3), after ‘objection’—

insert—

‘about an application, other than an application for an adult entertainment permit.’.

(2) Section 119(4)—

renumber as section 119(5).

(3) Section 119—

insert—

‘(4) The grounds on which an objection about an application for an adult entertainment permit may be made are that, if the application were granted—

- (a) undue annoyance, disturbance or inconvenience to persons who reside, work or do business in the locality, or to persons in, or travelling to or from, an existing or proposed place of public worship, hospital or school or other facility or place regularly frequented by children for cultural or recreational activities is likely to happen; or
- (b) the amenity, quiet or good order of the locality concerned would be lessened in some way.’.

76 Amendment of s 121 (Conference of concerned persons and decision by chief executive)

(1) Section 121(5)(a)—

omit, insert—

- ‘(a) if a conference was held and agreement was reached under subsection (4)—make a decision consistent with the agreed terms; or

(ab) if a conference was held but agreement was not reached under subsection (4)—grant the application; or’.

(2) Section 121(5)(f), after ‘permit’—

insert—

‘or adult entertainment permit’.

77 Replacement of ss 123 and 124

Sections 123 and 124—

omit, insert—

‘123 Chief executive may grant provisional licence

‘(1) This section applies if—

- (a) the chief executive assesses an application for a licence, including, for example, the primary purpose of a business to be conducted under the proposed licence and the requirements of section 107¹⁴ in relation to the application; and
- (b) a development approval has been given under the *Integrated Planning Act 1997* for the use of the land on which the proposed premises will be situated for licensed premises; and
- (c) the chief executive would grant the application if a building or structure forming part of the proposed premises—
 - (i) were completed under the law relating to carrying out building work; or
 - (ii) were approved or certified as required by law for use as licensed premises and, if the case requires it, for conduct in the premises of a business for which the licence was sought.

‘(2) The chief executive may grant the application provisionally and issue a provisional licence subject to a condition that the applicant produces evidence of the completion of the building work or approval or certification as required by law, as mentioned in subsection (1)(c).

‘(3) The provisional licence must state—

- (a) the evidence the applicant is required to produce; and

14 Section 107 (Restriction on grant of licence or permit)

- (b) that if the applicant produces the stated evidence to the satisfaction of the chief executive within a stated reasonable time, not more than 1 year, the applicant is entitled to a stated licence; and
- (c) that if the applicant does not produce the stated evidence within the stated time, the applicant's provisional licence will be cancelled.

‘123A Chief executive may grant authority to trade for staged development

‘(1) This section applies if—

- (a) the chief executive assesses an application for a licence, including, for example, the primary purpose of a business to be conducted under the proposed licence and the requirements of section 107 in relation to the application; and
- (b) the construction or alteration of the proposed premises is to be completed in stages and 1 or more of the stages has been completed; and
- (c) the business to be conducted in a completed stage meets the primary purpose under the proposed licence and has been approved or certified as required by law for use as licensed premises and, if the case requires it, for conduct in the premises of a business for which the licence was sought; and
- (d) the chief executive would grant the application if all the stages of the construction or alteration of the premises were completed.

‘(2) The chief executive may grant the application provisionally and issue an approval (a “**staged development approval**”) subject to a condition that the applicant produces evidence of the completion of the remaining stages of the construction or alteration of the premises.

‘(3) The staged development approval must state—

- (a) the evidence the applicant is required to produce before the application for the licence will be granted; and
- (b) the part of the premises in which the applicant is authorised to operate the business the subject of the application until the licence is granted; and

- (c) that if the applicant produces the stated evidence within a stated reasonable time, not more than 1 year, the applicant is entitled to a stated licence.

‘123B Provisional licence or staged development approval

‘(1) A provisional licence or staged development approval remains in force for—

- (a) the stated reasonable time from the day on which it is granted; or
(b) if no time is stated in the approval, 1 year from the day on which it is granted.

‘(2) The chief executive may renew a provisional licence, for a period of not more than 1 year, if the chief executive reasonably considers there are special circumstances for the applicant not producing the evidence stated in the licence within the stated time, including, for example, delays in completing the proposed premises because of adverse weather conditions.

‘(3) A provisional licence can not be renewed more than once.

‘(4) The chief executive may, after considering a matter to which the chief executive may have regard in making a decision to grant a licence of the type the subject of a staged development approval, renew the approval for a period of not more than 1 year.

