

Liquor (Artisan Liquor) Amendment Bill 2020

Explanatory Notes

Short title

The short title of the Bill is the Liquor (Artisan Liquor) Amendment Bill 2020.

Policy objectives and the reasons for them

The objectives of the Liquor (Artisan Liquor) Amendment Bill 2020 (the Bill) are to support the growth and development of the Queensland artisanal liquor industry, while maintaining appropriate regulatory oversight. The proposed amendments to the liquor licensing legislation are a result of Government action under the Queensland Craft Brewing Strategy (QCBS) and recommendations arising from the Entrepreneurial Pipeline Project Report (EP Report).

In May 2017, the Queensland Government, on behalf of the Queensland Small Business Advisory Council, commissioned the University of Queensland to undertake a review of the issues impacting on artisan/boutique food and beverage producers and their relationship with the entrepreneurial pipeline supported by independent grocers. The EP Report made a number of recommendations aimed at enhancing the sustainability and growth of artisan producers, including artisan alcoholic beverage producers. Recommendations included enabling the sale of alcoholic products at promotional events.

In November 2018, the Queensland Government released the QCBS in recognition of the emergence of independent craft brewing as a quickly growing and dynamic sector. Under the QCBS, the Queensland Government agreed on action to improve the regulatory environment for independent craft brewers by streamlining the liquor licensing application process and incorporating particular authorisations desired by craft brewers.

The need for regulatory reform to support the artisan liquor sector has been highlighted by COVID-19. Before the pandemic disrupted the industry, Queensland craft brewers and artisan distillers contributed significantly to the Queensland economy and employed over 1,800 people combined. It was anticipated that by 2024 the craft beer industry would contribute over \$100 million to the Queensland economy. Members of the Australian Distilling Association (ADA) had estimated that another 106 jobs would be created in artisan distilleries throughout the State over the next two years.

In April 2020, the Independent Brewers Association (IBA) (National) reported that nationwide sales at craft breweries were down 67 per cent as a consequence of COVID-19 related business restrictions and closures. To assist industry, the Queensland Government authorised a range of measures for liquor licensees throughout the pandemic, including the authorisation to sell takeaways on premises and to allow online orders.

The proposed licence will support these small Queensland businesses by providing a regulatory framework that ensures the continued operation, growth and development of the artisan liquor industry.

Achievement of policy objectives

To achieve its broad objective of strengthening the artisanal liquor industry, the Bill proposes to amend the *Liquor Act 1992* (Liquor Act) to: create a new liquor licence category for legitimate craft brewers and artisanal distillers; expand existing capabilities for selling artisanal products at promotional events; and encourage the transition of existing licensees to the new artisan producer licence category.

Create a new 'commercial other – artisan producer' licence (artisan producer licence)

The proposed new artisan producer licence:

- provides for the subcategories of 'beer' and 'spirits' for applicants/licensees whose principal activity is the production and sale of craft beer and/or artisan spirits on the licensed premises;
- restricts the granting, and continued holding, of the licence to legitimate craft brewers and/or artisanal distillers with:
 - annual production volumes of between 2,500 – 5,000,000 litres (L) of craft beer or 400 - 450,000L of artisanal spirits;
 - at least 70 per cent of total annual liquor sales comprised from craft beer or artisan spirits produced on the licensed premises;
 - less than 20 per cent ownership by a large brewer (annual production volume exceeding 40,000,000L of beer) or large distiller (annual production volume exceeding 2,000,000L of spirits); and
 - an appropriate licence type within the meaning of the *Excise Act 1901* (Cwlth);
- authorises the sale of the licensee's own liquor products, and 'other' Queensland artisan liquor products (including Queensland wine), for on-premises consumption under ordinary trading hours of 10am to 12 midnight;
- limits late-night extended trading hours to 1am to avoid premises operating as bars/nightclubs (other licence categories can apply for extended trading hours until 2am, or 3am if located in a safe night precinct);
- authorises the sale of the licensee's own liquor products for off-premises consumption under ordinary trading hours for takeaway of 10am to 10pm;
- enables licensees to apply for extended trading hours for early morning trading (9am to 10am) for on and off-premises consumption;
- allows orders for the licensee's own products to be taken online;
- authorises the sale of the licensee's own product wholesale;
- ensures appropriate harm-minimisation measures apply to artisan producer licensees and applicants commensurate with similar licence types (e.g. the provision of risk-assessed management plans and community impact statements); and
- introduces new annual data returns to demonstrate continued eligibility for the artisan producer licence category.

Expand existing promotional event framework

The Bill expands on the existing licence conditions and permits authorising the sale of craft beer at promotional events (e.g. farmers markets) to:

- enable artisan liquor producer licensees and producer/wholesaler licensees which operate an artisan distillery, to sell their products for consumption off-premises as a condition of the licence (mirroring existing provisions for the sale of craft beer by producer/wholesaler licensees which operate a craft brewery);
- enable artisan liquor producer licensees and eligible producer/wholesaler licensees to sell samples of their liquor products (craft beer and/or artisan spirits) for consumption at a promotional event as a condition of the licence;
- amend the existing craft beer producer permit and introduce an ‘artisan spirits producer permit’ to enable the sale of craft beer or artisan spirits at promotional events for off-premises consumption, and on-premises consumption for the purpose of sampling;
- provide that the authority of the licence or permit to sell craft beer/artisan spirits applies for the duration of the promotional event, unless otherwise conditioned;
- provide a head of power for a regulation to limit, for licensees and permittees, the total volume of samples able to be sold per person at promotional events, as well as individual samples sizes (proposed to be 150 millilitres (mL) of craft beer and 15mL of artisan spirits);
- notwithstanding the sample size limits prescribed by regulation, enable a condition to be imposed on a licence or permit to further limit, on an individual basis, the volume of a sample size, and total volume of samples provided per person, for consumption at the promotional event;
- require eligible producer/wholesaler licensees and artisan producer licensees to file and keep details of promotional events attended during the licence period; and
- require artisan spirit producer permittees to maintain a correct and up-to-date promotional events record (mirroring existing provisions for craft beer producer permittees).

Encourage transition of existing eligible licensees to artisan producer licence

To encourage existing eligible licensees, anticipated to be mainly producer/wholesaler licensees, to transition to the new artisan producer licence, the Bill proposes to:

- waive the artisan producer licence application fee for producer/wholesaler licensees who make an application to transition to an artisan producer licence on or before 30 June 2021; and
- provide that any conditions, extended trading hours approvals and permits relating to an existing licence may be carried over to the artisan producer licence to the extent allowed by the authority of an artisan producer licence. However, the Commissioner for Liquor and Gaming (Commissioner) will retain the ability to vary existing conditions and/or apply new conditions to the artisan producer licence.

Separate amendments to the *Liquor Regulation 2002* (Liquor Regulation) will waive the annual licence fees for the 2020-21 licence period for transitioning licensees whose fees have already been waived by the *Liquor (Fee Relief) and Other Legislation Amendment Regulation 2020*.

