



Queensland

Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) and Other Acts Amendment Act 2008

Act No. 30 of 2008



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Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) and Other Acts Amendment Act 2008

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Queensland

Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) and Other Acts Amendment Act 2008

Act No. 30 of 2008

An Act to amend the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, the *Liquor Act 1992*, the *Local Government (Aboriginal Lands) Act 1978*, the *Local Government Act 1993*, the *Local Government (Community Government Areas) Act 2004* and the *Police Powers and Responsibilities Act 2000* for particular purposes, and to repeal the *Indigenous Communities Liquor Licences Act 2002*

[Assented to 21 May 2008]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) and Other Acts Amendment Act 2008*.

2 Commencement

- (1) This Act, other than the relevant provisions, commences on 1 July 2008.
- (2) In this section—
relevant provisions means the following provisions—
 - section 17
 - section 18(2), except to the extent it inserts the definition *designated public place*
 - section 36.

- (b) the Shire of Aurukun or Mornington; or
- (c) an IRC area, a part of an IRC area, or an IRC division area; or
- (d) another area prescribed under a regulation.

post-amended Act, for part 11, see section 86.

pre-amended Act, for part 11, see section 86.

residential premises, for part 5, see section 27.

tenant, for part 5, see section 27.’.

- (3) Section 4, definition *liquor provisions*, paragraph (a), ‘35’—
omit, insert—
‘34’.
- (4) Section 4, definition *member*, ‘, for parts 4 and 5,’—
omit.

6 Replacement of s 19 (Functions and powers)

Section 19—

omit, insert—

‘19 Functions and powers

- ‘(1) The community justice group for a community area has the following functions—
 - (a) taking part in court hearings and sentencing and bail processes as provided for in the *Bail Act 1980*, the *Juvenile Justice Act 1992* and the *Penalties and Sentences Act 1992*;
 - (b) developing networks with relevant agencies to ensure crime prevention, justice, community corrections and related issues impacting on indigenous communities are addressed;
 - (c) supporting indigenous victims and offenders at all stages of the legal process;

- (d) making recommendations to the Minister administering the *Liquor Act 1992*, part 6A, about declarations under that part;
 - (e) carrying out other functions given to it under this or another Act.
- ‘(2) The group has power to do all things reasonably necessary to be done for performing its functions.
- ‘(3) Without limiting subsection (2), the group has the powers conferred on it by this or another Act.’

7 Amendment of s 22 (Coordinator)

Section 22(3)(a), example—
omit.

8 Omission of s 24 (Protection of members from civil liability)

Section 24—
omit.

9 Amendment of s 27 (Definitions for pt 5)

- (1) Section 27, definitions *appealable decision*, *closing day for objections and submissions*, *entity*, *private place* and *public place*—
omit.
- (2) Section 27—
insert—
‘residential premises see the *Residential Tenancies Act 1994*, section 6.
tenant, of residential premises, means—

- (a) if the premises are let under the *Residential Tenancies Act 1994*—the tenant, of the premises, within the meaning of that term in section 9(1) of that Act; or
 - (b) if the premises are let under the *Aboriginal Land Act 1991*, or the *Torres Strait Islander Land Act 1991*, for private residential purposes, and are occupied by the lessee of the premises—the lessee of the premises; or
 - (c) if the premises are not let, and are occupied by the owner of the premises—the owner of the premises.’.
- (3) Section 27, definition *dry place*, ‘a place’—
omit, insert—
‘residential premises’.
- (4) Section 27, definition *prescribed community area*, ‘45’—
omit, insert—
‘38(3)’.

10 Replacement of pt 5, divs 2–6

Part 5, divisions 2 to 6—

omit, insert—

‘Division 2 Dry places

‘28 Declaration

- ‘(1) The tenant of residential premises in a community area may apply to the clerk of the court for the area for a declaration that the premises are a dry place.
- ‘(2) The application must—
 - (a) be in writing; and
 - (b) be accompanied by documentary evidence that the applicant is the tenant of the premises.

