

# Liquor and Other Acts Amendment Bill 2008

## Explanatory Notes

### General Outline

### Policy Objectives

The objectives of the Bill are to

- implement recommendations arising from the review of the *Liquor Act 1992* (“the Act”); and
- amend the Act in order to enhance the role of harm minimisation, increase administrative efficiency, clarify existing provisions and address anomalies.

### Reasons for the Bill

On 1 March 2005 the Government released the *Brisbane City Safety Action Plan* (BCSAP) to address violence in and around licensed premises in the Brisbane Central Business District. One of the recommendations in the BSCAP included a review of the Liquor Act to ensure that it appropriately reflects current community attitudes including concerns about alcohol abuse and binge drinking. The recommendation also asked that the review consider whether licensees should pay more for late night trading permits; how the nature of venues that serve alcohol has changed; recent changes in serving practices; and the rapid growth of the tourism and hospitality industry. The Liquor Licensing Division, now incorporated into the Office of Liquor, Gaming & Racing, was responsible for conducting this review.

The review was the subject of significant consultation with the liquor and hospitality industry, tourism operators, health and welfare workers, the community and other interested stakeholders.

Analysis of the results of consultation through the review identified opportunities to enhance the current liquor legislation framework. While submissions to the review seemed to accept a need for effective regulation

of the sale and supply of liquor, industry representatives argued that minimising alcohol-related harm also required a focus on community attitudes to alcohol and drinking behaviours. Industry also acknowledged that current fees do not adequately reflect the costs of regulation of the industry.

### **Achievement of the Objectives**

The Bill includes a range of amendments to implement review recommendations, enhance the role of harm minimisation, increase administrative efficiency, clarify existing provisions and address anomalies. These amendments include:

- harm minimisation to become the first object of the Liquor Act.;
- an expanded definition of “liquor” to ensure products with a novelty value that target young people or encourage irresponsible or rapid consumption of alcohol such as alcohol vapour or alcoholic milk products are able to be captured;
- new powers for the Chief Executive to issue guidelines to assist in interpretation and application of the Act and *Liquor Regulation 2002*;
- new Ministerial powers to ban undesirable alcohol products, such as those that inappropriately target young people, increase intoxication at rapid rates or encourage irresponsible use of alcohol. This power is in line with other jurisdictions and responds to a community expectation that products which heighten the exposure to increased harm for the community can be banned;
- creation of an irresponsible supply provision to make it an offence for an adult to supply alcohol to a minor in private places. The issue of irresponsible supply, whereby parents and other adults provide liquor to underage teenagers, has attracted significant attention in the community, particularly in the context of youth parties and schoolies celebrations, and will be addressed through this provision;
- mandatory Responsible Service of Alcohol (RSA) and Responsible Management of a Licensed Venue (RMLV) training requirements. To increase professionalism and minimise harm throughout industry, staff will be required to complete Government-endorsed training;
- new powers for the Chief Executive to order emergency closure or licence suspension where riotous behaviour is occurring or is likely to occur. To prevent harm, and conduct effective investigations, the Chief

Executive will be empowered to immediately close a premises in the face of riot or tumult for up to 48 hours;

- standard trading hours to be from 10am to midnight with extended hours possible to 5am;
- restructure of licence types into two types – commercial and community – with sub-categories based on the varying risks associated with the licensed operations;
- introduction of a manager’s approval to ensure that managers of licensed venues are responsible for ensuring compliance with the Act and conditions of the licence. This new provision will provide greater accountability, professionalism and flexibility in management across all of Queensland’s licensed venues;
- introduction of a Risk Assessed Management Plan (RAMP) to be undertaken as a prerequisite of the licensing process. This plan will replace house policies and allow for each licensee to identify local conditions and risks and demonstrate how their business is meeting the Act’s first objective of harm minimisation;
- submissions on public interest required for obtaining a licence will be replaced by community impact statements that focus on harm minimisation. On this basis a licensing application would only be granted if the Chief Executive was satisfied that the approved manager and premises would operate or be operated in a manner that would not adversely impact on the surrounding locality;
- recognition of liquor accords. Queensland’s liquor accords will be provided legislative recognition, with membership of these voluntary, harm-minimisation focused organisations to be encouraged; and
- the introduction of annual liquor licence fees, based on the risk a licensed premises poses. Each licensee will pay a designated base fee and loadings based on other risk factors such as trading hours and compliance history.

### **Alternatives to the Bill**

The policy objectives can only be achieved by legislative enactment.

## **Estimated Cost for Government Implementation**

Any expenditure associated with implementation of the amendments will be met through existing budget allocations.

## **Consistency with Fundamental Legislative Principles**

Aspects of the Bill which raise potential fundamental legislative principles are outlined below:

Expanding the definition of 'liquor' to include a substance held out for sale as an alcoholic substance and is prescribed as liquor by regulation may be considered inconsistent with fundamental legislative principles. However, limitations have been placed around the regulation making power so that any product so prescribed must also be held out to be an alcoholic substance for the purpose of sale.

The irresponsible supply provision, new subsection 156A, is supported by new subsection 53A of the *Police Powers and Responsibilities Act 2000*. This will enable police officers to dispose of the liquor before the offence of irresponsible supply to the minor is proven, which may be considered inconsistent with fundamental legislative principles. However, it is considered that the provision's policy intent of harm minimisation is achieved through the seizure and forfeiture measure and that the inclusion of the measure is therefore justified.

## **Consultation**

Queensland Government

Department of the Premier and Cabinet

Queensland Treasury

Queensland Office of Gaming Regulation (Queensland Treasury)

Queensland Health

Department of Justice and Attorney-General

Department of Local Government, Sport and Recreation

Department of Education, Training and the Arts

Department of Emergency Services

Queensland Police Service

Queensland Corrective Services  
Queensland Transport  
Department of Child Safety  
Department of Public Works and Housing  
Department of Infrastructure and Planning  
Department of Mines and Energy  
Department of Natural Resources and Water  
Department of Employment and Industrial Relations  
Environmental Protection Agency  
South Bank Corporation

**Industry/Community**

Brisbane City Council  
Clubs Queensland  
Gold Coast City Council  
Queensland Cabarets Association  
Golf Queensland  
Queensland Hotels Association  
Restaurant & Caterer's Association  
Valley Chamber of Commerce  
Local Government Association Queensland

## **Notes on Provisions**

### **Part 1                      Preliminary**

Clause 1 sets out the short title by which the Act will be known.

Clause 2 provides that the Act, other than sections 4, 5, 7, 8, 12, 22, 29 and 41 and part 3, commences on 1 January 2009.

## **Part 2                      Amendments of Liquor Act 1992**

### **Division 1                      provides preliminary information.**

Clause 3 provides that the Act amended in part 2 is the *Liquor Act 1992*.

