

Queensland



INDIGENOUS COMMUNITIES LIQUOR LICENCES BILL 2002

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2002

A BILL

FOR

**An Act about preventing harm in indigenous community areas caused
by alcohol abuse and misuse and associated violence, and for
other purposes**

The Parliament of Queensland enacts—	1
PART 1—PRELIMINARY	2
1 Short title	3
This Act may be cited as the <i>Indigenous Communities Liquor Licences Act 2002</i> .	4 5
2 Commencement	6
(1) Sections 45, 89 and 91 commence on the day the <i>Community Services Legislation Amendment Act 2002</i> , section 38, commences.	7 8
(2) Section 62 commences on a day to be fixed by proclamation.	9
3 Purpose of Act	10
(1) The purpose of this Act is to prevent harm in community areas caused by alcohol abuse and misuse and associated violence.	11 12
(2) The purpose is to be achieved particularly by—	13
(a) establishing community liquor licence boards in community areas to manage canteens in the areas; and	14 15
(b) providing for the implementation by boards of particular recommendations of community justice groups for community areas; and	16 17 18
(c) providing for the transfer of general licences for canteens to boards; and	19 20
(d) providing for restrictions on applications for, and the transfer of, general licences for canteens.	21 22
4 Definitions	23
The dictionary in the schedule defines particular words used in this Act.	24

PART 2—COMMUNITY LIQUOR LICENCE BOARDS	1
<i>Division 1—Establishment and related provisions</i>	2
5 Establishment	3
A community liquor licence board for a community area may be established under a regulation.	4 5
6 Legal status	6
(1) A board—	7
(a) is a body corporate with perpetual succession; and	8
(b) has a common seal; and	9
(c) may sue and be sued in its corporate name.	10
(2) A board’s name is the ‘[insert name of community] Community Liquor Licence Board’.	11 12
(3) A board does not represent the State.	13
<i>Division 2—Functions and powers</i>	14
7 Functions and powers	15
(1) The functions of a board are to—	16
(a) manage the canteen in the community area for which it is established; and	17 18
(b) carry out other functions given to it under this or another Act.	19

- (2) A board must perform its functions in a way that achieves the purpose of this Act.¹ 1
2
- (3) A board has power to do all things reasonably necessary to be done for performing its functions. 3
4
- (4) Without limiting subsection (3), a board has the powers conferred on it by this or another Act. 5
6
- 8 Board to implement recommendations of community justice group** 7
8
- (1) A board must ensure that every written recommendation of the community justice group for the board's community area about responsible practices relating to the service, supply or promotion of liquor in the operation of the canteen in the area is implemented as soon as practicable.² 9
10
11
12
- (2) However, if the board decides not to implement a recommendation mentioned in subsection (1) because it would not be in the best interests of the community or the board, the board must give written notice to the group stating the board's reasons for its decision. 13
14
15
16
- (3) The notice must be given within 14 days after the board becomes aware of the group's recommendation. 17
18
- (4) At the end of the 14 days mentioned in subsection (3), the board or group may refer the matter to the chief executive for liquor for decision. 19
20
- (5) In deciding the matter, the chief executive must have regard to the reasons for the group's recommendation and the board's reasons for its decision. 21
22
23
- (6) The board must ensure the chief executive's decision is implemented as soon as practicable. 24
25

1 Under section 3(1), the purpose of the Act is to prevent harm in community areas caused by alcohol abuse and misuse and associated violence. Also, the *Financial Administration and Audit Act 1977*, section 46C(a), provides as follows—

Each statutory body shall—

- (a) ensure that its operations are carried out efficiently, effectively and economically;
- 2 For functions and powers of a community justice group relating to the operation of the canteen in the group's area, see the *Community Services (Aborigines) Act 1984*, section 45D(1)(c) and (2) or *Community Services (Torres Strait) Act 1984*, section 43D(1)(c) and (2).