- ‘(3) If the premises have 2 or more tenants, the application must be jointly made by both or all the tenants.
- ‘(4) The clerk must as soon as practicable consider the application, and make the declaration if the clerk is satisfied—
 - (a) the applicant is the tenant of the premises; and
 - (b) if the premises have 2 or more tenants—the application is jointly made by both or all the tenants.
- ‘(5) If the clerk makes the declaration, the clerk must give written notice of the declaration to each of the following—
 - (a) the applicant;
 - (b) the Queensland Police Service.
- ‘(6) The declaration takes effect once notice of the declaration is first displayed under section 29.
- ‘(7) Subject to sections 31 and 32, the declaration remains in force—
 - (a) if the application is made by a person mentioned in paragraph (a) of the definition *tenant* in section 27—indefinitely and regardless of a change in the tenant, of the premises, within the meaning of that term in the *Residential Tenancies Act 1994*, section 9(1); or
 - (b) if the application is made by a person mentioned in paragraph (b) of the definition *tenant* in section 27, while the premises continue to be—
 - (i) let under the *Aboriginal Land Act 1991*, or the *Torres Strait Islander Land Act 1991*, for private residential purposes; and
 - (ii) occupied by the applicant; or
 - (c) if the application is made by a person mentioned in paragraph (c) of the definition *tenant* in section 27, while the premises continue—
 - (i) not to be let; and
 - (ii) to be occupied by the applicant.

- ‘(8) If the clerk refuses to make the declaration, the clerk must give the applicant written notice of the refusal and the reason for the refusal.

‘29 Notice about declaration at premises

- ‘(1) If residential premises in a community area are declared as a dry place, the tenant of the premises must display a notice of the declaration at or near each entrance to the premises while the declaration is in force.
- ‘(2) The notice must—
- (a) sufficiently identify the premises; and
 - (b) state that the declaration takes effect once notice of the declaration is first displayed under this section; and
 - (c) state in general terms the effect of section 34 and the penalty for a contravention of the section.
- ‘(3) A failure to continue to display a notice of the declaration under this section does not affect a person’s liability to be convicted of an offence against section 34.

‘30 Notice about declaration at police station or on community noticeboard

- ‘(1) If residential premises in a community area are declared as a dry place and there is a police station in the area, the police officer in charge of the station must display a notice of the declaration in a publicly accessible part of the station while the declaration is in force.
- ‘(2) If residential premises in a community area are declared as a dry place and there is no police station in the area, the police officer in charge of the police station servicing the area must display a notice of the declaration on a community noticeboard in the area while the declaration is in force.
- ‘(3) The notice mentioned in subsection (1) or (2) must—
- (a) sufficiently identify the premises; and

- (b) state in general terms the effect of section 34 and the penalty for a contravention of the section.
- ‘(4) A failure to display a notice of the declaration under this section does not affect a person’s liability to be convicted of an offence against section 34.

‘31 **Suspension of declaration**

- ‘(1) The tenant of residential premises in a community area may apply to the clerk of the court for the area to suspend the declaration of the premises as a dry place for a period (the *suspension period*) of not more than 7 days.
- ‘(2) The application must—
 - (a) state the suspension period; and
 - (b) be made at least 3 days before the start of the suspension period.
- ‘(3) Section 28(2) to (5) and (8) apply, with all necessary changes, to the application as if it were an application to declare residential premises in a community area as a dry place.
- ‘(4) If the declaration of residential premises in a community area as a dry place is suspended under this section, the tenant of the premises must display a notice detailing the suspension at or near each entrance to the premises while the suspension is in force.
- ‘(5) The suspension takes effect once notices detailing the suspension are first displayed under subsection (4).
- ‘(6) If there is a police station in the area, the police officer in charge of the station must display a notice detailing the suspension in a publicly accessible part of the station while the suspension is in force.
- ‘(7) If there is no police station in the area, the police officer in charge of the police station servicing the area must display a notice detailing the suspension on a community noticeboard in the area while the suspension is in force.