### **Division 2                      provides for amendments not relating to approved managers**

Clause 4 omits section 3 (Objects of Act) and inserts new section 3 with the Act's objects listed in a revised order. The object relating to harm minimisation is listed as the first object to indicate the importance of harm minimisation to the operation of the Act. Reference to the National Health Policy on alcohol is removed to clarify that object.

The Act's remaining objects are otherwise listed in the order they had previously appeared and remain unchanged.

Clause 5 amends section 3A (Principle underlying this Act for facilitating and regulating the liquor industry). Current subsection 3A(4) is amended to enhance the role of new subsection 3(a), harm minimisation, in relation to the underlying principle of the Act. The underlying principle of the Act in relation to the sale and supply of liquor remains unchanged.

Clause 6 amends section 4 (Definitions).

Clause 7 amends section 4B (Meaning of liquor). Section 4B(2) is amended to include examples of 'other' liquor products, to better demonstrate the intention of this clause through identifying specific products to be thought of as liquor.

A new subsection 4B(3) is inserted here to provide a further meaning of liquor. This new subsection provides for substances containing alcohol to be prescribed under regulation as liquor. This definition will assist in the

public policy need to anticipate the development of novelty alcohol products which fall outside specific definitions.

The current subsection 4B(3) is renumbered 4B(4).

Clause 8 amends section 5 (Who is a responsible adult for a minor) to provide a more inclusive definition, to be applied to new section 156A. The words “while the minor is on licensed premises or in public places” are omitted, to allow the definition to also apply in private places, as new section 156A relates to the supply of liquor to minors in private places.

Clause 9 amends section 9 to specify the ordinary trading hours of licensed premises other than a producer/wholesaler are between 10am and 12 midnight on all days other than Good Friday and Christmas Day. On Good Friday and Christmas Day, the ordinary trading hours are between 10 am and 12 midnight for the sale of liquor only in association with a consumer eating a meal on the premises.

Clause 10 amends section 12(2) by adding a further category of exemption from application of the Act. Subject to a number of conditions, sales of liquor of not more than one litre which form part of a floral arrangement or gift basket delivery will not need to be made under the authority of a licence. Currently, such businesses must obtain a limited licence. Given the low level of impact that these liquor sales have on the community, it is not considered necessary for these sales to be made under the authority of a licence.

Clause 11 amends section 21 which provides for the jurisdiction and powers of the Tribunal. The words ‘assessment, reassessment or imposition of’ are omitted from subsection (1)(f) to clarify that a licensee can appeal to the Tribunal against a decision of the chief executive in relation to a fee payable in respect of a licence.

Clause 12 inserts new section 42A to give the chief executive a power to issue guidelines about the attitude the chief executive is likely to adopt on a particular matter or how the chief executive administers the Act. The section contains provisions about public access to the guidelines.

Clause 13 replaces part 4 (licences and permits) and inserts a new part 3A, risk assessed management plans. These plans replace house policies and are a requirement for licensed premises or premises to which a restricted liquor permit relates. Section 50 defines the terms ‘approved risk assessed management plan’ and ‘risk assessed management plan’ for part 3A.

Section 51 details the process for the chief executive to approve a plan, with section 52 outlining the process for changing a plan.

Section 53 provides the process for recording a change of plan if a licensee or permittee receives notice of the grant of an application for a changed plan. Within 14 days of receiving notice of the decision, a licensee or permittee must lodge the plan incorporating the change and the associated licence or permit with the chief executive. A maximum penalty of 25 penalty units applies for failing to comply with this requirement. The chief executive is required to immediately make the necessary changes and provide them to the licensee or permittee.

Section 54 provides that it is a condition of a licence or restricted liquor permit that the approved plan be available for inspection by an investigator and patrons of the premises and that signage to this effect be displayed at the premises. Additionally, staff and crowd controllers are to be made aware of, and perform their duties in accordance with, the approved plan.

A new part 4 titled 'licences' is inserted. Division 1 specifies the types of licences that may be granted and held under the Act. The liquor reform process included a licence type restructure which has reduced the number of available licence categories from seven to five. Currently, licences are differentiated on the basis of 'primary purpose', which is replaced by the concept of 'principal activity' under the new structure.

Section 58(1) details the new licence types. There are two main streams, commercial and community, with a number of subcategories in each. Subsection (2) provides that although only one licence may be granted or held for premises or any part of premises, a licence may be held for the premises or part, even though there is a licence under the *Wine Industry Act 1994* for premises or part of the premises. Subsection (3) specifies that in these circumstances, the licensee must be the same person under both Acts and liquor may be sold under licence under this Act only for the trading hours authorised under the licence.

Division 2 provides for a commercial hotel licence. Section 59 specifies the principal activity of a business conducted under a commercial hotel licence is the sale of liquor for consumption on the licensed premises, or on and off the licensed premises, together with the provision of meals and accommodation, as required under the licence and the provision of premises and catering facilities for persons attending a function held on the premises.



Subsection (2) provides that the authority under a commercial hotel licence to sell liquor does not apply unless a business is conducted on the licensed premises in accordance with the principal activity mentioned in subsection (1).

The section further provides that it is inconsistent with the principal activity of a business conducted under a commercial hotel licence to only sell liquor for consumption off the premises. To obtain a commercial hotel licence, it is necessary to sell liquor for consumption on the premises and not only to sell take away liquor.

Currently, a small number of general licences are permitted to sell take-away only. These premises were originally licensed as spirit merchant (retailer's) under the *Liquor Act 1912* and the trading conditions were preserved by the 1992 Act. To ensure that no individual is disadvantaged by the operation of this section, these licences will continue to be preserved by the transitional arrangements of this Act.

Section 60 provides for the authority of a commercial hotel licence, which extends to the sale of liquor for consumption on or off the premises during ordinary trading hours or approved extended trading hours. Liquor may also be sold to a resident at any time for consumption on or off the premises and to a guest of a resident at any time for consumption on the premises while in the resident's company. Liquor may also be sold on premises, known as detached bottle shops, approved by the chief executive for consumption off the premises or on the premises in the amount and in the circumstances prescribed by regulation.

Subsection (2) provides that if stated in a licence, the authority also extends to the sale of liquor while the licensee is catering for a function off the licensed premises. In these circumstances, the sale of liquor must be ancillary to the function and for the consumption by persons genuinely attending the function.

Subsection (3) further provides that the authority under a commercial hotel licence is subject to the Act and the conditions stated in the particular licence. Subsection (4) clarifies that premises approved by the chief executive for sale of liquor under the authority of a commercial hotel licence are part of the licensed premises to which the licence relates.

Section 61 provides for restrictions on the grant of a commercial hotel licence, including the requirements of the business having a principal activity as mentioned in section 59(1), a commercial kitchen and at least two of the following facilities – a dining room, restaurant or bistro; at least

three rooms of self contained accommodation; or a function room available for public hire. The premises must also have seating capacity for more than 60 patrons and have male and female toilet facilities on the premises.