<i>Division 3—Financial provisions</i>		1
9	Payments to be made to indigenous councils	2
	(1) A board must, within 28 days after the end of each quarter of a financial year, pay to the indigenous council for the board's community area an amount representing 75% of the board's net profits for the quarter.	3 4 5
	(2) The board must, within 14 days after the board receives the auditor-general's report under the <i>Financial Administration and Audit Act 1977</i> , section 46G, pay to the indigenous council the amount representing the board's net profits for the year less the total of the payments made under subsection (1) to the indigenous council.	6 7 8 9 10
	(3) For subsection (2), the board's net profits for the year is—	11
	(a) the amount of the board's net profits stated in its annual financial statements published under the <i>Financial Administration and Audit Act 1977</i> , section 46F(8); or	12 13 14
	(b) if the auditor-general states another amount for the board's net profits in the report prepared under section 46G of that Act—the other amount.	15 16 17
<i>Division 4—Membership</i>		18
10	Composition of board	19
	(1) A board comprises the number of members prescribed under a regulation.	20 21
	(2) The regulation must make provision about the appointment of a member as chairperson of the board.	22 23
	(3) Also, a regulation may make provision about the following—	24
	(a) eligibility for appointment, and appointment, of persons as members;	25 26
	(b) terms and duration of appointment of persons as members.	27
	(4) However, a member of an indigenous council is not eligible for appointment as a member.	28 29

11 Remuneration	1
A member is entitled to be paid the remuneration and allowances decided by the Governor in Council.	2 3
12 Criminal history checks	4
(1) A regulation may provide for the disclosure by the commissioner of the police service to a stated entity of a person’s criminal history for deciding whether the person is suitable to be appointed as a member.	5 6 7
(2) The entity must—	8
(a) not use the information for any purpose other than for the purpose mentioned in subsection (1); and	9 10
(b) as soon as practicable after the information is no longer needed for the purpose, destroy it.	11 12
(3) In this section—	13
“ criminal history ”, of a person, means the convictions, other than spent convictions, recorded against the person for offences, in Queensland or elsewhere, whether before or after the commencement of this section.	14 15 16 17
“ spent conviction ” means a conviction—	18
(a) for which the rehabilitation period under the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> has expired under that Act; and	19 20 21
(b) that is not revived as prescribed by section 11 of that Act.	22
 <i>Division 5—Business and conduct of board meetings</i>	 23
13 Conduct of business	24
Subject to this division, a board may conduct its business, including its meetings, in the way it considers appropriate.	25 26
14 Times and places of meetings	27
(1) A board must meet at least once every 3 months when and where it decides.	28 29

(2) The chairperson—	1
(a) may at any time call a meeting of the board; and	2
(b) must call a meeting if asked, in writing, by—	3
(i) the community justice group for the board’s community area; or	4 5
(ii) at least the number of members forming a quorum for the board.	6 7
(3) Notice of each meeting, including an adjourned meeting, must be given to each member at least 2 days before the day of the meeting unless it is impracticable to give the notice.	8 9 10
(4) The notice must be given in writing, unless each member has agreed, in writing, that notice of meetings under subsection (1) may be given orally.	11 12 13
(5) The notice must state—	14
(a) the day and time of the meeting; and	15
(b) the business to be conducted at the meeting.	16
15 Quorum	17
A quorum for a board is the number equal to one-half of the number of members or, if one-half is not a whole number, the next highest whole number.	18 19 20
16 Presiding at meetings	21
(1) The chairperson must preside at all board meetings at which the chairperson is present.	22 23
(2) If the chairperson is absent from a board meeting the member chosen by the members present must preside.	24 25
17 Conduct of meetings	26
(1) A question at a board meeting is decided by a majority of the votes of the members present.	27 28

(2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.	1 2 3
(3) A member present at the meeting who abstains from voting is taken to have voted for the negative.	4 5
(4) A board may hold meetings, or allow members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.	6 7 8
<i>Example of technology—</i>	9
Teleconferencing.	10
(5) A member who takes part in a board meeting under subsection (4) is taken to be present at the meeting.	11 12
(6) A resolution is validly made by a board, even if it is not passed at a board meeting, if—	13 14
(a) a majority of its members gives written agreement to the resolution; and	15 16
(b) notice of the resolution is given under procedures approved by the board.	17 18
18 Minutes	19
A board must keep—	20
(a) minutes of its meetings; and	21
(b) a record of any resolutions made under section 17(6).	22
19 Disclosure of interests by members	23
(1) This section applies to a member of a board if—	24
(a) the member has a direct or indirect interest in an issue being considered, or about to be considered, by the board; and	25 26
(b) the interest could conflict with the proper performance of the member's duties about the consideration of the issue.	27 28
(2) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a board meeting.	29 30 31