‘32 Revocation of declaration

- ‘(1) The tenant of residential premises in a community area may apply to the clerk of the court for the area to revoke the declaration of the premises as a dry place.
- ‘(2) Section 28(2) to (5) and (8) apply, with all necessary changes, to the application as if it were an application to declare residential premises in a community area as a dry place.
- ‘(3) If the declaration of residential premises in a community area as a dry place is revoked under this section, the tenant of the premises must remove all notices of the declaration displayed under section 29.
- ‘(4) The revocation takes effect once the notices are removed under subsection (3).
- ‘(5) Once the revocation takes effect, the police officer in charge of the relevant police station for the area must remove the notice of the declaration displayed under section 30.

‘33 Effect of declaration of premises as a dry place

- ‘(1) This section applies if—
 - (a) under this division, residential premises are declared as a dry place (the *dry place declaration*); and
 - (b) the premises are in a restricted area under the *Liquor Act 1992* to which section 168B of that Act applies because of a declaration under section 173H of that Act (the *restricted area declaration*).
- ‘(2) The dry place declaration applies to the premises despite the restricted area declaration.

‘34 Possession or consumption of alcohol in or on dry place

‘A person must not in, or on, a dry place possess or consume alcohol.

Maximum penalty—25 penalty units.

‘35 False or misleading statements

‘(1) A person must not state anything, under this division, to a clerk of the court that the person knows is false or misleading in a material particular.

Maximum penalty—10 penalty units.

‘(2) In a proceeding for an offence against subsection (1), it is enough to state that the statement made was, without specifying which, false or misleading.

‘36 False or misleading documents

‘(1) A person must not give, under this division, to a clerk of the court a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—10 penalty units.

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

(a) tells the clerk, to the best of the person’s ability, how it is false or misleading; and

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

‘(3) In a proceeding for an offence against subsection (1), it is enough to state that the document was, without specifying which, false or misleading.

‘37 Fee not payable for application

‘A fee is not payable for an application under this division—

(a) to have residential premises in a community area declared as a dry place; or

(b) to have the declaration of residential premises in a community area as a dry place suspended or revoked.

‘Division 3 Provisions relating to homemade alcohol

‘38 Offences relating to homemade alcohol

‘(1) Subsection (2) applies if—

- (a) a community area or part of a community area (the *part community area*) is, or is in, a restricted area under the *Liquor Act 1992* to which section 168B of that Act applies because of a declaration under section 173H of that Act; and
- (b) the prescribed quantity of liquor of any type a person may under that Act possess for the restricted area, other than under the authority of a restricted area permit under that Act, is zero.

‘(2) A person must not in the community area or part community area—

- (a) possess a home-brew kit or component of a home-brew kit; or
- (b) possess equipment, or a component of equipment, that is being used, or has been used, to brew alcohol; or
- (c) possess home-brew concentrate; or
- (d) supply homemade alcohol to another person.

Maximum penalty—250 penalty units.

‘(3) A person must not in a prescribed community area—

- (a) possess a home-brew kit or component of a home-brew kit; or
- (b) possess equipment, or a component of equipment, that is being used, or has been used, to brew alcohol; or
- (c) possess home-brew concentrate; or
- (d) possess homemade alcohol; or
- (e) supply homemade alcohol to another person.

Maximum penalty—250 penalty units.

‘(4) In this section—

component, of a home-brew kit, means a device that is apparently intended to be part of a home-brew kit.

‘39 Relationship with restricted areas

‘(1) This section applies if a prescribed community area or part of a prescribed community area is, or is in, a restricted area under the *Liquor Act 1992* to which section 168B of that Act applies because of a declaration under section 173H of that Act (the *restricted area declaration*).

‘(2) Section 38(3)(d) applies to the whole of the prescribed community area despite the restricted area declaration.’.

11 Amendment of s 67 (Evidentiary aids)

(1) Section 67(2), ‘35(1)’—

omit, insert—

‘34’.

(2) Section 67(4), ‘35(1) or 45(b), (c), or (d)’—

omit, insert—

‘34 or 38(2)(b), (c) or (d) or (3)(b), (c), (d) or (e)’.