Subsection (2) further restricts the granting of a commercial hotel licence for premises that the chief executive considers are, or are to be used primarily as a supermarket or if the sale of liquor proposed to be carried out under authority of the licence would more appropriately be carried out under a different type of licence.

Section 62 clarifies that liquor supplied under the authority of a commercial hotel licence to residents and guests in their company, at any time other than ordinary trading hours or approved extended trading hours, must be consumed in a residential unit on the premises.

Division 3 provides for a commercial special facility licence. Section 63(1) provides the principal activity of a commercial special facility licence is the provision of one of the following activities – a casino; an airport; a convention centre; or another type of facility other than a sporting facility that makes or is likely to make a significant contribution to the tourism development of the State.

Subsection (2) provides that the authority under a commercial special facility licence to sell liquor does not apply unless a business is conducted on the licensed premises in accordance with the principal activity mentioned in subsection (1).

Section 64 provides for the authority of a commercial special facility licence. Subsection (1) specifies that a commercial special facility licence authorises the licensee to sell liquor on the licensed premises for consumption on or off the premises during times stated in the licence. Subsection (2) specifies that the authority under subsection (1) is subject to the Act and the conditions stated in the particular licence.

Section 65 provides for restrictions on the grant of a commercial special facility licence. Subsection (1) specifies that the chief executive may grant such a licence only if satisfied that the business to be conducted under the licence on the licensed premises has a principal activity as mentioned in section 63(1).

Subsection (2) states that the chief executive must not grant a commercial special facility licence if the supply of liquor proposed to be provided under the authority of the licence would be more appropriately carried on under a different type of licence.

Subsection (3) specifies that the chief executive must not grant a commercial special facility licence to a person for premises the chief executive considers are, or are to be used primarily as a supermarket.

Division 4 provides for a commercial other licence. Subdivision 1 details general information about the licence category. Section 66 provides for the types of commercial other licences that may be granted and held under the Act.

Section 67(1) provides that the principal activity of a subsidiary on-premises licence is the provision of an activity, matter or service to which the sale of liquor, for consumption on the licensed premises, is a subsidiary aspect. Subsection (2) qualifies that the authority under a subsidiary on-premises licence to sell liquor does not apply unless a business is conducted on the licensed premises in accordance with the principal activity mentioned in subsection (1).

Section 67AA applies if the principal activity of the business conducted under the subsidiary on-premises licence is the provision of entertainment. The authority of the licence is restricted to the sale of liquor to a person for consumption on the premises in association with the person being provided entertainment on the premises.

Section 67A applies if the principal activity of the business conducted under the subsidiary on-premises licence is the provision of meals prepared, and served to be eaten on the licensed premises. The authority of the licence is restricted to the sale of liquor in association with a consumer eating a meal on the premises and to persons other than in association with persons eating meals. The authority to sell liquor also extends to one opened and one unopened bottle of wine for consumption off the premises to each diner.

Section 67B applies if the principal activity of the business conducted under the subsidiary on-premises licence is the provision of accommodation. The licensee is authorised to sell liquor on the licensed premises at any time to a resident or a guest of a resident in the resident's company, for consumption on the premises. Liquor may also be sold to a resident in a quantity of not more than 9L a day for consumption off the premises. During ordinary trading hours or approved extended trading hours, the licensee is authorised to sell liquor to any person, including a person not eating a meal, for consumption in a part of the premises ordinarily set aside for dining.

Subsection(3) clarifies that liquor supplied to a resident on the licensed premises or a guest of a resident in the resident's company, for consumption on the premises outside ordinary trading hours or approved extended trading hours, must be consumed in a residential unit on the premises.

Section 67C provides for the authority of a subsidiary on-premises licence. Subsection (1) authorises a licensee to sell liquor in association with an activity, matter or service, being the principal activity of the business provided on the licensed premises. The sale of liquor is authorised for consumption on licensed premises and if stated in the licence, for consumption off the licensed premises during ordinary trading hours or approved extended trading hours.

Subsection (2) provides that subject to section 67E, if stated in the licence, the authority of a subsidiary on-premises licence extends to the sale of liquor on premises other than the licensed premises for consumption on the other premises in the course of the licensee providing catering facilities for functions. Subsection (3) provides that the authority under subsection (1) or (2) is subject to this Act and the conditions stated in a particular licence.

Section 67D provides for a restriction on the grant of a subsidiary on-premises licence, stating that the chief executive must not grant such a licence to a person for a vehicle the chief executive reasonably considers is, or is to be, used primarily to transport persons by road between licensed premises.

Section 67E provides for the restriction on the sale of liquor for consumption off the licensed premises, clarifying that the authority of a subsidiary on-premises licence to sell liquor for consumption off the licensed premises is restricted to the sale of liquor as ancillary to a function for consumption by persons genuinely attending the function. In these circumstances, a licensee must also provide food of sufficient substance to ordinarily be accepted as a meal.

Subsection (3) provides that subsection (4) applies if the principal activity conducted under a subsidiary on-premises licence is the provision of meals. Subsection (4) specifies that extended authority to provide take away liquor to diners under section 67A(2)(b) does not apply when a licensee is catering for a function off the licensed premises.

Subdivision 3 provides for a subsidiary off-premises licence. Section 68(1) specifies that the principal activity of a business under a subsidiary off-premises licence is the provision of an activity, matter or service to

which the sale of liquor for consumption off the licensed premises is a subsidiary aspect. Subsection (2) qualifies that the authority under a subsidiary off-premises licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).

Section 69 provides for the authority of subsidiary off-premises licence. Subsection (1) specifies that a subsidiary off-premises licence authorises the licensee, during the times stated in the licence, to sell liquor on the licensed premises for consumption off the premises. The amount of each sale is not more than the amount stated in the licence by the chief executive in the licence, or where not specified, 2 litres. Subsection (2) qualifies that the authority under subsection (1) is subject to the Act and the conditions stated in the particular licence.

Section 69A provides for the restriction on grant of a subsidiary off-premises licence, stating that such a licence must not be granted for premises the chief executive reasonably considers are, or are to be, used primarily as a supermarket or for premises the chief executive reasonably considers are, or are to be, used primarily for the hiring out of party equipment.

Subdivision 4 provides for a bar licence. Section 70 provides that the principal activity of a business under a bar licence in subsection (1) is the sale of liquor on the licensed premises having the capacity to seat not more than 60 patrons at any one time. Subsection (2) qualifies the authority under a bar licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).

Section 70A provides the authority of bar licence. Subsection (1) specifies that a bar licence authorises the licensee to sell liquor on the licensed premises for consumption on the premises during ordinary trading hours or approved extended trading hours. Subsection (2) qualifies that the authority under subsection (1) is subject to the Act and the conditions stated in the particular licence.

Subdivision 5 provides for an industrial canteen licence. Section 71 defines 'remote industrial locality' for subdivision 5.