Consequential and minor technical amendments to support the above proposed amendments and ensure the continued effective operation of the Liquor Act are also included in the Bill.

It is anticipated the proposed liquor licensing amendments will assist Queensland’s emerging craft brewing and artisanal distilling industry recover from the economic impacts of the COVID-19 pandemic. The introduction of the artisan producer licence will support the growth of Queensland craft brewers and artisan distillers by providing greater market access

opportunities. It also provides existing licensees with a viable licence type to support the optimum development and operation of the boutique craft brewing and artisan distilling industries.

Alternative ways of achieving policy objectives

The sale of liquor is highly regulated to ensure minimising harm, or the potential for harm from alcohol abuse and misuse, is balanced against facilitating development of Queensland's tourist, liquor and hospitality industry. Enabling craft brewers and artisan distillers to sell their products for controlled on-premises consumption, as well as for takeaway sales can only be achieved through legislative amendments.

Estimated cost for government implementation

The amendments proposed in the Bill provide a head of power for the imposition of new fees. Separate amendments to the Liquor Regulation are being progressed which would impose the following fees for the 2020-21 financial year: annual base licence fee for an artisan producer licence (\$1,050); application fee for an artisan producer licence (\$1,446); and application fee for an artisan spirit producer permit (\$72.95 for each day of a promotional event for which the permit is sought). These fees have been calculated on a cost-recovery basis. Implementation of the new licence type and amended promotional event permit framework will be funded from within existing budget allocations.

The Bill proposes to waive the application fee (for an application made on or before 30 June 2021) for any eligible producer/wholesaler licensees that seek to transition to the new artisan producer licence. As at September 2020, there were approximately 101 craft brewers and artisan distillers with a producer/wholesaler licence. Waiving the anticipated application fee for all 101 licensees would result in approximately \$146,046 of foregone revenue (providing all licensees apply on or before 30 June 2021).

Consistency with fundamental legislative principles

The proposed amendments are generally consistent with fundamental legislative principles and have sufficient regard for the rights and liberties individuals and the authority of Parliament as outlined in the *Legislative Standards Act 1992* (LSA).

Imposition of new offence provisions

The proposed amendments seek to impose a number of new offence provisions. A considered and justifiable approach was undertaken when determining the proposed penalty unit amount for each new offence provision. Under this approach, each proposed penalty unit amount was assessed to ensure it: aligns with similar offence provisions within the same (or associated) legislation; and is commensurate with the nature of the offence and the harm that may arise from a breach. Accordingly, it is considered any potential breaches of individual rights and liberties under section 4(2)(a) of the LSA initiated by the proposed new offence provisions are justified and appropriate, as outlined below.

The Bill inserts a new provision for promotional events for an artisan producer licence, stating that section 142ZZC (excluding subsection (2)(b)) applies to the artisan producer licensee. By applying the majority of section 142ZZC (Advertising), it is intended that artisan producer

licensees commit an offence if the availability, price or promotion of liquor is advertised in a particular way outside of the relevant premises. A licensee also commits an offence for advertising, or allowing another person to advertise, unacceptable practices or promotions outlined under section 142ZZC of the Liquor Act. The maximum penalty for these offences is 100 penalty units.

Expanding these existing offences to artisan producer licensees ensures that the advertising restrictions aimed at reducing harm are consistently applied to all relevant licensees and permittees. Further, applying the advertising restrictions and offences to licensees authorised to sell liquor at promotional events mirrors existing section 75A (Venue of promotional event not licensed premises for producer/wholesaler licence).

The Bill amends section 148AB (Restriction on sale of craft beer) of the Liquor Act to extend the existing offence under subsection 148AB(1) to include the sale of artisan spirits at a promotional event. Under the amended provision, a licensee or permittee commits an offence if they sell craft beer or artisan spirits at a promotional event, for consumption away from the event, in an unsealed container. The provision retains a maximum penalty amount of 100 penalty units. The expanded parameters and penalty amount of the offence is appropriate and justifiable as it ensures the same obligations apply to licensees in relation to the sale of craft beer and artisan spirits.

Section 148AB is further amended to prescribe a new offence in relation to selling craft beer or artisan spirits at a promotional event which exceeds the volume limit set either by the Commissioner or in the regulation. It applies to producer/wholesaler licensees, artisan producer licensees, craft beer producer permittees and artisan spirits producer permittees. The maximum penalty for this offence is 100 penalty units. The imposition of this penalty is justified to ensure that liquor sold for consumption at a promotional event is for the purposes of sampling only and deter licensees or permittees from operating de-facto bars at such events. The proposed maximum penalty also aligns with the existing penalty in section 148AB relating to the sale of craft beer at promotional events in unsealed containers.

New offences are also imposed by new sections 150A (Notification of change – artisan producer licence (beer)) and 150B (Notification of change – artisan producer licence (spirits)). The offences apply if, the holder of an artisan producer licence is a corporation, and the licensee fails to give the Commissioner written notice, within the required timeframe, of the licensee becoming related to, or owned, by a large brewer or distiller. A large brewer is defined as one producing more than 40,000,000L of beer per financial year and a large distiller as one which produces more than 2,000,000L of spirits per financial year. Ownership restrictions relate to large brewers or distillers holding more than 20 per cent of the licensee corporation's shares or more than 20 per cent of voting ability.

The provisions ensure licensees are required to report circumstances where they may become ineligible to continue to hold an artisan producer licence. The maximum penalty for these offences is 100 penalty units. The penalties imposed for offences under these provisions are considered reasonable and appropriate given the nature of the offence and align with similar offence provisions in section 150 (Notification of change in controlling interest in licensee) of the Liquor Act.

Amendments to section 203 (Filing of returns) of the Liquor Act require artisan producer licensees to file a return with the Commissioner within 21 days after the end of the licence period. The return must include liquor sold or produced under the authority of the licence; ownership details and the owner's production volumes (if any), for a licensee which is a corporation; and promotional events attended by the licensee for the duration of the licence period. Consistent with other offences in this section, the maximum penalty for this offence is 25 penalty units. This is considered appropriate due to the low-level nature of the offence (e.g. filing the return later than 21 days after the end of the licence period). The offence provisions under subsection 203(6) have also been expanded to reflect the new requirements for artisan producer licensees.

Similarly, the existing returns requirements for producer/wholesaler licensees have been amended to include promotional events attended by the licensee during the licence period. While additional information is required, the penalty amount for the offence remains unchanged at 25 penalty units, consistent with the rest of section 203.

The Bill also amends section 217 (Records to be kept by licensee) of the Liquor Act to insert a new requirement for artisan producer licensees to also make and maintain a true and up-to-date record of the volume of liquor produced by the licensee (a production record). The maximum penalty for this offence is 350 penalty units. Requiring artisan producer licensees to keep a production record ensures that the licensee continues to comply with the volume restrictions stated in the principal activity of the licence, and accordingly, can continue to hold that licence type. The maximum penalty is consistent with other penalties in section 217.