- (3) Unless the board otherwise directs, the member must not— 1
- (a) be present when the board considers the issue; or 2
 - (b) take part in a decision of the board about the issue. 3
- (4) The member must not be present when the board is considering 4
whether to give a direction under subsection (3). 5
- (5) If there is another member who must, under subsection (2), also 6
disclose an interest in the issue, the other member must not— 7
- (a) be present when the board is considering whether to give a 8
direction under subsection (3) about the member; or 9
 - (b) take part in making the decision about giving the direction. 10
- (6) If— 11
- (a) because of this section, a member is not present at a board 12
meeting for considering or deciding an issue, or for considering 13
or deciding whether to give a direction under subsection (3); and 14
 - (b) there would be a quorum if the member were present; 15
- the remaining members present are a quorum of the board for considering 16
or deciding the issue, or for considering or deciding whether to give the 17
direction, at the meeting. 18
- (7) A disclosure under subsection (2) must be recorded in the board's 19
minutes. 20
- (8) A contravention of this section does not invalidate any decision of 21
the board or the performance of a function or exercise of a power by the 22
board. 23

Division 6—Administration

20 Appointment of administrator

- (1) This section applies if the Minister is satisfied on reasonable 25
grounds— 27
- (a) a board has acted unlawfully or corruptly; or 28
 - (b) official misconduct, under the *Crimes and Misconduct Act 2001*, 29
is involved in the performance of the board's functions or 30
exercise of the board's powers; or 31

(c)	a board has acted, or is about to act, in a way that—	1
(i)	caused, or may cause, a significant deterioration in its financial viability; or	2 3
(ii)	will or may cause it to become insolvent; or	4
(d)	a board is unable to perform its functions under the Act.	5
(2)	The Governor in Council may, by gazette notice, appoint as administrator of the board (the “ administrator ”) a person the Minister considers has appropriate qualifications and experience to be the administrator.	6 7 8 9
(3)	The administrator must be appointed for the term, and on the conditions, decided by the Governor in Council.	10 11
(4)	The administrator—	12
(a)	holds office subject to the direction of the Minister; and	13
(b)	unless the administrator earlier ceases holding office—ceases holding office when the term of the appointment ends or, if an earlier day is stated by the chief executive by gazette notice as the day the administration ends, on the earlier day.	14 15 16 17
21	Members go out of office	18
	On the appointment of the administrator, the members go out of office.	19
22	Functions and powers of administrator	20
(1)	For all purposes of this and other Acts, the administrator is the board.	21
(2)	However, a regulation may limit the functions and powers of the administrator.	22 23
23	Administrator to give reports	24
	The administrator must give the Minister—	25
(a)	a report, at intervals stated by the Minister, on the board’s financial position, its functions and anything else the Minister requires the administrator to include in the report; and	26 27 28
(b)	a final report on the administration.	29

24 Recovery of costs of administration	1
(1) The Governor in Council may direct the board to pay to the Minister an amount stated in the direction as the costs and expenses of the administration.	2 3 4
(2) The amount may include salary and allowances payable to an officer of the public service who is appointed as administrator.	5 6
(3) The direction may state a time for payment.	7
(4) The amount is a debt payable to the State.	8
<i>Division 7—Miscellaneous provisions</i>	9
25 Delegation	10
(1) A board may delegate its powers under this Act to a member or an appropriately qualified employee of the board.	11 12
(2) However, a delegation does not affect the board's obligations as a licensee under the <i>Liquor Act 1992</i> .	13 14
26 Protection of members from civil liability	15
(1) A member is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.	16 17
(2) If subsection (1) prevents a civil liability attaching to a member, the liability attaches instead to the State.	18 19
27 Reporting requirements	20
(1) A board must, within 14 days after the end of each of the board's reporting periods, give the chief executive a statement in the approved form about its operations in the preceding reporting period.	21 22 23
(2) The approved form must include a statement of the board's income and expenditure in each reporting period.	24 25
(3) The chairperson of the board must certify whether the statement is in agreement with the board's accounts.	26 27
(4) In this section—	28