Section 71A provides for the principal activity of a business under an industrial canteen licence, which is described in subsection (1) as the sale of liquor on the licensed premises located within a remote industrial locality. Subsection (2) qualifies that the authority under an industrial

canteen licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).

Section 71B provides for the authority of an industrial canteen licence. Subsection (1) authorises the holder of an industrial canteen licence to sell liquor to a 'relevant person' on the licensed premises, for consumption on or off the premises. Subsection (2) qualifies that the authority under subsection (1) is subject to this Act and the conditions stated in a particular licence. Subsection (3) clarifies the meaning of a 'relevant person' in this section.

Section 71C provides for the restriction on grant of an industrial canteen licence, specifying that the chief executive may grant an industrial canteen licence in relation to a remote industrial locality only if there is no other licensed premises within the locality.

Subdivision 6 provides for a producer/wholesaler licence. Section 72 specifies that the principal activity of a business under a producer/wholesaler licence is either the production and wholesale sale on the licensed premises of liquor made on the premises, or the wholesale sale on the licensed premises of liquor, or both. Subsection (2) qualifies that the authority to sell or supply liquor under a producer/wholesaler licence does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).

Section 73 provides for the authority of producer/wholesaler licence. A licensee that is a producer of liquor is authorised to sell liquor produced on the premises, for consumption on or off the premises, during ordinary trading hours or approved extended trading hours. A licensee that is a wholesale supplier of liquor is authorised to sell liquor for consumption off the premises, during ordinary trading hours. Subsection (2) qualifies that the authority under subsection (1) is subject to this Act and the conditions stated in a particular licence.

Section 74 provides for the restriction on grant of producer/wholesaler licence, stating that a producer/wholesaler licence may be granted only if the chief executive is satisfied the business to be conducted under the licence on the licensed premises will have the principal activity as mentioned in section 72(1).

Section 75 provides for restriction on the sale of liquor under a producer/wholesaler licence. This section renumbers current section 84 without change.

Division 5 provides for a community club licence. Section 76(1) provides that the principal activity of a club is a business conducted under a community club licence as the provision of facilities and services to the club's members and the achievement of the club's objectives.

Subsection 76(2) qualifies that the authority under a community club licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).

Section 77 provides for the authority of a community club licence, which effectively replicates current section 85 provisions regarding to whom liquor may be supplied and the times it may be supplied. The only changes reflect new terminology used in relation to extended trading hours and licence categories.

Section 78 provides for restrictions on the grant of a club licence, which mirror current section 86 provisions. The only changes are current references to 'club' licence become 'community club' licence and 'primary purpose' become 'principal activity'.

Section 79 provides for requirements of a club and secretary, which replicate current section 88 provisions. The only changes are that current references to a 'club' licence become a 'community club' licence.

Division 6 provides for community other licences. This licence replaces the current restricted club permits of 12 months duration held by small clubs and associations. Section 80 provides for the principal activity of business under a community other licence, which is stated in subsection (1) as the provision of facilities and services to the relevant club's members and achievement of the club's objectives.

Subsection (2) qualifies that the authority under a community 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). Subsection (3) clarifies the term 'relevant club' in the section as meaning the club to which the licence relates.

Section 81 provides for the authority of a community other licence. Subsection (1) specifies to whom, where and when liquor is authorised to be sold under the authority of a community other licence. Subsection (2) qualifies that the authority under subsection (1) is subject to this Act and the conditions stated in a particular licence. Subsection (3) clarifies the term 'relevant club'.

Section 82 provides for restriction on the grant of a community other licence and other related matters. Subsection (1) provides that the chief executive may grant a community other licence if satisfied the relevant club is non-proprietary. Subsection (2) requires the chief executive to include the times for the sale of liquor, which may not total more than 25 hours per week, and the area to which the licence relates.

Section 83 provides for requirements of club and secretary. Subsection (1) specifies conditions that a community other licence is subject to. These conditions relate to the rules of a club and registers to be maintained by a club.

Division 7 provides for extended trading hours approval. Section 84 provides for the authority of an extended trading hours approval, the holder of which may sell liquor on a regular basis at the licensed premises subject to the Act at times and subject to conditions stated in the approval.

Section 85 provides for an application for approval, specifying that an applicant for a licence or a licensee may apply to the chief executive for an extended trading hours approval for the premises that are or are to be the licensed premises.

Section 86 provides for hours to which an application relates. Subsection (1) specifies that an application may be made for a licence for extended trading hours approval for a licence other than a community other licence to extend trading on a regular basis to include trading between 12am and 5am. Subsection (2) further provides that approval may be sought for a licence other than a community other licence to include trading between 9am and 10am. Subsection (3) provides that an applicant under subsection (2) must satisfy the chief executive that there is demonstrated need for the application to be granted.

Subsection (4) provides that extended trading hours approval may be sought by a community club licence to include trading between 7am and 9am. Subsection (5) requires an applicant under subsection (4) to satisfy the chief executive that there is demonstrated community need for the application to be granted or the club to which the licence relates must be a sporting club for a sport prescribed under a regulation.

Subsection (6) provides that extended trading hours approval may be sought by a licence other than a community club licence to include trading between 7am and 9am, but only for the purpose of selling liquor to persons genuinely attending a function held on the licensed premises during those hours.



Section 87 provides for restriction on grant of extended trading hours approval, clarifying that the chief executive must not grant such an approval that would purport to authorise the sale of liquor at any time on Good Friday, Christmas Day or Anzac Day other than as prescribed by section 9 (ordinary trading hours).

A new Part 4A provides for Permits.

Division 1 provides for permits under the Act. Section 100 provides for available permits which may be granted and held under the Act.

Division 2 provides for commercial public events permits. Section 101 provides definitions for the terms 'licence', 'main premises', 'private event' and 'public event' for division 2.

Section 101A provides for a commercial public event permit issued jointly to two or more licensees, with subsection (1) specifying that such a reference in division 2 is a reference to each of the licensees. Subsection (2) provides if one of the licences is suspended, the permit is taken to be suspended for the period of suspension. Subsection (3) similarly provides if one of the licences is cancelled, the permit is taken to be cancelled.

Section 102 provides a licensee who proposes to sell or supply liquor at a public event under a licence must apply for a commercial public event permit. An application must describe the areas where liquor will be sold or consumed and where any catering to be provided by the licensee will take place. An application must also be accompanied by a proposed event management plan. Subsection (3) provides that an application may be made jointly by 2 or more licensees.

Section 103 provides for restriction on grant of commercial public event permit. Subsection (1) specifies the chief executive must not grant a commercial public event permit unless satisfied about particular issues. Subsection (2) clarifies that the requirement in subsection (1) for a licensee in catering for the public event to be carrying out the principal activity of the business conducted under the licence does not apply to the holder of a subsidiary on-premises licence with the provision of accommodation as the principal activity.