12 Amendment of s 68 (Evidence of home-brew concentrate by label)

Section 68(1), ‘45(b)’—

omit, insert—

‘38(2)(c) or (3)(c)’.

13 Amendment of s 69 (Evidence of homemade alcohol having regard to belief of police officer)

Section 69(1), ‘45(c) or (d)’—

omit, insert—

‘38(2)(d) or (3)(d) or (e)’.

14 Insertion of new s 69A

After section 69—

insert—

‘69A Protection of officials from civil liability

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

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

‘(3) In this section—

official means—

(a) a member; or

(b) the clerk of the court for a community area.’.

15 Amendment of s 71 (Regulation-making power)

(1) Section 71(2)(l)—

omit.

(2) Section 71(2)(m) to (t)—

renumber as 71(2)(l) to (s).

16 Insertion of new pt 11

After section 85—

insert—

declaration of a place as a dry place that is not decided at the commencement.

‘(2) The application lapses on the commencement.

‘90 Existing application for the suspension of a declaration of a public place as a dry place

‘(1) This section applies to an application, under section 32 of the pre-amended Act, for the suspension of a declaration of a public place as a dry place that is not decided at the commencement.

‘(2) The application lapses on the commencement.

‘91 Appeals

‘(1) Subsection (2) applies if—

(a) a person has appealed to a Magistrates Court, under section 38 of the pre-amended Act, against an appealable decision; and

(b) the appeal has not been decided before the commencement.

‘(2) The appeal lapses on the commencement.

‘(3) Subsection (4) applies if—

(a) immediately before the commencement a person could have appealed to a Magistrates Court, under section 38 of the pre-amended Act, against an appealable decision; and

(b) the person has not appealed before the commencement.

‘(4) The person may not appeal against the decision.

‘92 Offences

‘(1) Proceedings for an offence against part 5 of the pre-amended Act may be started or continued, and the provisions of the pre-amended Act necessary or convenient to be used in

relation to the proceedings continue to apply, as if the post-amended Act had not commenced.

- ‘(2) For subsection (1), the *Acts Interpretation Act 1954*, section 20 applies, but does not limit the subsection.’.

Part 3 Amendment of Liquor Act 1992

17 Act amended in pt 3

This part amends the *Liquor Act 1992*.

18 Amendment of s 4 (Definitions)

- (1) Section 4, definitions *airport* and *public place*—
omit.

- (2) Section 4—
insert—

‘*change day*—

- (a) for part 12, division 7, subdivision 1—see section 276;
and

- (b) for part 12, division 7, subdivision 2—see section 282.

corporatised corporation see the *Local Government Act 1993*, section 592.

designated public place, for part 6A, division 3, see section 173K.

relevant licence—

- (a) for part 12, division 7, subdivision 1—see section 276;
and

- (b) for part 12, division 7, subdivision 2—see section 282.

relevant public sector entity means—

[s 19]

- (a) an entity controlled by 1, or more than 1, local government; or
 - (b) an entity controlled by an entity mentioned in paragraph (a).’.
- (3) Section 4, definition *prescribed provision*, ‘35’—
omit, insert—
‘34’.

19 Amendment of s 103L (Authority of restricted area permit)

Section 103L(1), from ‘in a public place’ to ‘quantity’—

omit, insert—

‘in a restricted area more than the prescribed quantity of a type’.

20 Amendment of s 106 (Who may apply for licence or permit)

Section 106—

insert—

- ‘(4) Also, a local government, corporatised corporation or relevant public sector entity may not apply for or hold a general licence.’.

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

Section 112—

insert—

- ‘(1A) Also, if the chief executive proposes to vary a licence relating to licensed premises in a community area or part of a community area that is, or is in, a restricted area, the chief executive must give written notice of the proposed variation to—

- (a) each assistant commissioner for a locality in the restricted area; and
 - (b) the community justice group for the community area.
- ‘(1B) An entity given a notice under subsection (1A) may, within 14 days, give to the chief executive written notice of objection to the proposed variation.’.