Amendments are also made to subsection 217(4A) to state that the promotional events record for craft beer producer permits must also include correct and up-to-date information on the sale of craft beer for consumption at the promotional event. Similar provisions are inserted to also require artisan spirits producer permittees to also maintain a correct an up-to-date promotional events record. The maximum penalty for these offences is 350 penalty units. While the parameters of the offence provisions have expanded, the penalty amount remains unchanged. The imposition of such an amount is considered justified to ensure permittees are not operating de-facto bars at promotional events.

Increased power for Commissioner

The Bill amends the Liquor Act to enable the Commissioner to impose conditions on a licence or permit. These amendments engage subsection 4(3)(a) of the LSA which entails making rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review. Further detail on how the proposed amendments have sufficient regard to the rights and liberties of individuals is outlined below.

The Liquor Act is amended by the Bill to enable the Commissioner to impose conditions on relevant producer/wholesaler licensees, artisan producer licensees, craft beer producer permittees and artisan spirits producer permittees to limit/specify the sample size and total volume of samples which can be sold per customer at promotional events. The imposition of such a condition overrides the general restriction on sample sizes prescribed in the Liquor Regulation.

Similar amendments enable the Commissioner to condition a limit on the volume of craft beer and/or artisan spirits that can be sold for consumption away from a promotional event, despite

takeaway amounts being specified in the Liquor Act. This conditioning power mirrors the existing provision in section 74A(4) of the Liquor Act which provides that the Commissioner may condition a takeaway limit for promotional events which overrides the 9L takeaway limit on craft beer limit specified in the Act.

Providing the Commissioner the administrative power to set alternative sample sizes/volumes to the Liquor Regulation and different takeaway limits to the Liquor Act is intended to provide a safeguard to individually restrict non-compliant licensees and permittees from supplying inappropriate amounts of liquor at promotional events. The limits of the conditions are clearly defined, reflect existing provisions contained in the Liquor Act and the decision to impose a condition is subject to review by the Queensland Civil and Administrative Tribunal (QCAT). Accordingly, it is considered the proposed amendments do not unreasonably impinge on the rights and liberties of individuals and is necessary to minimise harm, and the potential for harm, from alcohol abuse and misuse and associated violence under the main purposes of the Liquor Act.

It is envisaged the Commissioner would only use these administrative powers if the behaviour of non-compliant individual licensees necessitated setting alternative limits lower than those provided by the Act or Regulation.

Amendments to the promotional events framework provide that the Commissioner may authorise a relevant licensee or permittee to sell craft beer and/or artisan spirits at promotional events via a condition on the licence/permit. The Act states the conditioned authority to sell craft beer and/or artisan spirits at a promotional event covers the entirety of the hours in which the promotional event takes place, unless otherwise conditioned by the Commissioner. This provides the Commissioner the administrative power to set alternate operating hours for licensees and permittees at promotional events to restrict the sale of liquor at inappropriate times. For example, a promotional event can include farmer's markets or other such events operating in the very early morning or late at night.

It is noted that the Commissioner can only condition alternate times within the spread of hours the promotional event takes place. The limits of the conditions are clearly defined and are for the purposes of minimising harm, and the potential for harm, under the main purposes of the Liquor Act. Further, licensees and permittees can apply for QCAT to review a decision of the Commissioner to impose such a condition. Accordingly, it is considered the proposed amendments do not unreasonably impinge on the rights and liberties of individuals.

Consultation

Consultation with the craft brewing industry on general regulatory reform occurred following the release of the QCBS in November 2018. Between December 2019 and January 2020, approximately 60 per cent of independent craft brewers were surveyed on a legislative proposal relating solely to craft brewers. Public submissions on this previous proposal were also sought in January 2020. The craft brewing industry were generally supportive of amending the Liquor Act to introduce a new licence category specifically for craft beer.

A separate consultation process relating to the recommendations of the EP Report, focusing on support for artisan liquor producers, commenced in November 2019 and concluded in March 2020. Consultation was undertaken with 13 distilleries, three wineries, 25 breweries, two

meaderies, one cidery and other stakeholders, including industry representatives and social health stakeholders.

General agreement about the artisan producer licence authorisations contained in the Bill was reached at a roundtable meeting attended by representatives from the Queensland Hotels Association, ADA, Clubs Queensland, IBA, government agencies and other stakeholders on 2 March 2020.

The amendments contained in the Bill have been exempted from the Regulatory Impact Analysis process.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland, and is not uniform with or complementary to legislation of the Commonwealth or another state. However, other jurisdictions, including New South Wales and Tasmania, have introduced legislative initiatives to support the craft brewing and/or artisanal distilling industry.

Notes on provisions

Clause 1 states that, when enacted, the Bill will be cited as the *Liquor (Artisan Liquor) Amendment Act 2020*.

Clause 2 provides that the Bill will commence on proclamation.

Clause 3 provides that the Act amends the *Liquor Act 1992* (the Liquor Act).

Clause 4 amends section 4 (Definitions) to insert new definitions for *artisan distillery*, *artisan producer licence (beer)*, *artisan producer licence (spirits)*, *artisan spirits* and *craft brewery* to support the introduction of the new artisan producer licence and new permit authorising the sale of artisan spirits at promotional events. The clause removes the existing definition of craft brewery.

The clause also updates the definition of *public event* to refer to new section 101AA (Meaning of public event) inserted by the Bill.

Clause 5 amends section 9 (Ordinary trading hours) to outline the ordinary trading hours for the new artisan producer licence. Amendments to existing subsection 9(1A) exclude premises to which an artisan producer licence relates from the general ordinary trading hours provisions. New subsection 9(1D) details that, on a day other than Good Friday or Christmas Day, the ordinary trading hours of licensed premises to which an artisan producer licence relates are: 10am to midnight for on-premises consumption; 10am to 10pm for off-premises consumption; and the trading hours specified under the *Trading (Allowable Hours) Act 1990* for wholesale. The ordinary trading hours for on-premises and off-premises consumption align with the ordinary trading hours of a commercial hotel licence, while the wholesale hours align with those afforded to producer/wholesaler licensees.

Consistent with most other licence types, the new provisions also include an artisan producer licence as: potentially being subject to an order of the Commissioner for Liquor and Gaming (Commissioner), specifying ordinary trading hours at the premises; and subject to ordinary trading hours for Anzac Day under subsection 9(3).

Clause 6 amends section 42A (Commissioner may make guidelines) to insert a reference to new section 101AA into subsection 42A(1), example 4. This clarifies that the Commissioner may make guidelines in relation to public events, including examples of public events.

Clause 7 amends section 66 (Types of commercial other licence) to state that an artisan producer licence is a type of commercial other licence that may be granted and held under the Liquor Act.