Subsection (3) precludes the chief executive from granting a commercial public event permit that would authorise the sale of liquor on Good Friday, Christmas Day or Anzac Day, except to authorise a licensee to sell liquor between 5am and 1 am on Anzac Day if the licensee has entered into an

agreement with an RSL or Services Club to sell liquor under the permit at an Anzac Day event for the club.

Section 103A provides that the area defined in a commercial public event permit forms part of licensed premises for the duration of the permit.

Section 103B provides for the authority of a commercial public event permit and specifies that subject to the Act, a commercial public event permit authorises a licensee to sell or supply liquor at the public event, at the times on the day or days, subject to the conditions stated in the permit and within the defined area stated in the permit.

Division 3 provides for community liquor permits. Section 103C provides that subject to the Act, a community liquor permit authorises a permittee to sell liquor for consumption at an event or occasion, at the times on the day or days and subject to the conditions stated in the permit. Also, if stated in the permit, the authority extends to the sale of liquor for removal from the venue and subsequent consumption.

Section 103D provides for restriction on grant of a community liquor permit. A community liquor permit must not be granted for licensed premises or if the supply of liquor would be more appropriately provided under the authority of a licence. Additionally, such a permit may only be granted to a non-proprietary club or another entity if the chief executive is satisfied that the net proceeds from the sale of liquor will be used for the benefit of the community. Subsection (3) specifies that if an applicant for a community liquor permit is a non-proprietary club that is an unincorporated association, the permit may be granted only to an individual for the non-proprietary club.

Section 103E provides for identification of premises. Subsection (1) requires the chief executive to define an area adjacent to each premises to which a community liquor permit relates and state the means by which the area must be marked out. Subsection (2) clarifies that the area defined under subsection (1) is part of the premises to which the permit relates.

Section 103F provides for restriction on consumption or possession of liquor. Subsection (1) specifies that a person must not consume liquor or have liquor in possession for consumption at the venue of the event or occasion elsewhere than in the area that is part of the premises to which the permit relates. Subsection (2) clarifies that subsection (1) does not apply to liquor supplied by a person or association of persons controlling the event or occasion in part of the venue set apart for their own use.

Division 4 provides for extended hours permits. Section 103G provides that the authority of an extended hours permit, authorises the holder of the permit to sell liquor on a particular day under the authority of the licence, subject to this Act and conditions stated in the permit.

Section 103H provides for restriction on grant of extended hours permits. The chief executive is precluded from granting an extended hours permit that would authorise the sale of liquor on Good Friday, Christmas Day or Anzac Day, other than as prescribed by section 9 (ordinary trading hours), except to authorise a licensee to sell liquor between 5am and 1 am on Anzac Day, if satisfied that the licensee has entered into an agreement with an RSL or Services Club to sell liquor at an Anzac Day event under the permit.

Section 103I provides the hours to which an application may relate. Subsection (1) provides that an application may be made for a licence other than a community other licence to extend trading on a particular day to include trading between 12am and 5am. Subsection (2) further provides that an application may be made for a licence other than a community other licence to include trading between 9am and 10am on a particular day, but must satisfy the chief executive that there is demonstrated need for the application to be granted.

A community club licence may apply to include trading between 7am and 9am, but must satisfy the chief executive that there is demonstrated community need for the application to be granted or that the club to which the licence relates is a sporting club for a sport prescribed under a regulation. Other licensees applying to extend trading between 7am and 9am on a particular day may only do so for the purpose of selling liquor to persons genuinely attending a function during those hours.

Section 103J provides for a restriction on the number of extended hours permits for particular premises. A maximum of twelve extended hours permits mentioned in section 103I(1) may be granted to include trading between 12am and 5am during a one year period. A maximum of four extended hours permits mentioned in section 103I(2),(4) or (6) may be granted during a one year period to include trading between 7am and 9am and between 9am and 10am.

Division 5 provides for restricted liquor permits. Section 103JA provides for the authority of a restricted liquor permit. Subsection (1) specifies to whom, where and when liquor is authorised to be sold under the authority of a restricted liquor permit. Subsection (2) qualifies that the authority

under subsection (1) is subject to this Act and the conditions stated in the permit. Subsection (3) clarifies the term ‘relevant club’ in this section.

Section 103K provides for restriction on the grant of a community other licence and other related matters, specifying that the chief executive may grant a community other licence if satisfied the relevant club is non-proprietary. The chief executive is also required to include the times for the sale of liquor, which may not total more than 25 hours per week, and the area to which the permit relates.

Section 103L provides for the duration of a restricted liquor permit as being at least three months but not longer than 6 months.

Section 103M provides for requirements of club and secretary, which relate to the rules of a club and registers to be maintained by a club.

Division 6 renumbers current division 13A provisions relating to adult entertainment permits. The only changes relate to terminology resulting from the restructure of licences and permits.

Division 7 renumbers current division 13B provisions relating to restricted area permits.

Clause 14 amends section 105 to require an application for a licence or restricted liquor permit to be accompanied by a risk assessed management plan. A revised risk assessed management plan must accompany an application for the transfer of a licence, a permanent variation of a licence, a permanent change in a licensed area, an extended trading hours approval or an approval for a change in the principal activity of a business conducted under a licence.

Clause 15 omits section 109C (application for grant of extended hours permit).

Clause 16 amends section 110 to provide that a licensee may apply on an irregular basis for an extended hours permit to include trading on a particular day between the hours of 12am and 5am.

Clause 17 replaces section 116 (public interest relevant to applications) with a provision that requires a community impact statement to accompany an application for a licence other than a community club licence or community other licence, an application by a licensee for a variation of the licence or an application by a licensee for an extended hours approval. Other licensees may also be required to provide a community impact statement within 60 days of receiving written notice of the requirement, if the chief executive reasonably believes that the community concerned

would be adversely affected by the grant of an application. If not received within 60 days, the application is taken to be withdrawn.

Clause 18 amends section 118A (submissions on public interest) by omitting ‘on public interest’ from the heading. The word ‘matters’ is omitted from section 118A(1) and ‘matters mentioned in section 116(6)’ are inserted to specify matters to be addressed in a community impact statement.

Clause 19 replaces section 121, specifying matters the chief executive must have regard to in deciding whether to grant the application.

Clause 20 amends section 136 which provides for grounds for disciplinary action by replacing ‘primary purpose’ in section 136(1)(a)(ii) with ‘principal activity’.

Clause 21 inserts new section 137E (Disciplinary action against former licensee) which provides that disciplinary may apply to a former licensee for up to one year after a licensee has transferred a licence. The ability to take disciplinary action applies if the licensee transfers the licence before the chief executive makes a decision about a proposed action under section 137A. This section specifies the relevant disciplinary actions that may be taken against former licensees.