22 Amendment of s 168B (Prohibition on possession of liquor in restricted area)

- (1) Section 168B(1), from ‘in a public place’ to ‘quantity’—
omit, insert—
‘in a restricted area to which this section applies because of a declaration under section 173H, have in possession more than the prescribed quantity of a type’.
- (2) Section 168B(2)(b), after ‘carrier’—
insert—
‘, licensee or permittee’.
- (3) Section 168B(2)—
insert—
‘(d) a licensee or permittee who has collected it from licensed premises outside the area and is delivering it, via the area, by means of a vehicle to a person at premises outside the area.’.
- (4) Section 168B—
insert—
- ‘(3A) Also, subsection (1) does not apply to the possession of liquor by a person, other than a carrier, licensee or permittee in possession of the liquor in the ordinary course of lawful business, travelling in a vehicle on a public road prescribed under a regulation if—
- (a) the person collected the liquor from a place outside the area; and

[s 22]

- (b) the person is travelling with the liquor, via the area, to a destination outside the area; and
 - (c) the travel is uninterrupted, other than—
 - (i) for the person to use a public facility prescribed under a regulation; or
 - (ii) because of an emergency; and
 - (d) the liquor is not removed from the vehicle while the vehicle is in the area; and
 - (e) the liquor is stored in—
 - (i) a container that is fixed to the vehicle and locked while the vehicle is left unattended; or
 - (ii) the vehicle, that is locked while it is left unattended; and
 - (f) the liquor is not visible from outside the vehicle.
- ‘(3B) In a proceeding for a contravention of subsection (1), for subsection (3A), the burden of proving that the liquor was collected from a place outside the area and the person is travelling with it, via the area, to a destination outside the area is on the person alleged to have contravened subsection (1).
- ‘(3C) For subsection (3B), the burden of proof is on the balance of probabilities.
- ‘(3D) Also, subsection (1) does not apply to the possession of permitted liquor by a person at residential premises.’.
- (5) Section 168B(6)—
insert—
- ‘permitted liquor** means liquor of a type that may, under the regulation that makes the declaration mentioned in subsection (1), be possessed in the area, other than under the authority of a restricted area permit.
- public facility** means a facility for use by the public.
- public road** means a road ordinarily used by the public.

residential premises see the *Residential Tenancies Act 1994*, section 6.’.

23 Insertion of new s 168C

Part 6, division 2—

insert—

‘168C Attempt to take liquor into restricted area

- ‘(1) A person must not attempt to enter a relevant restricted area if the person has in possession more than the prescribed quantity of a type of liquor for the area.

Maximum penalty—500 penalty units.

- ‘(2) Subsection (1) does not apply to—
- (a) a carrier, licensee or permittee who, in the ordinary course of lawful business, has collected the liquor from licensed premises outside the area and is delivering it to licensed premises in the area; or
 - (b) a carrier who, in the ordinary course of lawful business, has collected the liquor from a person outside the area and is delivering it, via the area, by means of a vehicle to another person at premises outside the area; or
 - (c) a licensee or permittee who, in the ordinary course of lawful business, has collected the liquor from licensed premises outside the area and is delivering it, via the area, by means of a vehicle to a person at premises outside the area; or
 - (d) a person, other than a carrier, licensee or permittee in possession of the liquor in the ordinary course of lawful business, who has collected it from a place outside the area and is travelling with it, via the area, to a destination outside the area; or
 - (e) a person who is a permittee under a restricted area permit that authorises the permittee to possess in the area more than the prescribed quantity of the type of liquor for the area if the quantity of that type of liquor

[s 24]

possessed by the person is not more than that allowed under the permit.

‘(3) In a proceeding for a contravention of subsection (1), for subsection (2)(d), the burden of proving that the liquor was collected from a place outside the area and the person is travelling with it, via the area, to a destination outside the area is on the person alleged to have contravened subsection (1).

‘(4) For subsection (3), the burden of proof is on the balance of probabilities.