‘(5) A staged development approval may be renewed more than once.

‘123C Effect of provisional licence

‘(1) A provisional licence in relation to an application for a licence does not give the applicant authority to operate the business the subject of the application until the licence is granted.

‘(2) If, while a provisional licence is in force, the holder of the licence produces the evidence stated in the licence to the satisfaction of the chief executive, the chief executive must grant the appropriate licence.

‘(3) If the holder of a provisional licence does not produce the evidence stated in the licence within the time stated in the licence, the chief executive must cancel the provisional licence.

‘(4) The cancellation of a provisional licence takes effect despite another provision of this Act.

‘124 Effect of staged development approval

‘(1) A staged development approval in relation to an application for a licence authorises the applicant to sell and supply liquor as if—

- (a) the approval were the licence the subject of the application; and
- (b) the part of the premises stated in the approval in which the applicant is authorised to operate the business the subject of the application were licensed premises; and
- (c) the applicant were the licensee.

‘(2) If, while a staged development approval is in force, the holder of the approval produces the evidence stated in the staged development approval, the chief executive must grant the appropriate licence.’

78 Amendment of s 125 (Temporary licence)

(1) Section 125, heading, ‘**licence**’—

omit, insert—

‘**authority**’.

(2) Section 125(3)—

renumber as section 125(5).

(3) Section 125—

insert—

‘(3) If the licence for the licensed premises is a general licence, the chief executive may grant temporary authority even though part of the business that is the primary purpose under the licence can not be conducted in the premises that are the subject of the authority.

Example of subsection (3)—

If a hotel is destroyed by fire but there is a detached bottle shop covered by the licence, the temporary authority may be given for the detached bottle shop even though the hotel is not able to operate or can not be rebuilt for a period of time.

‘(4) A temporary authority may be—

- (a) granted for 1 term stated in the authority, but not longer than 2 years; and
- (b) extended for a term or terms, each of which is not longer than 2 years, if the chief executive is satisfied there are special circumstances for not restoring the premises within the original

term or the most recent extension of the term, including, for example—

- (i) continuing investigations about the destruction of the premises; or
- (ii) difficulties in obtaining development approval for rebuilding the premises.’.

79 Amendment of s 128 (Liability of licensees in certain cases)

(1) Section 128(a), ‘body corporate’—

omit, insert—

‘corporation’.

(2) Section 128(b)—

omit, insert—

- ‘(b) for or on behalf of an unincorporated association, and the licensee is absent from the management and supervision of the business conducted under authority of the licence—each of the members of the association’s management committee is subject to the same liabilities under this Act as a licensee.’.

80 Amendment of s 129 (Applications to continue trading in certain circumstances)

Section 129—

insert—

‘(4) Also, each of the following persons may apply to the chief executive to conduct the business of a club licence if the person is in possession of the licensed premises and the application states, in detail, the way in which the person will continue trading under the club licence for the benefit of the club—

- (a) an owner or mortgagee of the licensed premises who has, under section 44A(2),¹⁵ given the chief executive particulars of the person’s interest in the licence;

15 Section 44A (Owner, lessee, mortgagee and secured creditors to give particulars to chief executive)

- (b) an owner of a financial interest in the trading of the licensed premises who has, under section 44A(2), given the chief executive particulars of the person's interest in the licence.'

81 Amendment of s 131A (Decision by chief executive on application to continue trading in certain circumstances)

Section 131A—

insert—

'(3A) If the application is made by a person as mentioned in section 129(4), the maximum period for an authority given under subsection (2) is not for more than 6 months after the date of the application.'

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

(1) Section 132, after 'by order'—

insert—

‘, do all or any of the following’.

(2) Section 132(d), 'and'—

omit.

83 Amendment of s 133 (Request to surrender)

Section 133(3)(b)—

omit, insert—

‘(b) must be accompanied or supported by—

- (i) the consent of all mortgagees or lessees of the licensed premises, or part of the licensed premises, who have given the chief executive particulars under section 44A;¹⁶ and

16 Section 44A (Owner, lessee, mortgagee and secured creditors to give particulars to chief executive)

- (ii) enough information to enable the chief executive to decide the application, including the information prescribed under a regulation for this subparagraph; and’.