“reporting period”, for a board, means the period prescribed under a regulation for the board or, if a period is not prescribed under a regulation, a month.	1 2 3
28 Application of other Acts	4
(1) A board is—	5
(a) a statutory body under the <i>Financial Administration and Audit Act 1977</i> and the <i>Statutory Bodies Financial Arrangements Act 1982</i> ; and	6 7 8
(b) a unit of public administration under the <i>Crime and Misconduct Act 2001</i> .	9 10
(2) The <i>Statutory Bodies Financial Arrangements Act 1982</i> , part 2B, ³ states the way in which a board’s powers under this Act are affected by the <i>Statutory Bodies Financial Arrangements Act 1982</i> .	11 12 13
29 Board’s seal	14
A board’s seal must be kept in the custody directed by the board and may be used only as authorised by the board.	15 16
30 Judicial notice of chairperson’s signature and office	17
Judicial notice must be taken of—	18
(a) the official signature of a person who is or has been a chairperson; and	19 20
(b) the fact that the person holds or has held the office concerned.	21

3 *Statutory Bodies Financial Arrangements Act 1982*, part 2B (Powers under this Act and relationship with other Acts)

31 Authentication of documents	1
A document made by a board, other than a document that is required to be sealed, is sufficiently made if it is signed by the chairperson or a person authorised by the board.	2 3 4
PART 3—PROVISIONS ABOUT GENERAL LICENCES FOR CANTEENS	5 6
32 Restriction on application for general licence	7
(1) An entity, other than a board or another entity prescribed under a regulation, may not apply for a general licence for premises in a community area.	8 9 10
(2) This section applies despite the <i>Liquor Act 1992</i> , part 5. ⁴	11
33 Transfer of general licence	12
(1) A general licence for the canteen in a community area may, by regulation, be transferred from the licensee to the board for the area.	13 14
(2) The Minister may recommend the Governor in Council make the regulation, only if the Minister—	15 16
(a) has consulted with residents of the area about the proposed transfer; and	17 18
(b) is satisfied the transfer is necessary to achieve the purpose of this Act. ⁵	19 20
(3) However, failure to comply with subsection (2)(a) does not affect the regulation's validity.	21 22

4 *Liquor Act 1992*, part 5 (Grant, variation and transfer of licences and permits)

5 Under section 3(1), the purpose of the Act is to prevent harm caused by alcohol abuse and misuse and associated violence in community areas.

(4) Immediately after commencement of the regulation, the chief executive for liquor must reissue the general licence for the canteen to the board as if it had been transferred under the *Liquor Act 1992*, section 113.

(5) This section applies despite the *Liquor Act 1992*, part 5.

34 Regulation for implementing transfer

(1) A regulation (an “**implementation regulation**”) may be made for giving effect to, or allowing or facilitating the doing of anything for giving effect to, the transfer of the general licence for the canteen from the licensee to the board.

(2) Without limiting subsection (1), a regulation may be made about the following—

- (a) the assets and liabilities of the licensee relating to the canteen that are, or are not, assets and liabilities of the licensee or board;
- (b) the enforcement of contracts, guarantees, undertakings and securities entered into or given by or on behalf of the licensee relating to the canteen against the board;
- (c) the employment, rights and entitlements of the licensee’s employees engaged in the management or operation of the canteen;
- (d) legal proceedings taken, or that could have been taken, against the licensee relating to the canteen being continued or started against the board.

(3) An implementation regulation may have retrospective operation to a day not earlier than the transfer of the licence.

(4) An implementation regulation must declare it is made under this section.

35 Compensation not payable

The State or the board is not liable to pay any entity compensation because of—

- (a) the transfer of the general licence to the board; or
- (b) the making of an implementation regulation for the transfer.

36	Restriction on transfer of general licence	1
	(1) A board may apply for a transfer of its general licence for the canteen in its community area only if the transfer is approved by the Governor in Council under a regulation.	2 3 4
	(2) The regulation must state the name of the entity to whom the licence may be transferred.	5 6
	(3) The Minister may recommend the Governor in Council give the approval, only if the Minister is satisfied the board's management of the canteen to which the licence relates is no longer necessary to achieve the purpose of this Act.	7 8 9 10
	(4) This section applies despite the <i>Liquor Act 1992</i> , part 5.	11
	 PART 4—OFFENCES AND LEGAL PROCEEDINGS	12
37	Obstructing members	13
	(1) A person must not obstruct or improperly influence a member in performing the member's functions under this Act.	14 15
	Maximum penalty—200 penalty units.	16
	(2) In this section—	17
	“influence” includes attempt to influence.	18
	“obstruct” includes hinder, resist and attempt to obstruct.	19
38	Offences under Act are summary	20
	(1) An offence against this Act is a summary offence.	21
	(2) A proceeding for the offence must start within the later of the following periods to end—	22 23
	(a) 1 year after the commission of the offence;	24
	(b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.	25 26 27