‘(5) In this section—

carrier see section 168B(6).

relevant restricted area means a restricted area to which section 168B applies because of a declaration under section 173H.’.

24 Amendment of s 173A (Definitions)

Section 173A, definition *local government*—
omit.

25 Amendment of s 173B (Consumption of liquor in certain public places prohibited)

Section 173B(2)—

insert—

‘(d) if the place is, at the relevant time, designated as a public place under section 173L, and the designation is not suspended under section 173N.’.

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

(1) Section 173C, heading, after ‘government’—

insert—

‘, other than particular local governments,’.

(2) Section 173C(1), after ‘government’—

insert—

‘, other than a relevant local government,’.

(3) Section 173C—

insert—

‘(4) In this section—

relevant local government means a local government whose area is, or part of whose area is in, a restricted area that is declared under a regulation under section 173H to be an area to which section 168B applies.’.

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

Section 173D(7)—

omit.

28 Insertion of pt 6A, div 1 hdg

Part 6A, before section 173F—

insert—

‘Division 1 Preliminary’.

29 Insertion of pt 6A, div 2 hdg

Before section 173G—

insert—

‘Division 2 Declaration of, and prohibition of possession of liquor in, restricted areas’.

[s 30]

30 Amendment of s 173H (Declaration of prohibition of possession of liquor in restricted area)

(1) Section 173H(2), from ‘quantity’ to ‘place’—

omit, insert—

‘quantity of a type of liquor that a person may have in possession’.

(2) Section 173H—

insert—

‘(3) Subject to any conditions imposed under this Act about the quantity of a type of liquor that a person may have in possession at licensed premises, or premises to which a permit relates, in the restricted area, the prescribed quantity does not apply to the premises.’.

31 Insertion of new pt 6A, div 3

Part 6A—

insert—

‘Division 3 Designation of public places where liquor may be consumed

‘173K Definition for div 3

‘In this division—

designated public place means a public place designated under section 173L.

‘173L Regulation may designate public place in restricted area where certain type of liquor may be consumed

‘(1) This section applies if a restricted area is declared under a regulation under section 173H to be an area to which section 168B applies.

-
- ‘(2) A regulation may designate a public place in the area as a public place where permitted liquor may be consumed.
 - ‘(3) The regulation may state the period or times during which the designation is to have effect.
 - ‘(4) If the regulation states a period or times under subsection (3), the place is a designated public place only during that period or those times.
 - ‘(5) In this section—
permitted liquor means liquor of a type that may, under the regulation mentioned in subsection (1), be possessed in the area, other than under the authority of a restricted area permit.

‘173M Notice of designation

- ‘(1) If a regulation designates a public place in a restricted area under section 173L, the local government for the area must display a notice about the designation at or near each entrance to the place.
- ‘(2) The notice must—
 - (a) sufficiently identify the place as a designated public place; and
 - (b) state the period or times, if any, during which the place is a designated public place.

‘173N Suspension of designation

- ‘(1) This section applies if a regulation designates a public place in a restricted area under section 173L.
- ‘(2) The local government for the area may by resolution, or the chief executive may, suspend the designation for a period of not more than 10 days if the local government or chief executive reasonably believes it is in the best interests of the area’s residents to do so.
- ‘(3) The local government or chief executive must display a notice detailing the suspension on each of the notices about the

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designation for the public place displayed under section 173M while the suspension is in force.

- ‘(4) Also, the local government or chief executive must give the Queensland Police Service written notice of the suspension.
- ‘(5) The suspension takes effect once the notices detailing the suspension are first displayed under subsection (3).
- ‘(6) A failure to continue to display, under subsection (3), the notices detailing the suspension does not affect a person’s liability to be convicted of an offence against section 173B(1).’.

32 Amendment of s 176 (Entry and search—monitoring compliance)

Section 176(2)(e)—

omit.

33 Amendment of s 183A (Other powers of seizure)

- (1) Section 183A(1)(c), after ‘168B’—

insert—

‘or 168C’.