84 Insertion of new ss 134A–134C

After section 134—

insert—

‘134A Ground for taking relevant action relating to adult entertainment permit

‘The chief executive may take a relevant action relating to an adult entertainment permit on the ground that the person who holds the permit is no longer a suitable person to provide adult entertainment.

‘134B Show cause notice

‘If the chief executive considers, on reasonable grounds, that a person who holds an adult entertainment permit is no longer a suitable person to provide adult entertainment, the chief executive must give the person a written notice that—

- (a) states the relevant action relating to the adult entertainment permit that the chief executive proposes to take; and
- (b) states the grounds for the relevant action; and
- (c) states an outline of the facts and circumstances forming the basis for the grounds; and
- (d) invites the person to show within a stated period, not less than 14 days after the notice is given to the person, why the relevant action should not be taken.

‘134C Decision about relevant action relating to adult entertainment permit

‘(1) After considering any representations made by the person who holds the adult entertainment permit, the chief executive may—

- (a) if the chief executive still considers there is a ground to take the relevant action relating to the adult entertainment permit—take the relevant action; or

- (b) if the chief executive no longer believes a ground exists to take the relevant action—take no further action about the show cause notice.

‘(2) Within 7 days after the chief executive makes a decision under subsection (1), the chief executive must give written notice of the decision to the licensee.

‘(3) Also, if the chief executive decides to take the relevant action the notice under subsection (2) must state—

- (a) the reasons for the decision; and
- (b) the licensee may appeal to the Tribunal against the decision within 28 days after the licensee receives notice of the decision.’.

85 Replacement of ss 136 and 137

Sections 136 and 137—

omit, insert—

‘Subdivision 3—Disciplinary action relating to licences

‘136 Grounds for disciplinary action

‘(1) Each of the following is a ground for taking disciplinary action relating to a licence—

- (a) the licensee has failed to—
 - (i) comply with this Act; or
 - (ii) conduct a business on the licensed premises that is consistent with the primary purpose of the licence; or
 - (iii) comply with a condition stated in the licence; or
 - (iv) comply with an order of the chief executive or a requisition of an investigator;
- (b) the licensee is convicted of—
 - (i) an offence against this Act; or
 - (ii) an offence under the *Health Act 1937* or the *Food Act 1981* involving licensed premises or liquor; or
 - (iii) an offence the chief executive considers indicates the licensee’s unsuitability to hold the licence;

- (c) the licensee has, at a material time, employed or engaged in the business conducted under authority of the licence a person convicted of 1 of the following offences committed in the course of the business being carried on—
 - (i) an offence against this Act;
 - (ii) an offence under the *Health Act 1937* or the *Food Act 1981* involving licensed premises or liquor;
- (d) the licensee has obtained the licence by fraud or false representation;
- (e) the licensee or any nominee relating to the licensed premises, is not a fit and proper person to conduct business under authority of the licence;
- (f) the licensee has ceased to conduct business on the licensed premises;
- (g) the licensee holds the licence for the benefit, wholly or partially, of a person to whom the chief executive would not grant the licence if application were to be made by the person;
- (h) the use of the licensed premises, or the behaviour of persons entering or leaving the premises—
 - (i) is causing undue annoyance or disturbance to persons—
 - (A) living, working or doing business in the neighbourhood of the premises; or
 - (B) conducting or attending religious services in the neighbourhood of the premises; or
 - (ii) is causing disorderly conduct in, or in the neighbourhood of, the premises.

‘137 Procedure for taking disciplinary action in relation to licence

‘(1) If the chief executive considers, on reasonable grounds, there is a ground to take disciplinary action relating to a licence (the “**proposed action**”), the chief executive must give the licensee a written notice that states the following—

- (a) the proposed action;
- (b) the grounds for the proposed action;

- (c) an outline of the facts and circumstances forming the basis for the grounds;
- (d) if the proposed action includes suspending the licence—the proposed suspension period;
- (e) if the proposed action includes closing the licensed premises for a stated period—the proposed closure period;
- (f) if the proposed action includes varying the licence—the proposed condition to which the licence is to be subject or the other way in which the authority conferred by the licence is to be limited;
- (g) if the proposed action includes disqualifying the licensee from holding a licence or permit—the proposed disqualification period;
- (h) if the proposed action includes requiring the licensee to pay the department an amount—the proposed amount;
- (i) an invitation to the licensee—
 - (i) to show, by a stated day that is at least 28 days after the notice is given (the “**last day for representations**”), why the proposed action should not be taken; and
 - (ii) to make submissions about the proposed action;
- (j) how representations by the licensee about the proposed action may be made.