Clause 8 amends section 73 (Authority of producer/wholesaler licence) to, broadly, expand the authority for the sale of liquor by a craft brewer at a promotional event to also include the sale of liquor by an artisan distiller and to align the provisions with those proposed for artisan producer licensees. These provisions only apply to a craft brewery or artisan distillery subject to a producer/wholesaler licence where the licensee has produced the liquor, on the licensed premises.

The amended provisions under subsection 73(2) enable a producer/wholesaler licensee, to sell craft beer or artisan spirits produced by the licensee on the licensed premises, to persons at a promotional event, for: (a) consumption away from the event (i.e. takeaway liquor); and/or (b) consumption at the event for the purposes of sampling only. To utilise these provisions, the licence must be subject to the appropriate condition mentioned in amended section 74A (Sale of craft beer) and/or new section 74B (Sale of artisan spirits). The licensee must also have written consent from the organiser of the promotional event. Restricting the sale of artisan liquor for consumption at the promotional event for the purpose of sampling only ensures licensees are unable to operate a de-facto bar at such events. The amendments expand the existing provisions by removing the requirement for samples to be provided free of charge and allow them to be sold.

New subsection 73(2A) specifies that the hours for the sale of craft beer and/or artisan spirits at promotional events are the hours during which the promotional event takes place, unless a condition of the licence provides otherwise. It is envisaged that the Commissioner may set alternate operating hours to restrict liquor sale times for promotional events operating in the very early morning (e.g. farmer's markets) or late at night (e.g. food and wine festival).

New subsection 73(2B) authorises a producer/wholesaler licensee, that is a craft brewery and/or artisan distillery, to sell craft beer and/or artisan spirits produced by the licensee to the holder of an artisan producer licence. To utilise this authority, the producer/wholesaler licensee must be subject to the appropriate condition mentioned in subsections 74A(2)(c) and/or 74B(2)(c).

The clause also renumbers from subsection 73(2A) onwards, due to the insertion of new subsections.

Clause 9 amends section 74A (Sale or supply of craft beer at promotional event) to rename the section as 74A (Sale of craft beer) and to give effect to the authorisations stated under section 73 as they relate to craft beer.

New subsection 74A(2)(b) provides that the Commissioner may impose a condition on the licence authorising a producer/wholesaler licensee, that is a craft brewer, to sell samples of beer produced at the licensee's craft brewery to persons to consume at a promotional event, for the purpose of sampling only. This is intended to prevent a relevant licensee from operating a de facto pop-up bar selling liquor for on-premises consumption. The amendments expand the existing provisions by removing the requirement for samples to be provided free of charge and allow them to be sold.

New subsection 74A(2)(c) authorises an eligible producer/wholesaler licensee to sell craft beer produced on their licensed premises to an artisan producer licensee. This condition will allow all artisan liquor producers in Queensland to be identified, in order to assess the required percentage of 'other' artisan liquor able to be sold by artisan producer licensees in accordance with their primary purpose under sections 75C and 75E.

New subsection 74A(2A) limits a relevant authority to sell craft beer at a promotional event to the hours of the promotional event, unless a licence condition provides otherwise.

Subsection 74A(3) is amended to prevent the Commissioner from imposing a relevant licence condition on a producer/wholesaler licensee if the licensee and any related body corporate of

the licensee under any licence, including licensees under the law of another State, produces a combined total of more than 5 million litres of beer in each financial year. This means the 5 million litre production threshold calculation takes into consideration the amount of beer produced from all licences held by the licensee or related companies including interstate licences, combined, in a financial year. It is consistent with the objective of supporting Queensland's small, boutique craft brewery businesses by preventing large breweries buying out and/or operating smaller producers through holding companies and the like.

Subsection 74A(4) is amended to update a section reference and remove an extraneous reference to 'supply' on the basis the definition of sell under the Liquor Act includes supply. The ability for the Commissioner to impose a licence condition in respect of the prescribed 9 litre limit on the total volume of craft beer that may be sold to each person for consumption away from the promotional event, under the relevant authority is retained.

Amendments to subsection 74A(5)(b) enable the Commissioner to impose further conditions in relation to craft beer that may be sold to persons at a promotional event, for consumption at the event for the purposes of sampling only. Specifically, the Commissioner may condition: the total volume of craft beer that may be sold to each person; and/or the volume of individual samples. For example, the Commissioner may condition a total volume of 600mL of craft beer to be sold to each person with an individual sample size of 150mL. This would enable a licensee to sell a maximum of four individual 150mL samples to each person at the promotional event. These provisions replicate the previous provisions which related specifically to the supply of samples free of charge.

New subsection 74A(5A) provides a head of power to prescribe, by way of regulation, the total volume of craft beer that may be sold to each person at a promotional including for the purpose of sampling and/or the volume of individual sample sizes. The prescribed amounts are to apply to every producer/wholesaler licence, unless a condition is imposed on the licence which includes alternate volumes. It is intended alternate volumes would only be imposed by condition for non-compliant licensees.

The clause also renumbers from 74A(2A) onwards, due to the insertion of new subsections.

Clause 10 inserts new section 74B (Sale of artisan spirits) to give effect to the authorisations stated under section 73 as they relate to artisan spirits.

The only substantive differences between amended section 74A and new section 74B relate to new subsections 75B(4) and (5), which provide the combined total of liquor that can be produced by the licensee or a related body corporate of the licensee (being in excess of 450,000 litres of spirits), and the limit on liquor that may be sold to persons at promotional events for consumption away from the event (being 1.5 litres of spirits).

Clause 11 amends section 75 (Restriction on sale of liquor under producer/wholesaler licence) to replace subsection 75(2)(c). New subsection 75(2)(c) extends the provisions that allow the sale of craft beer at promotional events to include artisan spirits if authorised under amended subsection 73(2) of the Liquor Act.

Clause 12 amends section 75A (Venue of promotional event not licensed premises for producer/wholesaler licence) to extend the existing provisions relating to the area for the sale of craft beer at a promotional event to include the sale of artisan spirits and to clarify that the

area occupied by the holder of a producer/wholesaler licence authorised to sell craft beer or artisan spirits at a promotional event, is not a licensed premises for the purposes of the producer/wholesaler licence. Subsections 75A(3)(a) and (b) are expanded to include the sale of artisan spirits in the deeming provision enabling certain regulatory and offence provisions within Part 6 of the Liquor Act to apply to the area occupied by the holder of a producer/wholesaler licence authorised to sell artisan liquor at a promotional event, as if that area is a licensed premises. This deeming provision is necessary in order to safely regulate the sale of artisan liquor at a promotional event in a manner compatible with the main purposes of the Liquor Act by applying responsible service of alcohol requirements/offences to the sale of liquor at promotional events, particularly in relation to the service of minors and unduly intoxicated persons.