- (2) Section 183A(2)(a) and (c), ‘provision, section 168B or 169’—

omit, insert—

‘provision or section 168B, 168C or 169’.

34 Amendment of s 187EA (Forfeiture of seized property to prevent commission of particular offences—investigator)

Section 187EA(1)(a) and (c), after ‘168B,’—

insert—

‘168C,’.

35 Amendment of s 187EB (Forfeiture of seized property to prevent commission of particular offences—chief executive)

Section 187EB(1)(a) and (b), after ‘168B,’—

insert—

‘168C.’

36 Insertion of new pt 12, div 7

After section 275—

insert—

‘Division 7 Transitional provisions for Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) and Other Acts Amendment Act 2008

‘Subdivision 1 General licence held by a local government, corporatised corporation or relevant public sector entity, other than the Torres Strait Island Regional Council

‘276 Definitions for sdiv 1

‘In this subdivision—

change day means 1 July 2008.

relevant licence see section 277.

‘277 Application of sdiv 1

‘This subdivision applies to a general licence (the *relevant licence*) held immediately before the change day by a local

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government, corporatised corporation or relevant public sector entity, other than the Torres Strait Island Regional Council.

‘278 Lapsing of relevant licence

- ‘(1) The relevant licence lapses at the beginning of the change day.
- ‘(2) However, subsection (1) does not apply if the chief executive decides, under section 279(1), that the licence is to continue in force from the change day.
- ‘(3) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsection (1).

‘279 Continuation of relevant licence

- ‘(1) The chief executive must before the change day—
 - (a) decide whether the relevant licence is to continue in force from the change day; and
 - (b) if the chief executive decides that the licence is to continue in force from the change day—decide the day (the *relevant day*), not later than 31 December 2008, until which the licence is to continue in force.
- ‘(2) In making the decisions mentioned in subsection (1), the chief executive must have regard to the following—
 - (a) any health and social impact on the relevant community of the licence continuing, or not continuing, in force;
 - (b) the availability of health and social services to deal with any health and social impact on the relevant community of the licence continuing, or not continuing, in force.
- ‘(3) If the chief executive decides that the licence is to continue in force, the chief executive must as soon as practicable give the licensee written notice of the decision and relevant day.
- ‘(4) If the chief executive decides that the licence is to continue in force, the licence continues in force until the relevant day and lapses at the end of that day.

-
- ‘(5) However, subsection (4) stops applying if the licence is surrendered or cancelled under this Act.
 - ‘(6) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsections (1) and (4).
 - ‘(7) In this section—
relevant community means the community of the locality in which the premises to which the licence relates are situated.

‘280 Application for the transfer of a relevant licence

- ‘(1) This section applies to an application, under section 113, for the transfer of a relevant licence that is not decided before the change day.
- ‘(2) The application lapses at the beginning of the change day.
- ‘(3) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsection (2).

‘281 No further application for the transfer of a relevant licence

- ‘(1) This section applies if the chief executive decides, under section 279(1), that a relevant licence is to continue in force.
- ‘(2) An application may not be made, under section 113, for the transfer of the licence.
- ‘(3) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsection (2).

‘Subdivision 2 General licence held by the Torres Strait Island Regional Council

[s 36]

‘282 Definitions for sdiv 2

‘In this subdivision—

change day means 1 July 2009.

relevant licence see section 283.

‘283 Application of sdiv 2

‘This subdivision applies to a general licence (the *relevant licence*) held immediately before the change day by the Torres Strait Island Regional Council.

‘284 Lapsing of relevant licence

- ‘(1) The relevant licence lapses at the beginning of the change day.
- ‘(2) However, subsection (1) does not apply if the chief executive decides, under section 285(1), that the licence is to continue in force from the change day.
- ‘(3) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsection (1).