39	Statement of complainant’s knowledge	1
	In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant’s knowledge on a stated day is evidence the matter came to the complainant’s knowledge on that day.	2 3 4 5
	PART 5—MISCELLANEOUS PROVISIONS	6
40	Approved forms	7
	The chief executive may approve forms for use under this Act.	8
41	Regulation-making power	9
	(1) The Governor in Council may make regulations under this Act.	10
	(2) A regulation may be made about the following—	11
	(a) fees payable under this Act;	12
	(b) imposing a penalty of not more than 20 penalty units for a contravention of a provision of a regulation.	13 14
	PART 6—AMENDMENT OF LIQUOR ACT 1992	15
42	Act amended in pt 6	16
	This part amends the <i>Liquor Act 1992</i> .	17
43	Amendment of s 3 (Objects of Act)	18
	(1) Section 3—	19
	<i>insert—</i>	20

‘(da)to regulate the sale and supply of liquor in particular areas to minimise harm caused by alcohol abuse and misuse and associated violence; and’.	1 2 3
(2) Section 3(da) to (f)— <i>renumber</i> as section 3(e) to (g).	4 5
44 Amendment of s 4 (Definitions)	6
(1) Section 4— <i>insert</i> —	7 8
‘ “Aboriginal police officer” means an Aboriginal police officer who is—	9
(a) appointed under the <i>Community Services (Aborigines) Act 1984</i> for the community area of a Council; and	10 11
(b) authorised under that Act to exercise the powers of an investigator under part 7 of this Act for the administration and enforcement of a prescribed provision and sections 168B, 169 and 171 in the area.	12 13 14 15
“approved form” means a form approved by the chief executive.	16
“community justice group” means a community justice group established under the <i>Community Services (Aborigines) Act 1984</i> , part 3A, or <i>Community Services (Torres Strait) Act 1984</i> , part 3A.	17 18 19
“have in possession” includes have under control in any place, whether for the use or benefit of the person in relation to whom the term is used or another person, even though another person has the actual possession or custody.	20 21 22 23
“Island police officer” means an Island police officer who is—	24
(a) appointed under the <i>Community Services (Torres Strait) Act 1984</i> for the community area of a Council; and	25 26
(b) authorised under that Act to exercise the powers of an investigator under part 7 of this Act for the administration and enforcement of a prescribed provision and sections 168B, 169 and 171 in the area.	27 28 29 30
“prescribed provision” means—	31
(a) the <i>Community Services (Aborigines) Act 1984</i> , section 45T; or	32

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(b) the <i>Community Services (Torres Strait) Act 1984</i> , section 43T. ⁶	1
“prescribed quantity” see section 173H(2).	2
“public place” , for a restricted area, means—	3
(a) a place the public is entitled to use, open to the public or used by the public, whether or not on payment of an amount; or	4 5
(b) a vehicle, boat or aircraft that is in a place mentioned in paragraph (a).	6 7
“restricted area” means an area declared under section 173G(1) to be a restricted area. ⁷ .	8 9
(2) Section 4, definition “investigator”, paragraph (c)—	10
<i>omit, insert—</i>	11
‘(c) in part 7—	12
(i) any police officer; or	13
(ii) for the administration and enforcement of sections 168B, 169 and 171—an Aboriginal police officer or Island police officer. ⁷ ’.	14 15 16
 45 Amendment of s 4 (Definitions)	 17
Section 4, definition “Aboriginal police officer”, paragraph (a)—	18
<i>omit, insert—</i>	19
‘(a) appointed under the <i>Community Services (Aborigines) Act 1984</i> or <i>Local Government (Aboriginal Lands) Act 1978</i> for a community area; and’.	20 21 22

6 *Community Services (Aborigines) Act 1984*, section 45T and *Community Services (Torres Strait) Act 1984*, section 43T (Possession or consumption of alcohol in or on dry place)