Clause 22 amends section 142 (Closure of premises in face of riot or tumult) to allow for the chief executive to order that all or any of the licensed premises in a locality in which a riot or tumult is happening, or is reasonably expected to happen, be closed during a period of not longer than 48 hours stated in the order. This amendment extends the current closure power in that the Chief Executive will be able to make such an order if informed by an investigator “that a magistrate or 2 justices are not readily available” to deal with an application for closure under existing subsection (1).

Clause 23 inserts a new part 5, division 4A which provides for training course certificate requirements. The new provision applies to licensed premises and states that it is a condition of a licensee’s licence that an individual licensee, approved managers and members of staff involved in the service or supply of liquor must have a current training course certificate in the Responsible Service of Alcohol. Staff members must acquire the necessary training within 30 days of becoming a member of staff. It is a condition of the licensee’s licence that a training register be kept with information about current training course certificates or matters

relating to training persons involved in the service or supply of liquor and that the register be available for inspection by an investigator.

Clause 24 replaces pt 5, div 6 (Certain provisions about conditions of licences and permits for Brisbane City Council area). Section 142AD defines terminology used in division 6.

Section 142AE(1) specifies that division 6 applies in the Brisbane City Council area to premises licensed to sell liquor after 1am, with exceptions to the application of the division addressed in sections 142AE(2), (3) and (4).

Section 142AF clarifies that in relation to the licensee, division 6 has the same purpose as the purpose mentioned in section 148A(1), which provides for obligations of licensees and permittees relating to the service, supply and promotion of liquor .

Section 142AG provides for conditions about crowd controllers to clarify that in section 142AG(a)(i) the minimum requirements relating to crowd controller numbers prescribed under a regulation apply after 11pm.

Section 142AH provides for conditions about closed circuit television equipment.

Section 142AI specifies conditions about incident and training registers which are to be kept by a licensee.

Section 142AJ provides for conditions about drinking practices that must not be conducted on licensed premises.

Section 142AK provides for the holder of a licence subject to a condition under this subdivision to comply with the condition. A maximum penalty of 100 penalty units applies to a breach of section 142AK.

Section 142AL provides that a reference in section 136(1)(a)(iii) to a condition stated in the licence is taken to include conditions referred to in this section.

Clause 25 amends section 142B (Applying for approval as trainer) by omitting subsection 142B(2) – “The person must be an individual”. This omission is to allow persons applying for approval for a trainer to be either individuals or registered training organisations. Subsections 142B (3) and 142B (4) are renumbered accordingly.

Clause 26 inserts a new section 152A which provides that a licensee must not change the principal activity of business conducted under a licence without the chief executive’s approval.

Clause 27 inserts a new section 155AB which provides for the supervision of ‘relevant volunteers’ who are involved in the service or supply of liquor and do not hold a current training course certificate at premises to which a community club licence, community other licence or restricted liquor permit relates. The licensee or permittee must take reasonable steps to ensure that relevant volunteers are generally supervised by a person with a current training course certificate in the responsible service of alcohol.

Clause 28 amends sections 155A (Prohibition on sale to a minor) and 156 (Liquor prohibited to certain persons) to alter the maximum penalty units for the offences relating to minors in these sections. The words “40 penalty units” are replaced by “80 penalty units” in sections 155A(b) and 156(3)(b)(i).

Clause 29 inserts new sections 156A (Irresponsible supply of liquor to a minor at a private place), 156B (Prohibition on sale of undesirable liquor product) and 156C (Interim prohibition on sale of undesirable liquor product).

Section 156A is inserted to introduce the offence of irresponsible supply to a minor at a private place. The purpose of the section is to address the problems associated with minors and liquor at private premises (including the family home, rented accommodation or premises such as community halls hired for the purpose of a private function). The offence provision for irresponsible supply is to be applied to adults as they will be considered responsible for minors. The proposed amendments are not intended to restrict the practice within the Australian society where some parents choose to educate their children in the responsible consumption of liquor through supervised and limited consumption within the family environment. The new offence provision is to be supported through the extension of the seizure power as provided in section 53 of the *Police Powers and Responsibilities Act 2000* to include the new offence. The purpose of allowing the seizure and forfeiture power in relation to irresponsible supply is to ensure harm can be minimised in relation to minors and the misuse and abuse of alcohol.

The new section establishes two forms of the offence. Subsection 156A(1) makes it an offence for an adult to supply liquor to a minor at a private place, unless the adult is a responsible adult for the minor (Responsible Adult is defined in section 5 of the Act). Subsection 156A(2) establishes the offence of irresponsible supply of liquor to a minor by a responsible adult at a private place. A further subsection details relevant factors that apply in determining whether irresponsible supply has occurred. These

factors focus on the nature of the minor's consumption of alcohol and specifically the supervision provided by the responsible adult.

Sections 156B and 156C are inserted to introduce a ministerial banning power in relation to undesirable liquor products. The banning power is introduced as a social policy instrument to minimise the harm associated with some types of alcohol products, particularly as they are directed at young people and minors. The banning power will allow the Minister to make both interim and permanent orders declaring a particular liquor product, or class of liquor products, to be undesirable. In deciding whether to make an interim prohibition order under 156C, the Minister must have regard to the matters mentioned in section 156B(3), including whether the product or products are likely to be attractive or have special appeal to minors or young people, whether the product or products are likely to be confused with soft drinks or confectionery, or if it is otherwise in the public interest to make a prohibition. To give effect to an interim order, which lasts for 42 days, the Minister must publish the order on the department's web site. Subsection 156B(4) specifies that the Minister must make every reasonable effort to consult with relevant liquor industry representatives and manufacturers and distributors of the product or products about a proposed permanent prohibition under regulation.

Clause 30 amends section 173B by inserting new subsection at 173B(1)(a)(iii) – “relevant land prescribed under a regulation; or”. This new subsection includes a new type of land to be considered “certain public places” for the purpose of prohibiting the consumption of liquor. The provision will allow for relevant land, defined as “land owned by, or under the control of, the State or a statutory authority” to be prescribed under regulation as a public place where liquor must not be consumed. The purpose of the amendment is to extend the current definition of a public place in this section: a road, or land owned by, or under the control of, a local government. An exception to the offence is also inserted to allow State or statutory authorities to permit public drinking in a place mentioned in the new subsection.

Clause 31 replaces sections 199 and 200 by omitting reference to ‘gross amount paid or payable for liquor’, the basis upon which licence fees were formerly calculated, and the fee period respectively. The new section 199 provides that the period for a licence will be a financial year.

Clause 32 amends section 202 to provide that the licence fee payable for a licence for the licence period is to be assessed as prescribed under a regulation.



Clause 33 omits sections 203 to 207, relating to the former licence fee assessment process.

Clause 34 amends section 208 to provide for the payment of licence fees. The licence fee payable for a licence is due on the day prescribed under a regulation. A new subsection (3) is inserted which allows for a regulation to detail the consequences of non-payment of a fee and further provides the licensee with an option to appeal any decision under this section to the Commercial and Consumer Tribunal.