Amendments to subsection 75A(5) provide that new sections 150A and 150B, which impose reporting requirements relating to eligibility for the artisan producer licence, are specifically identified as Part 6 provisions that do not apply to a producer/wholesaler licence as they are not directly relevant to the regulation of promotional events.

Clause 13 inserts a new Part 4, Division 4, Subdivision 7 (Artisan producer licence) comprising new sections 75B-75J. New subdivision 7 outlines the types, principal activity, authorities, restrictions and conditions on the granting of a licence with respect to the new artisan producer licence.

New section 75B (Types of artisan producer licence) states that an artisan producer licence may be granted to conduct a business with either, or both, of the following principal activities: producing and selling craft beer under new section 75C; producing and selling artisan spirits under new section 75E. The section also provides that an authority under an artisan producer licence to sell liquor does not apply unless a business is conducted on the licensed premises with one or both of these principal activities. This means that one artisan producer licence may have one or two principal activities being either the production and sale of craft beer solely, artisan spirits solely or craft beer and artisan spirits jointly.

An artisan producer licence granted with the principal activity of producing and selling craft beer is referred to as an artisan producer licence (beer). Similarly, an artisan producer licence granted with the principal activity of producing and selling artisan spirits is referred to as an artisan producer licence (spirits). Subsection 75B(5) clarifies that a single artisan producer licence may be granted and held to carry out the principal activity of producing and selling craft beer and artisan spirits at the same licensed premises. That is, although a single artisan producer licence is held by the licensee, the authorities and obligations of an artisan producer licence (beer) under sections 75D and 75H and artisan producer licence (spirits) under sections 75F and 75I will apply jointly to the licensed premises. This also means that even if both craft beer and artisan spirits are to be produced and sold at the premises, the licensee will only pay a single application fee and annual base licence fee for an artisan producer licence, as it is one licence.

New section 75C (Principal activity of a business under an artisan producer licence (beer)) details the criteria to be met in order to satisfy the principal activity of a business conducted at the licensed premises for the production and sale of craft beer.

Subsection 75C(1)(a) sets a minimum volume of at least 2,500 litres of beer being produced at the licensed premises each financial year. Setting a minimum production volume is intended to ensure a licence cannot be granted or held by non-genuine ‘backyard’ brewers. Subsection 75C(1)(b) limits the maximum production volume to no more than 5 million litres of beer each financial year (in combination with any beer produced by a related body corporate of the licensee under any licence, including interstate licences). This provision is intended to ensure a licence can only be granted and held by small independent brewers.

Subsection 75C(1)(c) provides that at least 70 per cent of the total value of liquor sales per financial year must be from craft beer produced on the licensed premises. Subsection 75C(1)(d) further provides that, for licensees which also produce and sell artisan spirits, the 70 per cent total value of sales may comprise of sales of craft beer and artisan spirits produced on the licensed premises. Subsection 75C(2) clarifies that the full sale value of a cocktail is counted when calculating the licensee’s liquor sales. These provisions are intended to align the sale of liquor for consumption on the premises with the operation of a taproom or tasting room where the licensee’s own product is sold predominantly, while allowing other similar products to be tasted for variety.

Subsection 75C(1)(e) states that, if the licensee is a corporation, the licensee must not be related to a brewer that is a large brewer. Subsection 75C(3) provides that a licensee is related to a brewer that is a large brewer if either of the following conditions are met: 20 per cent or more of the corporation’s shares are owned by, or held in trust for, a large brewer or subsidiary of a large brewer; or 20 per cent or more of the votes that may be cast at a general meeting of the corporation are able to be cast by, or on behalf of, a large brewer or a subsidiary of a large brewer. *Large brewer* is defined as a brewer that produces more than 40 million litres of beer in any financial year. In combination, these provisions are intended to ensure a licence can only be granted and held by an independent brewer. For example, a brewer which is majority owned by Carlton United Breweries would not meet this element of the principal activity of producing and selling craft beer.

New section 75D (Authority of artisan producer licence (beer)) details the authorities which apply during ordinary trading hours or extended trading hours, as well as authorities relating to the sale of the licensee’s craft beer at promotional events.

Under subsection 75D(1)(a), a licensee is authorised to: sell their own craft beer produced at the licensed premises; sell other craft beer and artisan spirits produced by other Queensland artisan producer licensees or producer/wholesaler licensees; and wine produced under the authority of a licence under the *Wine Industry Act 1994* (which only encompasses Queensland wine). Under the remainder of subsection 75D(1), a licensee is also authorised to: sell their own craft beer to the public for consumption off the premises (subsection 75D(1)(b)); sell their own craft beer by wholesale on the premises for consumption off the premises (subsection 75D(1)(c)); and take orders for their own craft beer, online from the licensee’s website, for consumption off the premises (subsection 75D(1)(d)). Limiting the sale of liquor products to only Queensland artisan liquor products differentiates the artisan producer licence from other licences which also allow the sale of liquor for consumption on and off the premises (e.g. a commercial hotel licence).

Subsection 75D(2) also authorises the licensee to sell their craft beer to persons at a promotional event if: a relevant condition is imposed on the licence under new section 75H;

and the licensee has the written consent of the organiser of the promotional event. Subsection 75D(4) specifies that the hours for the sale of craft beer at a promotional events are the hours in which the promotional event takes place, unless a condition of the licence provides otherwise. It is envisaged that the Commissioner may set alternate operating hours to restrict liquor sale times for promotional events operating in the very early morning (e.g. farmer's markets) or late at night (e.g. food and wine festival). These provisions mirror the amended authorities relating to promotional events for relevant producer/wholesaler licensees under section 73 of the Act. Similar restrictions on the hours of a promotional event during which artisan liquor may be sold will also apply to craft beer producer permits and artisan spirits producer permits.

Subsection 75D(3) states that the authorities under subsections 75D(1) and (2) are subject to the Liquor Act and the conditions stated in a particular licence.

New section 75E (Principal activity of a business under an artisan producer licence (spirits)) details the criteria to be met in order to satisfy the principal activity of a business conducted at the licensed premises for the production and sale of artisan spirits. The principal activity under section 75E, mirrors section 75C which provides the principal activity for craft brewers, with differences to account for the type of liquor being produced at the premises.

Subsection 75E(1)(a) sets a minimum production volume of at least 400 litres of spirits being produced at the licensed premises each financial year. Subsection 75E(1)(b) limits the maximum production volume to not more than 450,000 litres of spirits each financial year (in combination with any spirits produced by a related body corporate of the licensee under any licence, including interstate licences).

Subsection 75E(1)(e) prevents a licence being granted if the licensee is related to a large distiller. Subsection 75E(3) outlines the same requirements for whether a licensee is 'related' to a large distiller that are provided for brewers under section 75C(3). *Large distiller* is defined as a distiller that produces more than 2 million litres of spirits in any financial year under subsection 75E(4).