‘(2) The chief executive must also give to each interested person relating to the licence, at least 28 days before the show cause period ends, written notice that—

- (a) states the matters mentioned in subsection (1)(a) to (h); and
- (b) invites the interested person to make representations, in the way stated in the notice, about the proposed action before the last day for representations.

‘137A Decision about disciplinary action

‘(1) If, after considering any representations made, the chief executive still considers there is a ground to take disciplinary action relating to the licence, the chief executive may decide to—

- (a) if the proposed action was other than suspension or cancellation—take the proposed action or another form of disciplinary action, other than suspension or cancellation of the licence; or
- (b) if the proposed action was to suspend the licence—suspend the licence, for not longer than the proposed suspension period or take another form of disciplinary action, other than cancellation of the licence; or
- (c) if the proposed action was to cancel the licence—either cancel the licence or take another form of disciplinary action.

‘(2) If the chief executive decides to take disciplinary action other than the proposed action or part of the proposed action, the chief executive must, as soon as practicable after making the decision, give the licensee and each interested person to whom notice of the proposed action was given, a further notice stating the following—

- (a) the form of disciplinary action the chief executive proposes to take;
- (b) the reasons for the decision;
- (c) the licensee and interested persons may make submissions to the chief executive in the way and within the time stated in the notice.

‘(3) For subsection (2)(c), the time stated in the notice must not be less than 7 days after the licensee and interested persons are given the notice.

‘(4) If, after considering any representations made about the further notice, the chief executive still considers there is a ground to take disciplinary action relating to the licence, the chief executive may decide to take the disciplinary action.

‘(5) More than 1 type of disciplinary action relating to a licence may be taken against the licensee under this section.

‘(6) In this section—

“**proposed action**” see section 137(1).

‘137B Notice to be given about chief executive’s decision

‘(1) Within 10 days after the chief executive makes a decision under section 137A(1) or (4) relating to proposed disciplinary action relating to a licence, the chief executive must give written notice of the decision to—

- (a) the licensee; and
- (b) each interested person to whom notice of the proposed action was given.

‘(2) However, subsection (1) does not apply to a decision made under section 137A(1) if the chief executive decides to take disciplinary action other than the proposed action or part of the proposed action and gives the licensee and each interested person a notice under section 137A(2).

‘(3) If the chief executive decides to take the proposed action under section 137A(1) or other disciplinary action under section 137A(4), the notice must state—

- (a) the reasons for the decision; and
- (b) the licensee may appeal to the Tribunal against the decision within 28 days after the person receives notice of the decision.

‘(4) The decision takes effect on the later of—

- (a) the day the notice is given to the licensee; or
- (b) the day of effect stated in the notice.

‘(5) However, if disciplinary action is taken relating to the licence because of a conviction—

- (a) the disciplinary action does not take effect until—
 - (i) the end of the time to appeal against the conviction; or
 - (ii) if an appeal is made against the conviction—the appeal is finally decided; and
- (b) the disciplinary action has no effect if the conviction is quashed.

‘137C Urgent suspension

‘(1) This section applies if the chief executive believes, on reasonable grounds—

- (a) a ground exists for taking disciplinary action in relation to a licence; and
- (b) harm may be caused to members of the public if urgent action to suspend the licence is not taken.

‘(2) The chief executive may immediately suspend the licence (an “urgent suspension”) by written notice given to the licensee, stating—

- (a) the licence is suspended; and
- (b) the reasons for the urgent suspension; and
- (c) the licensee may appeal to the Tribunal against the urgent suspension within 28 days after the licensee is given the notice.

‘(3) The urgent suspension takes effect immediately the notice is given to the licensee.

‘(4) At the same time as the chief executive gives the licensee the notice, the chief executive must give the licensee a notice under section 137(1).

‘(5) The urgent suspension continues until the first of the following happens—

- (a) the chief executive revokes it;
- (b) the chief executive, under section 137B(1), gives the licensee notice of the chief executive’s decision under section 137A(1) or (4);
- (c) the end of 60 days after the notice under subsection (2) was given to the licensee.