Clause 35 omits sections 209 to 214 relating to the former licence fee process, including suspension and cancellation for failure to pay fees, associated appeals, powers of Tribunal on appeals, reassessment of fee, liability of reassessed fee in certain cases and discontinuance fee.

Clause 36 amends section 215 to omit reference to refund for a discontinuance fee.

Clause 37 amends section 215A to omit reference to a supplementary fee.

Clause 38 amends section 217 which provides for records to be kept by licensee, by omitting references to the requirement for a licensee to maintain transactions records for the purchase of liquor or the sale or supply of liquor.

Clause 39 amends section 218 which provides for powers of examination of investigators, to omit 218(4) and insert a new subsection (4) which permits inspection of a record or making additions to records in the custody or control of an investigator by a person who would be entitled to do so, had the record not been removed.

Clause 40 inserts new sections 219 and 220. Section 219 provides for all licence fees to be paid into the community investment fund on a monthly basis. Section 220 provides that the Minister may cause amounts to be paid out of the community investment fund for alcohol consumption research, dealing with the social issues arising from alcohol abuse and misuse and for funding the part of the department through which the Act is administered.

Clause 41 inserts new sections 224 and 225. Section 224 is inserted to introduce liquor accords into the legislation as a voluntary harm minimisation initiative. The intention for the inclusion of accords is to clarify the purpose and membership of a liquor accord for a locality. The provision achieves this intention by providing a definition of liquor accords and their function. Liquor accords are agreements to promote responsible

service practices at licensed premises and minimise harm and alcohol-related disturbances.

Section 225 inserts a new section regarding additional time for the consumption or removal of liquor, which effectively renumbers the current provisions of section 104. This section clarifies that for licences or permits that authorise the sale of liquor for consumption on or off the premises, the consumption or removal of liquor can occur within 30 minutes after the end of the period during which the sale has been completed, even if this time is beyond the licence or permit's allowable trading hours.

Clause 42 amends section 235 (regulation making power) by omitting 235(2)(c) and inserting a replacement (c) of 'fees, including the refunding of fees, for this Act'.

Clause 43 inserts a new part 12 division 8.

Division 8 inserts transitional provisions for the Liquor and Other Acts Amendment Act 2008. Section 288 defines terminology for division 8.

Section 289 provides for existing licences and the applicable new category of licence to which they will convert following commencement of the amendments. This section also clarifies that any conditions to which a licence was subject to prior to commencement of the amendments will continue to apply to the licence after commencement of the amendments.

Section 290 provides for existing permits and the applicable new category of permit to which they will convert following commencement of the amendments. This section also clarifies that any conditions to which a permit was subject to prior to commencement of the amendments will continue to apply to the permit after commencement of the amendments.

Section 291 provides for existing extended hours permits that include trading between 5am and 7am. As trading during these hours will no longer be authorised after commencement of the amendments, any existing extended hours permit that includes trading between 5am and 7am, either on a regular basis or for one occasion, will lapse from 1 January 2009. Applications for extended hours permits which include trading between 5am and 7am and have not been decided before the commencement are taken to lapse upon commencement. Section 291(4) clarifies that compensation is not payable because of the operation of this section.

Section 292 provides for applications for a licence or permit that are not decided before the commencement of amendments. Such applications must be decided under the Act as in force before the amendments

commenced. However, the application is taken to be about the new applicable licence or permit category as referred to in section 289 or 290. An application for a restricted club permit for duration of one year made under the pre-amended Act is taken to be about a community other licence.

Section 293 provides for a nominee for a licence or permit, specifying that a person who is a nominee for a licence or permit immediately before the commencement is taken to hold an approval as an approved manager until 30 June 2010, unless the approval is cancelled or surrendered before that day.

Section 294 provides for training course requirements, specifying that a member of staff involved in the service or supply of liquor and who does not hold a current training course certificate is required to be issued with a training course certificate before 30 June 2010.

Section 295 provides for risk assessed management plan conditions, clarifying that the conditions about an approved plan provided for in section 54 do not apply to a person who holds a licence or restricted club permit of less than one year's duration immediately before the commencement of amendments. Similarly, the provisions of section 54 do not apply to a licence or permit holder if an application for a licence or restricted club permit for a duration of less than one year has not been decided before the commencement and is subsequently granted by the chief executive.

### **Division 3 provides for amendments relating to approved managers.**

Clause 44 amends section 4 by inserting new definitions.

Clause 45 amends section 21 by providing the authority for the Tribunal to hear appeals relating to the approvals for approved managers. New sections (ea) 'refusal to grant an application for approval as an approved manager' and (eb) 'refusal to renew an approval as an approved manager' and (ec) 'suspension or cancellation of an approval as an approved manager' are inserted.

Clause 46 inserts a new part 4, division 15 to provide for 'approved managers' which replace the concept of a nominee. Section 104A provides that while in control of licensed premises or premises to which a permit

relates, an approved manager is responsible for ensuring that liquor is supplied or possessed in accordance with the authority of the licence or permit and if applicable, for ensuring that the conduct of entertainment under an adult entertainment permit is in accordance with the Act and conditions of the permit. An approved manager's liability to be punished for a contravention of the Act does not affect the liability of the licensee or permittee to be punished for the contravention.

Clause 47 replaces sections 107A and 107B, which provide for additional restrictions on the grant of licence or permit respectively. The new section 107A provides that the chief executive may grant an application for a licence made by an individual only if the individual has completed the licensee's course and approved training course within 3 years before the day of application is granted.

The new section 107B provides that the chief executive may give written notice to require an applicant for a permit, other than a restricted area permit, to undertake the licensee's course and the approved training course or either course if the chief executive reasonably believes the applicant should undertake the course or courses, having regard to the nature of the activity to be conducted under the permit and to minimise harm caused by alcohol abuse or misuse. An application in such circumstances may only be granted if the applicant successfully completes the course or courses stated in the notice.

Clause 48 replaces section 131A, which provides for decisions of the chief executive on applications to continue trading in certain circumstances, by omitting references to a 'nominee'.

Clause 49 replaces section 132, which provides for the discharge of a licensee or permittee from obligations under the Act, by omitting references to a 'nominee'.

Clause 50 replaces section 134, which provides for the cancellation, suspension or variation of permits, by omitting references to a 'nominee'.

Clause 51 amends section 141, which provides for the chief executive to issue an order to close premises for unlawful trading, by omitting references to a nominee and inserting an 'approved manager' in section 141(1). Subsection 141(2), which provided a penalty for contravention of an order issued under subsection 141(1), is omitted.

Clause 52 inserts a new part 5C (approval as approved manager). Division 1 outlines the process for obtaining approval as a manager. Division 2

specifies the process for renewal of an approval. Division 3 provides for lapsed applications and division 4 for the suspension and cancellation of approvals.