‘285 Continuation of relevant licence

- ‘(1) The chief executive must before the change day—
 - (a) decide whether the relevant licence is to continue in force from the change day; and
 - (b) if the chief executive decides that the licence is to continue in force from the change day—decide the day (the *relevant day*), not later than 31 December 2009, until which the licence is to continue in force.
- ‘(2) In making the decisions mentioned in subsection (1), the chief executive must have regard to the following—
 - (a) any health and social impact on the relevant community of the licence continuing, or not continuing, in force;

- (b) the availability of health and social services to deal with any health and social impact on the relevant community of the licence continuing, or not continuing, in force.
- ‘(3) If the chief executive decides that the licence is to continue in force, the chief executive must as soon as practicable give the licensee written notice of the decision and relevant day.
- ‘(4) If the chief executive decides that the licence is to continue in force, the licence continues in force until the relevant day and lapses at the end of that day.
- ‘(5) However, subsection (4) stops applying if the licence is surrendered or cancelled under this Act.
- ‘(6) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsections (1) and (4).
- ‘(7) In this section—
relevant community means the community of the locality in which the premises to which the licence relates are situated.

‘286 Application for the transfer of a relevant licence

- ‘(1) This section applies to an application, under section 113, for the transfer of a relevant licence that is not decided before the change day.
- ‘(2) The application lapses at the beginning of the change day.
- ‘(3) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsection (2).

‘287 No further application for the transfer of a relevant licence

- ‘(1) This section applies if the chief executive decides, under section 285(1), that a relevant licence is to continue in force.
- ‘(2) An application may not be made, under section 113, for the transfer of the licence.

41 Omission of s 159ZZZF (Special accounting provision for particular payments)

Section 159ZZZF—

omit.

Part 6 Amendment of Local Government (Community Government Areas) Act 2004

42 Act amended in pt 6

This part amends the *Local Government (Community Government Areas) Act 2004*.

43 Omission of s 40 (Special accounting provision for particular payments)

Section 40—

omit.

Part 7 Amendment of Police Powers and Responsibilities Act 2000

44 Act amended in pt 7

This part amends the *Police Powers and Responsibilities Act 2000*.

[s 45]

45 Amendment of s 30 (Prescribed circumstances for searching persons without warrant)

Section 30(a)—

insert—

‘(ix) evidence of the commission of an offence against the *Liquor Act 1992*, section 168B or 168C;’.

46 Amendment of s 53 (Prevention of particular offences relating to liquor)

(1) Section 53(1)(a)(i), after ‘168B’—

insert—

‘, 168C’.

(2) Section 53(1)(a)(ii), ‘35 or 45(c) or (d)’—

omit, insert—

‘34 or 38(2)(d) or (3)(d) or (e)’.

47 Amendment of s 60 (Stopping vehicles for prescribed purposes)

(1) Section 60(6), definition *liquor provision*, paragraph (a), after ‘168B,’—

insert—

‘168C;’.

(2) Section 60(6), definition *liquor provision*, paragraph (b), ‘35 or 45’—

omit, insert—

‘34 or 38’.

48 Amendment of s 135 (Stopping animals for prescribed purposes)

- (1) Section 135(5), definition *liquor provision*, paragraph (a), after ‘168B,’—

insert—

‘168C.’.

- (2) Section 135(5), definition *liquor provision*, paragraph (b), ‘35 or 45’—

omit, insert—

‘34 or 38’.

49 Amendment of s 159 (Application of pt 2)

Section 159—

insert—

‘(d) an offence against the *Liquor Act 1992*, section 168B or 168C.’.

**Part 8 Repeal of Indigenous
Communities Liquor Licences
Act 2002**

50 Repeal

The Indigenous Communities Liquor Licences Act 2002, No. 47 is repealed.

Schedule **Minor amendments of
Aboriginal and Torres Strait
Islander Communities (Justice,
Land and Other Matters) Act
1984**

section 3

- 1** **Section 5(2)(a) and (b), after ‘;’—**
omit, insert—
‘and’.

- 2** **Section 17(1), after ‘appointed may’—**
insert—
‘do the following’.

- 3** **Section 22(1A), ‘another’—**
omit, insert—
‘an’.

- 4** **Section 71(2), ‘; and’—**
omit, insert—
‘;’.