7 For the exercise of powers of an Aboriginal police officer or Island police officer, see section 174A.

46	Amendment of s 21 (Jurisdiction and powers of Tribunal)	1
	Section 21(1), ‘that may be made to it under this Act or another Act’—	2
	<i>omit, insert—</i>	3
	‘that, under this or another Act, it is authorised to hear and determine’.	4
47	Amendment of s 30 (Persons entitled to appeal)	5
	Section 30—	6
	<i>insert—</i>	7
	‘(2) However, if, under section 111(2), the chief executive decides to vary conditions of a licence or permit relating to a restricted area, a person who made a submission or objection in the proceeding for the variation is not entitled to appeal against the chief executive’s decision.’.	8 9 10 11
48	Amendment of s 42 (Power of delegation)	12
	(1) Section 42(1), after ‘government’—	13
	<i>insert—</i>	14
	‘other than a Council’.	15
	(2) Section 42—	16
	<i>insert—</i>	17
	‘(1A) However, a delegation under subsection (1) for the issue of a permit relating to a restricted area may only be given to an appropriately qualified officer of the department.’.	18 19 20
	(3) Section 42(2), after ‘government’—	21
	<i>insert—</i>	22
	‘other than a Council’.	23
	(4) Section 42(1A) to (3)—	24
	<i>renumber</i> as section 42(2) to (4).	25

49 Amendment of s 97 (Available permits)	1
Section 97—	2
<i>insert—</i>	3
‘(f) a restricted area permit.’	4
50 Amendment of s 99 (Restriction on grant of general purpose permit)	5
Section 99—	6
<i>insert—</i>	7
‘(2) The chief executive may grant a general purpose permit only to—	9
(a) a non-proprietary club; or	10
(b) another entity—if the chief executive is satisfied all the net proceeds from the sale of liquor under the permit will be used for the benefit of the community.	11
	12
	13
‘(3) If the applicant for a general purpose 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.’	14
	15
	16
51 Insertion of new pt 4, div 13B	17
After section 103K—	18
<i>insert—</i>	19
‘ <i>Division 13B—Restricted area permits</i>	20
‘103L Authority of restricted area permit	21
‘(1) A restricted area permit authorises the permittee to have in possession in a public place in a restricted area more than the prescribed quantity of liquor for the area at the times on the day or days, and for the purpose, stated in it.	22
	23
	24
	25
‘(2) The permit is subject to this Act and the conditions prescribed under a regulation or imposed by the chief executive.	26
	27
‘(3) If a restricted area permit authorises the permittee to have in possession liquor for carrying in or on a vehicle, boat, aircraft, animal or other thing, the permit is, subject to its express terms, authority for the	28
	29
	30

carrying of liquor only once at the times on the day or days, and for the purpose, stated in the permit.	1 2
‘103M Restriction on grant of restricted area permit	3
‘The chief executive must not grant an application for a restricted area permit if the chief executive is satisfied—	4 5
(a) the amount of liquor the applicant has applied to have in possession is reasonable for the purpose or event stated in the application; and	6 7 8
(b) if the purpose is not merely personal to the applicant—another restricted area permit has not been issued to another person for the purpose or event.’.	9 10 11
52 Amendment of s 105 (Requirements for applications)	12
(1) Section 105(1), ‘any purpose of this part’—	13
<i>omit, insert—</i>	14
‘or relating to a licence or a permit for any purpose under this Act’.	15
(2) Section 105(1)(b)—	16
<i>omit, insert—</i>	17
‘(b) be in the approved form; and’.	18
53 Amendment of s 107AA (Chief executive may impose conditions on licences and permits)	19 20
Section 107AA—	21
<i>insert—</i>	22
‘(c) to minimise harm caused by alcohol abuse and misuse and associated violence; or	23 24
(d) to minimise alcohol related disturbances, or public disorder, in a locality.’.	25 26

54 Amendment of s 111 (Variation of licence)	1
(1) Section 111(2)—	2
<i>omit, insert—</i>	3
‘(2) The chief executive may, on the chief executive’s own initiative, seek to vary a licence in relation to any 1 or more of the following—	4
(a) the restriction of the authority under the licence;	6
(b) the ordinary hours of the licence;	7
(c) the hours stated in the licence;	8
(d) the description of the licensed premises;	9
(e) the type, quantity and availability of liquor from the licensed premises;	10
(f) responsible practices in relation to the service, supply or promotion of liquor.	12
<i>Examples for paragraph (f)—</i>	14
1. Providing meals.	15
2. Prohibiting takeaway sales of liquor to taxi drivers.	16
3. Prohibiting a licensee holding a person’s financial-institution access card.	17
‘(2A) The chief executive may exercise the power under subsection (2) in the same way for all licenced premises in a restricted area.’	19
(2) Section 111(3), from ‘between’—	21
<i>omit, insert—</i>	22
‘—	23
(a) on Anzac Day—between 6 a.m. and 1 p.m; or	24
(b) on another day—between 7 a.m. and 10 a.m.’.	25
55 Insertion of new s 112A	26
After section 112—	27
<i>insert—</i>	28
‘ 112A Compensation not payable for variation	29
‘Compensation is not payable to any person for the variation of a licence under section 111(2).’	30
	31