Clause 53 replaces section 149 by omitting the provision for a licensee to exercise control over premises. A new provision is inserted that states that a licensee must not without the chief executive's prior approval, knowingly permit to be employed a person who, because of misconduct or bad character, has been refused a licence, permit or other authority relating to the sale and supply of liquor under the Liquor Act or a previous enactment or under a corresponding law of another State or Territory or has had such a licence, permit or authority cancelled.

Clause 54 replaces section 149B, which provides for supervising adult entertainment, by omitting references to a 'nominee'.

Clause 55 inserts a new part 6, division 1A, which deals with provisions binding particular licensees and permittees. Section 155AC provides that this division applies to licensed premises other than those to which a community club licence or community other licence relates and premises to which a permit relates, other than premises to which a community liquor permit or restricted liquor permit relates, if liquor is served or supplied at the premises only by volunteers.

A new section 155AD provides for who must be present or reasonably available when premises are open for business. Section 155AD(2) provides for a licensee or permittee that is a corporation, to take reasonable steps to ensure that an approved manager is present or reasonably available during ordinary trading hours. A licensee or permittee must also take reasonable steps to ensure that an approved manager is present during approved extended trading hours at the premises. A maximum penalty of 50 penalty units applies to a breach of section 155AD(2).

Section 155AD(3) provides for a licensee or permittee who is an individual to be present or reasonably available or take reasonable steps to ensure that an approved manager is present or reasonably available during ordinary trading hours. A licensee or permittee must be also present or take reasonable steps to ensure that an approved manager is present during approved extended trading hours at the premises. A maximum penalty of 50 penalty units applies to a breach of section 155AD(3).

For the purposes of section 155AD, a licensee, permittee or approved manager is taken to be 'reasonably available' if they are contactable by each person involved in the service or supply of liquor at the relevant

premises and the time reasonably needed by the licensee, permittee or approved manager to travel from any place that they may be present to the relevant premises is not more than 1 hour.

A new section 155AE(1) provides that a licensee or permittee must keep a register containing the name of the approved manager, the date, starting time and finishing time of each shift the approved manager is rostered on duty and must keep the register available for inspection by an investigator at the premises. A maximum penalty of 100 penalty units applies to a breach of section 155AE(1).

Section 155AE(2) provides that a licensee must keep a copy of current training course certificates and current licensee's course certificates with the register and make the copies available for inspection by an investigator at the premises. A maximum penalty of 100 penalty units applies to a breach of section 155AE(2).

Section 155AE(3) provides that an approved manager must record their name, date and starting time and sign the register at the beginning of each shift they are rostered on duty. At the end of each shift, an approved manager must record the date and finish time and sign the register. A maximum penalty of 100 penalty units applies to a breach of section 155AE(3).

Section 155AF provides for an exemption from obligation under section 155AD(3). This provision applies if a licensee or permittee who is an individual, wishes to be absent from the management and supervision of the business conducted under the authority of the licence or permit for a period of not longer than 3 months.

A licensee or permittee may apply to the chief executive for an exemption from the obligation to comply with section 155AD(3) during the relevant period. The chief executive may grant the application only if satisfied the licensee or permittee has made reasonable efforts but has been unsuccessful in engaging one or more approved managers to be present or reasonably available during the proposed period of absence, liquor will be supplied or possessed on the premises only in accordance with the authority of the licence or permit and the risk assessed management plan for the premises will be complied with.

## **Part 3                      Amendment of Police Powers and Responsibilities Act 2000**

Clause 56 provides that part 4 amends the *Police Powers and Responsibilities Act 2000* (PPRA).

Clause 57 amends the PPRA to include additional circumstances under which liquor may be seized.

Section 157(2) is added to section 53 of the PPRA to enable liquor to be seized from a minor without having to charge them for an offence of consuming liquor, or being in possession of liquor, on either premises to which a licence or permit relates or in a public place. Seizure of the liquor addresses the risk of further harm occurring to the minor.

Section 53 is further amended by subsection 2A to allow seizure of alcohol in relation to a section 156(2) of the *Liquor Act*, which provides that a person must not supply liquor or cause or permit liquor to be supplied to a minor adjacent to premises to which a licence or permit relates or in a public place . This amendment is required to enable police to seize liquor in situations such as a vehicle being driven by an 19 year old carrying multiple 16 year old passengers and a large quantity of unopened liquor and police reasonably suspect that the driver has committed, is committing or is about to commit an offence against section 156(2) and the officer also reasonably suspects that the liquor is or is likely to contribute to an offence at any place by the driver or another person. Once the quantity of liquor has been seized by police it is forfeited and may be disposed of by the officer in the way the officer considers reasonably necessary to prevent the commission, continuation or repetition of the offence.

Clause 58 inserts a new section 53A ‘Seizure of liquor from a minor in particular circumstances’ into the PPRA to support the new irresponsible supply of liquor offences provided for in section 156A of the *Liquor Act*. Section 53A enables police to seize liquor from a minor in a place other than a place to which a licence or permit relates, if a police officer is lawfully at the place, finds a minor in possession or control of liquor in opened or unopened containers and reasonably suspects that the minor is not being responsibly supervised by a responsible adult for the minor. Once the quantity of liquor has been seized by police it is forfeited and may be disposed of by the officer in the way the officer considers reasonably necessary. To effect this purpose, the officer may continue to stay at the

place and re-enter the place for the time reasonably necessary to remove the seized thing.

A new section 53B is also inserted to provide powers of entry to police to vehicles that are not being used as a dwelling in relation to sections 53 and 53A of the PPRA.

To ensure the appropriate exercise of these powers, the Queensland Police Service will incorporate directions within a Commissioner's Circular, prior to their commencement. The directions will be subsequently incorporated into the QPS Operational Procedures Manual.

## **Part 4                      Amendment of Acts**

Clause 59 provides for consequential and other amendments of Acts.

### **Schedule 1              Consequential and other amendments of Acts**

#### **Cairns Casino Agreement Act 1993**

Schedule 1 includes a minor amendment to the *Cairns Casino Agreement Act 1993* to change the applicable liquor licence type.

#### **Charitable and Non-Profit Gaming Act 1999**

Schedule 1 includes a minor amendment to the *Charitable and Non-Profit Gaming Act 1999* to reflect the change to the definition of 'liquor' under the Liquor Act.

#### **Gaming Machine Act 1991**

Schedule 1 includes minor amendments to the *Gaming Machine Act 1991* to address references to liquor licence types and nominees under the Liquor Act.



### **Liquor Act 1992**

Schedule 1 includes numerous amendments to the *Liquor Act 1992*, including renumbering of particular provisions and replacement of terminology related to the restructure of licences and permits.

### **Tobacco and Other Smoking Products Act 1998**

Schedule 1 includes amendments to the *Tobacco and Other Smoking Products Act 1998* to update references to liquor licence types.

## **Schedule 2      Amendments relating to approved managers**

Schedule 2 to the Bill includes amendments relating to approved managers.