New section 75F (Authority of artisan producer licence (spirits)) details the authorities which apply during ordinary trading hours or extended trading hours, as well as authorities relating to the sale of the licensee's artisan spirits at promotional events. This provision mirrors new section 75D which provides the authority of an artisan producer licence (beer), with differences to account for the type of liquor being produced and sold on the premises.

Under subsection 75F(1)(a), a licensee is authorised to: sell their own artisan spirits produced at the licensed premises; sell other artisan spirits and craft beer produced by other Queensland artisan producer licensees or producer/wholesaler licensees; and wine produced under the authority of a licence under the *Wine Industry Act 1994*. Subsection 75F(1) also authorises a licensee to: sell to the public their own artisan spirits for consumption off the premises (subsection 75F(1)(b)); sell their own artisan spirits by wholesale on the premises for consumption off the premises (subsection 75F(1)(c)); and take orders for their own artisan spirits, online from the licensee's website, for consumption off the premises (subsection 75F(1)(d)).

Subsection 75F(2) further authorises the licensee to sell their artisan spirits to persons at a promotional event if: a condition is imposed on the licence under new section 75I; and the

licensee has the written consent of the organiser of the promotional event. Subsection 75F(4) specifies that the hours for the sale of artisan spirits at a promotional events are the hours in which the promotional event takes place, unless a condition of the licence provides otherwise. It is envisaged that the Commissioner may set alternate operating hours to restrict liquor sale times for promotional events operating in the very early morning (e.g. farmer's markets) or late at night (e.g. food and wine festival). These provisions mirror the amended authorities relating to promotional events for relevant producer/wholesaler licensees under section 73 of the Act.

Subsection 75F(3) states that authorities under subsections 75F(1) and (2) are subject to the Liquor Act and the conditions stated in a particular licence.

New section 75G (Restriction on grant of artisan producer licence) restricts when the Commissioner may grant an artisan producer licence. Under subsection 75G(a), the Commissioner may only grant an artisan producer licence if the business to be conducted on the premises will have the principal activity mentioned in new sections 75C(1) or 75E(1). Subsection 75G(b) restricts the grant of an artisan producer licence (beer) to the holder of a brewery licence within the meaning of section 77A of the *Excise Act 1901* (Cth) (Excise Act). The grant of an artisan producer licence (spirits) is restricted to the holder of a manufacturer's licence within the meaning of section 4 of the Excise Act by subsection 75G(c).

New section 75H (Sale of craft beer at promotional event) details the conditions which may be imposed with respect of the sale of craft beer, at a promotional event, by an artisan producer licence (beer). The Commissioner may impose a condition on a licence to: authorise the sale for consumption away from a promotional event; authorise the sale for consumption at the event for the purpose of sampling only; limit the total volume per person for consumption away from the promotional event; limit the total volume of samples per person for consumption at the event; and/or limit the volume of individual sample sizes. A head of power to prescribe general limits, by way of regulation, on the total volume of samples and individual sample sizes that may be sold is also included in new section 75H.

These provisions substantively mirror those detailed in amended section 74A with respect of producer/wholesaler licensees whose licensed premises is a craft brewery, including the allowable limit of 9 litres of takeaway liquor from a promotional event. Mirroring the provisions ensures that all craft brewer licensees (i.e. holders of an artisan producer licence (beer) or relevant producer/wholesaler licence) are afforded the same operating framework with respect of selling and promoting their products at promotional events. Similar conditions and limitations are also applied to craft beer producer permits.

New section 75I (Sale of artisan spirits at promotional event) mirrors the same conditions provided in new section 74B with respect to producer/wholesaler licensees whose licensed premises are an artisan distillery, for the sale of artisan spirits at a promotional event. This approach ensures that all artisan distiller licensees (i.e. holders of an artisan producer licence (spirits) or relevant producer wholesaler licence) are given the same opportunities to sell and promote their liquor at promotional events. Similar conditions and limitations are also applied to artisan spirits producer permits.

New section 75J (Venue of promotional event not licensed premises for artisan producer licence) replicates amended section 75A to make it clear that the place at which an artisan producer licensee sells liquor at a promotional event is not licensed premises. Subsections

75J(3) and (4) state that a relevant Part 6 provision and section 142ZZC (excluding 142ZZC(2)(b)) apply to the area at the event at which liquor is being sold.

Clause 14 amends section 86 (Hours to which application may relate etc.) to provide the ability for artisan producer licensees to apply for an extended trading hours approval. The amendments to subsections 86(1A) and 86(1B) allows artisan producer licensees to apply for extended trading hours for on-premises consumption, on a regular basis, between 12 midnight and 1am. Restricting late-night extended trading hours to 1am (rather than allowing 3am in safe night precincts or 2am elsewhere in the State) further reduces the potential for artisan producer licensees to operate their premises as a bar or nightclub. The amendment to subsection 86(2A) allows artisan producer licensees to apply for extended trading hours for takeaway sales of liquor between 9am and 10am if there is a demonstrated community need for extended morning trading hours. This affords artisan producer licenses the same early morning extended trading hours for off-premises consumption as commercial hotel licences.

Clause 15 amends section 100 (Available permits) to provide that an artisan spirits producer permit is a permit that can be granted and held under Part 4A of the Liquor Act.

Clause 16 amends section 101 (Definitions for div 2) to insert an artisan producer licence into the existing definition of *licence* for Part 4A, Division 2 of the Liquor Act. This amendment is necessary to allow the holder of an artisan producer licence to apply for a commercial public event permit. The amendment clarifies that an artisan producer licence is a licence under which the authority to sell liquor is extended to premises that are not the licence's main premises to enable the licence holder to sell liquor at a public event. The clause also amends the definition of *public event* to refer to new section 101AA.

Clause 17 inserts new section 101AA (Meaning of public event) to define 'public event'. Subsection 101AA(1) reproduces the definition of public event which was removed from section 101. Subsection 101AA(2) enables the Commissioner to make a guideline under section 42A to provide examples of public events.

Clause 18 amends section 103B (Authority of commercial public event permit) to provide that artisan producer licensees may only sell their own liquor at a public event i.e. craft beer or artisan spirits produced by the licensee on the licensee's licensed premises.

Clause 19 amends section 103W (Authority of craft beer producer permit) to provide that the holder of craft beer producer permit may sell samples of their own craft beer at a promotional event, with the consent of the event organiser. Previously, craft beer producer permittees were only allowed to supply samples free of charge at promotional events. New subsection 103W(1A) states that the authority under the permit applies during the hours of the promotional event, unless a condition of the permit provides otherwise. The amended section aligns the authority of a craft beer producer permit with the authority of an artisan producer licence (beer) and a relevant producer/wholesaler licensee (with respect of the sale of craft beer at promotional events), to ensure a consistent approach is taken to all craft brewer licensees (including interstate licensees operating under a permit).

The clause also removes a redundant reference to 'supplied' in subsection 103W(3), and renumbers from 103W(1A) onwards.