‘137D Amount payable as a debt due to the State

‘(1) This section applies if the chief executive decides to take disciplinary action relating to a licence and the action requires the licensee to pay an amount to the department.

‘(2) Any amount unpaid becomes a debt due and payable to the State 28 days after the day notice of the chief executive’s decision is given to the licensee under section 137B.

‘Subdivision 4—Effect of suspension of licence or permit and other matter’.

86 Amendment of s 143 (Particulars to be displayed on premises)

Section 143(1), ‘50 mm’—

omit, insert—

‘15 mm’.

87 Amendment of s 147 (Consumption or removal contrary to licence or permit)

Section 147(2), after ‘permittee’—

insert—

‘, or an employee or agent of the licensee or permittee,’.

88 Amendment of s 148 (Gratuitous supply of liquor)

(1) Section 148, after ‘permittee’—

omit, insert—

‘, or an employee or agent of the licensee or permittee,’.

(2) Section 148(d), after ‘approval’—

insert—

‘for a particular event or occasion’.

89 Amendment of s 150 (Notification of change in controlling interest in licensee)

(1) Section 150, ‘body corporate’—

omit, insert—

‘corporation’.

(2) Section 150—

insert—

‘(2) The holder of a special facility licence, that is the subject of an approval by the chief executive as mentioned in section 153(3), must give the chief executive written notice of the following changes within 14 days after the change—

- (a) a change in the letting or subletting of part of the licensed premises;
- (b) a change in the letting or subletting of the right to sell liquor;
- (c) a change in the franchise or management agreement for part of the licensed premises;

- (d) a change in the beneficial ownership of the controlling interest in any lessee, sublessee, franchisee or holder of management rights, under the chief executive's approval.

Maximum penalty for subsection (2)—100 penalty units.'.

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

(1) Section 152(1)—

insert—

'Maximum penalty—25 penalty units.'.

(2) Section 152(2), 'The holder of a general licence'—

omit, insert—

'A licensee'.

91 Amendment of s 154 (Alteration and maintenance of licensed premises)

(1) Section 154, heading—

omit, insert—

'154 Alteration etc. and maintenance of licensed premises'.

(2) Section 154(1) and (2)—

omit, insert—

'(1) The owner, licensee or other person in control of licensed premises must not, without the chief executive's approval, alter, rebuild, change or increase the area of the licensed premises.

Maximum penalty—25 penalty units.

'(2) For subsection (1)—

- (a) in giving an approval, the chief executive must have regard to the business that is the primary purpose conducted under the licence; and
- (b) a change in the area includes not using a part of the licensed premises as if the part were not licensed premises.'.

92 Insertion of new ss 154A and 154B

After section 154—

insert—

‘154A Relocation of detached bottle shops

‘(1) This section applies if—

- (a) under a general licence the licensee has authority to sell or supply liquor on a detached bottle shop; and
- (b) the licensee proposes to relocate the detached bottle shop.

‘(2) The licensee must apply to the chief executive for approval for the relocation.

‘(3) In deciding the application, the chief executive must have regard to whether or not the applicant should be required to advertise the application under section 118.

‘(4) The chief executive may approve the application only if the chief executive is satisfied the detached bottle shop is to be relocated to another place within the same shopping precinct.

‘(5) If the detached bottle shop is to be relocated more than the distance prescribed under a regulation from the main licensed premises, the chief executive must refuse the application.

‘(6) Subsection (5) does not apply if the detached bottle shop—

- (a) operates under an approval granted by the chief executive before 2 December 1994; or
- (b) operates under an approval granted by the chief executive on or after 2 December 1994 that authorises the detached bottle shop to be located more than the distance prescribed under a regulation from the main licensed premises.

‘(7) If the chief executive approves the application, the chief executive must adjust the licence to ensure it describes the licensed premises after the relocation of the detached bottle shop.

‘154B Transfer of certain premises

‘(1) This section applies if—

- (a) the licensee under a general licence (the “**first licensee**”) has authority to sell or supply liquor on a detached bottle shop; and

- (b) the first licensee proposes to transfer the detached bottle shop to another licensee of a general licence (the “**second licensee**”).

‘(2) The first and second licensees must make a joint application to the chief executive for approval of the transfer.

‘(3) The chief executive must refuse the application if—

- (a) the detached bottle shop is more than the distance prescribed under a regulation from the main licensed premises of the second licensee; or
- (b) there are 3 detached bottle shops under the authority of the general licence of the second licensee.