Clause 20 amends section 103X (Restriction on grant of craft beer producer permit) to provide that the Commissioner may only grant a craft beer producer permit if no more than 5 million litres of beer each financial year is produced by the permittee (in combination with any beer produced by a related body corporate of the permittee under any licence, including interstate licences). This amendment aligns the restriction on the craft beer producer permit with the restriction on the grant of a promotional events licence condition for relevant producer/wholesaler licensees and artisan producer licensees.

Clause 21 amends section 103Z (Premises to which craft beer producer permit relates) to remove redundant references to 'supplied' and 'supplying'.

Clause 22 amends section 103ZA (Conditions of craft beer producer permit) to enable the Commissioner to impose conditions on a craft beer producer permit that relate to the total volume of craft beer samples that may be sold to each person, and the volume of each individual sample that may be sold to persons at promotional events. New subsection 103ZA(1A) provides a head of power to prescribe, by regulation, the total volume and the volume of each individual sample of craft beer that may be sold to each person at a promotional event by regulation. The amended section aligns the ability to limit the total volume of samples and individual sample size by condition and regulation with provisions relating to the sale of craft beer samples under the authority of a producer/wholesaler licence or artisan producer licence.

The clause also renumbers from 103ZA(1A) onwards, due to the insertion of new subsections.

Clause 23 inserts a new Part 4A, Division 9 (Artisan spirits producer permits) comprising new sections 103ZB-103ZF. New division 9 outlines the authority, restriction on granting, duration, conditions and premises to which an artisan spirits producer permit relates. These provisions mirror the amended craft beer producer permit provisions to ensure all artisan liquor permittees are afforded the same operating framework with respect of selling and promoting their products at promotional events.

New section 103ZB (Authority of artisan spirits producer permit) details the authorities relating to the sale of artisan spirits, produced by the permittee at the permittee's artisan distillery, to persons at a promotional event. This provision substantively mirrors amended section 103W which provides the authority of a craft beer producer permit. To account for the difference in type of liquor being sold, an artisan spirits producer limits the total volume of artisan spirits that may be sold to persons for consumption away from the event to 1.5 litres (compared to 9 litres of craft beer), unless otherwise conditioned.

New section 103ZC (Restriction on grant of artisan spirits producer permit) states that the Commissioner may only grant an artisan spirits producer permit to the operator of an artisan distillery, and, if the Commissioner is satisfied the operator will only sell artisan spirits produced at their distillery to persons at the promotional event specified in the permit. Further, the Commissioner may only grant an artisan spirits producer permit if no more than 450,000 litres of spirits each financial year is produced by the permittee (in combination with any beer produced by a related body corporate of the permittee under any licence, including interstate licences). This amendment aligns the permit restrictions with those relating to the grant of a promotional events licence condition for relevant producer/wholesaler licensees and artisan producer licensees.

New section 103ZD (Duration of artisan spirits producer permit) states that the permit may be issued for a term no longer than 3 months, and is not transferable or renewable. The provisions mirror the duration provisions for a craft beer producer permit.

New section 103ZE (Premises to which artisan spirits producer permit relates) defines the area which is taken to be the premises to which the permit relates. To align with the craft beer producer permit, the premises is taken to be the area allocated to the permittee by the event organiser, unless otherwise conditioned by the Commissioner.

New section 103ZF (Conditions on artisan spirits producer permit) details conditions in relation to the sale of artisan spirits at promotional events that the Commissioner may impose on the permit namely limiting: the total volume per person for consumption away from the event; the total volume of samples per person for consumption at the event; and the volume of individual samples that may be sold for consumption at the event. The new section also provides an equivalent head of power for limiting the total volume and individual size of samples by way of regulation.

Clause 24 replaces section 148AB (Restriction on sale of craft beer) with a new section 148AB (Restriction on sale of craft beer and artisan spirits) which applies to the sale of craft beer or artisan spirits at a promotional event by a licensee or permittee (i.e. a relevant producer/wholesaler licensee, artisan producer licensee, craft beer producer permittee or artisan spirits producer permittee).

Under subsection 148AB(2), it is an offence for a licensee or permittee to sell craft beer or artisan spirits at a promotional event, for consumption away from the event, in an unsealed container. This substantively replicates the offence provision in previous subsection 148AB(1) however, also includes the sale of artisan spirits. The maximum penalty amount of 100 penalty units is retained and is comparable with other offence amounts under the Liquor Act for failure to undertake responsible practices and promotions.

Under subsection 148AB(3), it is also an offence to sell takeaway liquor or samples at a promotional event in excess of a volume limit which has been imposed by a licence or permit condition, or prescribed by regulation. Consistent with other offence provisions in this section, a maximum penalty of 100 penalty units is imposed. It is no longer an offence for licensees and permittees to sell samples of their own craft beer or artisan spirits at promotional events.

Clause 25 inserts new sections 150A (Notification of change - artisan producer licence (beer)) and 150B (Notification of change - artisan producer licence (spirits)), which require a corporation that holds an artisan producer licence to notify the commissioner if the licensee ceases to meet particular eligibility requirements for the licence.

Specifically, under subsections 150A(2)(a) and (3), a licensee related to a non-large brewer (e.g. a brewery that produces equal to or less than 40 million litres of beer in a financial year) that becomes a large brewer (e.g. production exceeds 40 million litres of beer in a financial year) must give the Commissioner written notice of the change within 14 days of the end of the financial year in which the brewer became a large brewer.

Under subsections 150A(2)(b) and (4), a licensee that becomes related to a large brewer (e.g. by being purchased by a large brewer), must give the Commissioner written notice of the change within 14 days of the day the licensee becomes related to the large brewer. A maximum

penalty of 100 penalty units applies if either of these criteria are not met. The criteria in subsection 150A(5) for determining whether a licensee that is a corporation is ‘related’ to a brewer mirror those outlined in the principal activity of an artisan producer licence (beer) under new subsection 75C(3). New subsection 150A(6) provides definitions of *large brewer* and *non-large brewer*.

New section 150B mirrors the provisions of new section 150A and applies them to an artisan producer (spirits) licence. To account for the difference in liquor produced, section 150B refers to a distiller becoming related to a *large distiller* (being a distiller that produces more than 2 million litres of spirits in a financial year).

Clause 26 amends section 155 (Minors on premises) to provide the definition of *exempt minor* in subsection 155(4) also includes premises to which an artisan spirits producer permit relates, unless the minor’s presence contravenes a condition of the permit. This amendment is necessary to provide for circumstances where an artisan spirits producer permittee may be selling their artisan spirits at a promotional event which is able to be attended by minors, such as a market or fair. However, the Commissioner retains authority under Part 5 of the Liquor Act to condition the permit to preclude minors being in the proximity of the area where the artisan spirits producer permittee is selling their spirits in order to minimise any potential for harm. The same provisions currently apply to a craft beer producer permittee.