‘(4) In deciding the joint application, the chief executive must have regard to the matters prescribed under a regulation.

‘(5) If the chief executive approves the joint application, the chief executive must adjust the licences of the first licensee and second licensee to ensure each licence describes its licensed premises after the transfer of the detached bottle shop.

‘154C Inclusion or amendment of other premises as part of authority of club licence

‘(1) A licensee under a club licence may apply for—

- (a) the inclusion of a statement in the licence that the licensed premises include other premises; or
- (b) a change of a statement in the licence that the licensed premises include other premises.

‘(2) If the chief executive approves the application, the chief executive must adjust the licence to ensure it describes the licensed premises after the inclusion of the other premises or change of the other premises.

‘(3) Section 111¹⁷ must not be used to do something that can be done under this section.

‘(4) A regulation may prescribe the requirements for an application under this section.

‘(5) In this section—

“other premises” see section 85(1A).’.

17 Section 111 (Variation of licence)

93 Amendment of s 155 (Minors on premises)

Section 155(3)—

omit, insert—

‘(3) Also, an employee or agent of the licensee or permittee must not allow a minor to enter the premises to which the licence or permit relates.

‘(3A) If a minor is on the premises, each of the following persons commits an offence—

- (a) the licensee or permittee;
- (b) if another person is in control of the premises—the other person;
- (c) if an employee or agent of the licensee or permittee allowed the minor to enter the premises—the employee or agent.

Maximum penalty—100 penalty units.’.

94 Amendment of s 155AA (Minors must not be in approved area when adult entertainment being provided)

(1) Section 155AA(2), ‘the approved area’—

omit, insert—

‘an approved area’.

(2) Section 155AA(2), penalty, ‘for subsection (2)’—

omit.

(3) Section 155AA—

insert—

‘(3) To remove doubt, it is declared that a minor can not be in an approved area in the capacity of a performer of adult entertainment.’.

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

Section 162(2)(a)—

omit, insert—

- ‘(a) if the liquor is wine, the wine was supplied to the person on the premises lawfully under the licence as authorised under section 73A(b); or’.

96 Amendment of s 187 (Abatement of nuisance or dangerous activity)

(1) Section 187(1)(a)(i)—

omit, insert—

‘(i) an unreasonable noise; or’.

(2) Section 187(2)(a), ‘that is no longer a nuisance’—

omit, insert—

‘so that it is no longer an unreasonable noise’.

(3) Section 187—

insert—

‘(2A) In deciding whether to give a written notice under subsection (2), the investigator must have regard to the following—

- (a) the order of occupancy between the licensee or permittee and any complainant;
- (b) any changes in the licensed premises and the premises occupied by any complainant, including, for example, structural changes to the premises;
- (c) any changes in the activities conducted on the licensed premises over a period of time.’.

(3) Section 187(5)—

insert—

‘“**unreasonable noise**” means noise that exceeds limits prescribed under a regulation.’.

97 Omission of ss 193–196

Sections 193 to 196—

omit.

98 Insertion of new s 221

Part 9, division 2—

insert—

‘221 Expiry of pt 9, div 2

‘This division expires 1 year after the commencement of this section.’

99 Amendment of s 226 (Contravention of conditions of licences etc.)

Section 226, penalty—

omit, insert—

‘Maximum penalty—40 penalty units.’

100 Insertion of new s 232

After section 231B—

insert—

‘232 Summary proceedings for offences

‘Proceedings for an offence against this Act are to be taken in a summary way under the *Justices Act 1886*.’

101 Amendment of s 235 (Regulations)

(1) Section 235(2)—

insert—

- ‘(k) the requirements for event management plans for the conduct of public events; and
- (l) the requirements for management plans for the conduct of an establishment under an adult entertainment permit; and
- (m) the limits for noise coming from licensed premises.’

(2) Section 235(3)(b), ‘10’—

omit, insert—

‘40’.

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

Section 238—

insert—

‘(7) This section stops applying on 30 June 2003.’.

103 Amendment of s 238A (Disposal of applications for removal)

Section 238A—

insert—

‘(3) This section stops applying on 30 June 2003.’.

104 Amendment of s 239 (Termination of Court)

Section 239—

insert—

‘(2) If the Court has not ceased to exist under subsection (1) by 30 June 2003, it ceases to exist on that day.’.

105 Amendment of s 241 (Disposal of applications made to Commission)

Section 241—

insert—

‘(4) This section stops applying on 30 June 2003.’.

106 Insertion of new pt 12, div 3

After section 258—

insert—

‘Division 3—Transitional provisions for Liquor Amendment Act 2001

‘259 Transitional provision for Tribunal

‘(1) This section applies to an appeal started, but not decided, before the commencement of this section.

‘(2) The appeal is to be heard in the same way as it would have been if the *Liquor Amendment Act 2001* had not commenced.

‘260 Transitional provision for certain general licences

‘(1) This section applies to a licence that—

- (a) immediately before the commencement of section 243¹⁸ was a spirit merchant’s (retail) licence and after the commencement of that section continued as a general licence that authorised only the sale of liquor for consumption off the premises; and
- (b) was in force immediately before the commencement of this section.

‘(2) For section 58A(1),¹⁹ the primary purpose of the business conducted under the general licence is taken to be only selling liquor for consumption off the premises.

‘(3) Subsection (2) applies despite section 58A(3).

‘261 Transitional provision for applications under pt 5

‘(1) This section applies to an application made under part 5, but not decided, before the commencement of this section.

‘(2) Subject to subsections (3) and (4), the application must be decided as if the *Liquor Amendment Act 2001* had not commenced.

‘(3) Section 105(2) to (4)²⁰ applies to the application as if the application had been made after the commencement of that section.

‘(4) If the application is an application for an extended hours permit that includes trading between 5 a.m. and 7 a.m., section 102B or 102C²¹ applies to the application as if the application had been made after the commencement of that section.

18 Section 243 (Continuance of existing licences)

19 Section 58A (Primary purpose of a business conducted under a general licence)

20 Section 105 (Requirements for applications)

21 Section 102B (Application for an extended hours permit on a regular basis that includes trading between 5 a.m. and 7 a.m.) or 102C (Other application for an extended hours permit that includes trading between 5 a.m. and 7 a.m.)

‘262 Transitional provision for temporary authority

‘(1) This section applies to a temporary authority granted before the commencement of this section that continues after the commencement.

‘(2) To remove doubt, it is declared that the temporary authority may be extended under section 125(4)(b)²² as if the authority were an authority granted after the commencement.

‘263 Continuation of notices under s 187

‘(1) This section applies if, immediately before the commencement of this section, a written notice under section 187(2)²³ was in force for licensed premises in relation to noise coming from the premises or a utility area for the premises.

‘(2) On and after the commencement, the notice continues to have effect as if the noise were unreasonable noise under section 187(5) and the notice had been issued after the commencement.

‘264 Effect of s 85(1C) in relation to club licences

‘Section 85(1C) has effect in relation to a club licence even if, before the commencement of this section, the holder of the licence could lawfully sell or supply liquor from a facility ordinarily known as a drive-in or drive through bottle shop.

‘265 Review of licences

‘(1) The chief executive must review every licence that is in force on the commencement of this section to ensure that—

- (a) the conditions to which the licence is subject are not inconsistent with the current Act; and
- (b) the licence is endorsed with all conditions considered by the chief executive as appropriate to be decided and stated in the licence consequent on the enactment of the *Liquor Amendment Act 2001*.

22 Section 125 (Temporary authority)

23 Section 187 (Abatement of nuisance or dangerous activity)

‘(2) For reviewing a licence under subsection (1), the chief executive may, by written notice to a licensee, direct the licensee to give the licence to the chief executive within a stated reasonable time.

‘(3) The licensee must comply with the notice unless the licensee has a reasonable excuse.

Maximum penalty for subsection (3)—25 penalty units.’.

107 Amendment to omit headings following cross references

(1) This section applies to a section containing a cross reference to a provision of the Act followed by the heading to the provision in round brackets.

(2) The section is amended by omitting the brackets and the words in the brackets.

108 Amendment of schedule (Rules of clubs)

(1) Schedule, ‘92 of this Act’—

omit, insert—

‘103D’.

(2) Schedule, paragraph (e)—

omit.

(3) Schedule, paragraph (f)—

renumber as paragraph (e).