Clause 27 amends section 155AC (Application of div 1A) to identify that Part 6, division 1A of the Liquor Act does not apply to premises to which an artisan spirits producer permit relates. This mirrors provisions that exclude premises to which a craft beer producer permit applies from the scope of Part 6, division 1A which applies various obligatory offences for licensees and permittees.

Clause 28 amends section 172 (Offer to purchase liquor made elsewhere than at licensed premises) to clarify that the section’s provisions prohibiting a licensee from taking or receiving an order for liquor elsewhere than at the licensed premises, do not apply to orders for artisan spirits taken or received at a promotional event under the authority of an artisan producer licence, artisan spirits producer permit or producer/wholesaler licence authorised under amended subsection 73(2)(a) to sell artisan spirits at a promotional event. This mirrors the existing provisions for orders for craft beer taken or received at a promotional event under the authority of a craft beer producer permit or authorised producer/wholesaler licensee selling craft beer. To further facilitate market access for artisan producer licensees, new subsections 172(2)(d) and (e) provide that orders may be taken or received for the sale of craft beer and artisan spirits online from an artisan producer licensee’s website.

Subsection 172(4) is amended to state that the offence provision in subsection 172(3) does not apply to the holder of an artisan spirits producer permit for orders taken at the promotional event that is the subject of the permit. This provisions previously only made reference to holders of a craft beer producer permit.

Clause 29 amends section 203 (Filing of returns) to enhance the existing reporting requirements for licensees by introducing a requirement for relevant producer/wholesaler licensees and artisan producer licensees to include details of promotional events attended during the licence period (subsections 203(3) and (3A)(d) respectively).

Artisan producer licensees will also be required to provide information about all liquor sold and produced under the authority of the licence during the licence period. If the licensee is a corporation, the return must also include details about the ownership of the licensee and the owner's production (if any) of liquor. Consistent with existing requirements under section 203, artisan producer licensees must file a return within 21 days after the end of the licence period. A maximum penalty of 25 penalty units is imposed. The amendments ensure artisan producer licensees are subject to equivalent reporting requirements and penalties for non-compliance as other equivalent licensees.

Subsection 203(4) is amended to provide that a return for an artisan producer licence must contain the particulars, and be accompanied by the documents, prescribed under a regulation. Further, under amended subsection 203(5), the Commissioner may give written notice requiring an artisan producer licensee to file a certified return, if the Commissioner is not satisfied the original return was accurate. Failure to comply with a notice to provide a certified return attracts a maximum penalty of 25 penalty units. These are existing offence provisions which have been expanded to encompass returns relating specifically to artisan producer licensees.

Clause 30 amends section 217 (Records to be kept by licensee) to prescribe particular records to be kept by a licensee under an artisan producer licence (production record) and permittees under a craft beer producer permit or artisan spirits producer permit (promotional events record). For artisan producer licensees, new subsection 217(1A) requires artisan producer licensees to make and maintain a true and up-to-date production record in respect of the volume of liquor produced by the licensee. The production record will provide evidence that the licensee continues to be a genuine craft brewer or artisan distiller within the definitions under the Liquor Act and as required under their principal activity. Subsection 217(2) is amended to detail how the production record must be kept. Failure to meet these requirements is an offence under amended subsection 217(5)(c).

To reflect that craft beer producer permittees are now able to sell samples, subsection 217(4A) is amended to provide that the promotional events records must include details of samples sold to persons at the event. For holders of the new artisan spirits producer permit, new subsection 217(4AA) provides that the promotional events record must be kept in line with the amended requirements for craft beer producer permittees. This requires details of samples sold at each promotional event and details of takeaway sales at each promotional event, including the taking or receiving of orders for artisan spirits produced by the permittee. Failure for a craft beer producer permittee or artisan spirits producer permittee to comply with the promotional events record reporting requirements attracts a maximum penalty of 350 penalty units, consistent with other offences in section 217. These reporting requirements are necessary to enable the Office of Liquor and Gaming Regulation to monitor attendance by artisan producers at promotional events and to ensure that artisan producers are only selling their own products at those events in accordance with the permit authority.

Producer/wholesaler licensees attending promotional events to sell their craft beer are no longer required to keep a promotional events record under section 217(4A). Instead, relevant producer/wholesaler licensees file a return on promotional events attended during the licence period under amended subsection 203(3).

Clause 31 amends section 228C (Inconsistency with authority to sell or supply craft beer and authority under commercial special facility licence) to expand the section to encompass all

relevant licences and permits authorised to sell craft beer or artisan spirits to persons at a promotional event. The amended section provides that, where an artisan producer sells craft beer or artisan spirits at a promotional event held at premises that are subject to a commercial special facility licence, the conditions of the commercial special facility licence regarding the supply of liquor override any conflicting conditions or authority of the artisan producer's producer/wholesaler licence, artisan producer licence, craft beer producer permit or artisan spirits producer permit. The clause also amends the section heading to reflect it relates to the sale of craft beer and artisan spirits.

Clause 32 inserts new Part 12, Division 22 (Transitional provisions for Liquor (Artisan Liquor) Amendment Act 2020) comprising new sections 355 and 356 to provide transitional arrangements supporting the introduction of the new artisan producer licence into the licensing framework.

New section 355 (Transition to artisan producer licence) provides that holders of an existing liquor licence may apply to the Commissioner to transition to the new licence type, subject to the general application requirements of section 105 and prescribed harm-minimisation provisions relating to new licence applications (e.g. requirements relating to a community impact statement, advertisement of applications, advice and comment by local government and police and objections to the application) of the Liquor Act. Existing producer/wholesaler licensees who apply to transition to an artisan producer licence on or before 30 June 2021 will not be required to pay the relevant application fee.

Under subsection 355(4), the Commissioner may grant the application only if satisfied the licensee is eligible for an artisan producer licence. If the Commissioner grants an artisan producer licence to an existing licensee: the existing licence ceases to apply to the licensee and licensed premises; the artisan producer licence will apply to the licensee and licensed premises; any conditions applying to the existing licence apply to the artisan producer licence; and any permits and extended trading approvals held under the existing licence will transition to the artisan producer licence to the extent they are able to be held or apply to the new licence. In the case of extended hours approvals, for example, an existing approval to trade until 2am will transfer to the artisan producer licence to the extent allowable under the licence being trading until 1am only.

Subsections 355(6) and (7) state that the Commissioner may impose conditions on the transitioned artisan producer licence (in accordance with section 107C of the Liquor Act), and is not prevented from varying any conditions due to the transition of conditions from the existing licence to the artisan producer licence.

New section 356 (No fee payable for application for s74A(2)(c) condition), a producer/wholesaler licence holder with an existing condition authorising the licensee to sell their craft beer at promotional events under subsections 74A(2)(a) or (b) of the Liquor Act prior to the Bill commencing, may apply at no cost for a condition under new subsection 74A(2)(c) authorising the licensee to sell their craft beer to an artisan producer licensee. An application fee is not applicable if the licensee applies on or before 30 June 2021.