SCHEDULE**CONSEQUENTIAL AND MINOR AMENDMENTS**

section 3

- 1 Section 4C(2), ‘body corporate’—**
omit, insert—
‘corporation’.
- 2 Section 27, penalty, after ‘Maximum penalty’—**
insert—
‘for subsection (2)’.
- 3 Section 29(a), ‘any of the members’—**
omit, insert—
‘the member, or any of the members,’.
- 4 Section 32(b), ‘fully’—**
omit.
- 5 Section 44, ‘Register of Licences and Permits’—**
omit, insert—
‘register’.
- 6 Section 46(1), ‘Register of Licences and Permits’—**
omit, insert—
‘register’.

SCHEDULE (continued)

- 7 Section 59(4), ‘taken to be’—**
omit.
- 8 Section 66, ‘held in’—**
omit, insert—
‘held on’.
- 9 Part 4, division 4, subdivision 2, heading—**
omit, insert—
‘Subdivision 2—On-premises (function) licences’.
- 10 Part 4, division 4, subdivision 3, heading—**
omit, insert—
‘Subdivision 3—On-premises (cabaret) licences’.
- 11 Part 4, division 4, subdivision 4, heading—**
omit, insert—
‘Subdivision 4—On-premises (meals) licences’.
- 12 Part 4, division 4, subdivision 5, heading—**
omit, insert—
‘Subdivision 5—On-premises (transport) licences’.
- 13 Part 4, division 4, subdivision 6, heading—**
omit, insert—
‘Subdivision 6—On-premises (presentations) licences’.

SCHEDULE (continued)

14 Section 88(5), penalty, ‘for subsection (5)’—

omit.

15 Section 103D(4), penalty, ‘for subsection (4)’—

omit.

16 Section 106(1), ‘body corporate’—

omit, insert—

‘corporation’.

17 Section 107(2), ‘body corporate’—

omit, insert—

‘corporation’.

18 Section 107B(1)(d), ‘body corporate’—

omit, insert—

‘corporation’.

19 Section 113(2), from ‘to’—

omit, insert—

‘to the *Gaming Machine Act 1991*, section 78²⁴.’.

20 Section 117(1)(a), ‘and’—

omit.

24 *Gaming Machine Act 1991*, section 78 (Certain applications under Liquor Act 1992 subject to chief executive’s certificate)

SCHEDULE (continued)

21 Section 121A(1)(a), ‘and’—

omit.

22 Part 5, division 3, before section 133—

insert—

‘Subdivision 1—Surrender of licences and permits’.

23 Part 5, division 3, before section 134—

insert—

‘Subdivision 2—Cancellation, suspension and variation of permits’.

24 Section 134(3)(e), ‘body corporate’—

omit, insert—

‘corporation’.

25 Section 141(2), penalty, after ‘Maximum penalty’—

insert—

‘for subsection (2)’.

26 Section 142(2), penalty, after ‘Maximum penalty’—

insert—

‘for subsection (2)’.

27 Part 6, division 1, heading, after ‘*permittees*,’—

insert—

‘nominees’.

SCHEDULE (continued)

28 Section 155A, penalty, at the end of paragraph (a)—*insert—*

‘or’.

29 Section 156(3), penalty, at the end of paragraph (a)—*insert—*

‘or’.

30 Section 158(2), penalty, paragraph (a), ‘and’—*omit, insert—*

‘or’.

31 Section 158(4), ‘of a minor’—*omit, insert—*

‘, of a minor,’.

32 Section 175(4), penalty, from ‘, imprisonment’—*omit, insert—*

‘or 1 year’s imprisonment.’.

33 Section 175(8), ‘, (b) and (c)’—*omit, insert—*

‘and (b)’.

34 Section 183A(1)(d), at the end of subparagraph (i)—*insert—*

‘or’.

SCHEDULE (continued)

35 Section 187A(2)(b), ‘1997’—*omit, insert—*

‘2000’.

36 Section 203(1)(b)(i), ‘by regulation’—*omit, insert—*

‘under section 12’.

37 Section 203(1)(b)(ii), ‘paragraph’—*omit, insert—*

‘subparagraph’.

38 Section 203(2)(a) and (b), ‘or’—*omit.***39 Section 204—***omit.***40 Section 233(a), ‘Register of Licences and Permits kept under this Act’—***omit, insert—*

‘register’.

41 Section 248(2), penalty, after ‘Maximum penalty’—*insert—*

‘for subsection (2)’.