56 Amendment of s 116 (Public interest relevant to applications)	1
Section 116(1)—	2
<i>insert—</i>	3
‘(d) a club licence or permit the chief executive, by written notice given to the applicant, declares is a licence or permit to which this paragraph applies.’.	4 5 6
57 Insertion of new s 117A	7
After section 117—	8
<i>insert—</i>	9
‘117A Comments about particular applications	10
‘(1) As soon as practicable after the chief executive receives an application relating to a restricted area, the chief executive may ask any 1 or more of the following to give the chief executive comments about the application—	11 12 13 14
(a) the local government that may exercise jurisdiction in the area;	15
(b) the assistant commissioner for the locality to which the application relates;	16 17
(c) if the area is or is in a community area—the community justice group for the area.	18 19
‘(2) In deciding the application, the chief executive must have regard to comments received from the entities mentioned in subsection (1). ⁸ ’.	20 21
58 Amendment of s 121 (Conference of concerned persons and decision by chief executive)	22 23
(1) Section 121(1) to (4)—	24
<i>omit, insert—</i>	25
‘(1) If the chief executive receives an objection under section 119 to an application, the chief executive must invite the following persons to attend a conference before making a decision on the application—	26 27 28

8 Also, see section 121 (Conference of concerned persons and decision by chief executive).

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(a) the applicant;	1
(b) persons who properly made an objection to the grant of the application.	2 3
‘(1A) Also, the chief executive may invite the following to attend the conference—	4 5
(a) a representative of the local government for the area, or assistant commissioner for the locality, to which the application relates;	6 7
(b) if the application relates to a community area—the community justice group for the area.	8 9
‘(2) The chief executive must give reasonable notice of when and where the conference is to be held to the persons invited to attend.	10 11
‘(3) However, the chief executive is not required to hold a conference if the persons mentioned in subsection (1)(b) tell the chief executive they will not be attending or they do not attend at the time and place stated in the notice.	12 13 14 15
‘(3A) The chief executive may take part in the conference.	16
‘(4) If—	17
(a) at the conference, agreement is reached between the applicant and other conferring persons on issues about the application; and	18 19
(b) agreed terms are put in writing and signed by the applicant and the conferring persons mentioned in subsection (1);	20 21
the chief executive must have regard to the agreement in making a decision on the application.’.	22 23
(2) Section 121(5), from ‘In’ to ‘grant an application;’—	24
<i>omit, insert—</i>	25
‘Also, in deciding whether to grant the application,’.	26
(3) Section 121(5)(f), after ‘entertainment permit’—	27
<i>insert—</i>	28
‘or an application relating to a restricted area’.	29
(4) Section 121(5)—	30
<i>insert—</i>	31
‘(fa) if the application relates to a community area—comments from the community justice group for the area; and’.	32 33

(5) Section 121(5)(c) to (h)—	1
<i>renumber</i> as section 121(5)(a) to (g).	2
(6) Section 121(7)—	3
<i>omit.</i>	4
59 Amendment of s 121A (Renewal of permits for extension of hours beyond 3 a.m.)	5
	6
Section 121A(3)(b), ‘section 121(5)(h)’—	7
<i>omit, insert—</i>	8
‘section 121(5)(g)’.	9
60 Amendment of s 134 (Cancellation, suspension or variation of permits)	10
	11
Section 134—	12
<i>insert—</i>	13
‘(1A) Also, the chief executive may vary a permit that relates to premises in a restricted area to make the conditions of the permit consistent with the conditions of licences for licensed premises in the area.’.	14
	15
	16
61 Insertion of new s 135A	17
Part 5, division 3, subdivision 2—	18
<i>insert—</i>	19
‘135A Compensation not payable for variation	20
‘Compensation is not payable to any person for the variation of a permit under section 134(1A).’.	21
	22

62 Insertion of new s 148A	1
After section 148—	2
<i>insert—</i>	3
‘148A Obligations of licensees and permittees relating to the service, supply and promotion of liquor	4
‘(1) This section imposes obligations on licensees and permittees in the conduct of business on licensed premises or premises to which a permit relates for—	6
(a) maintaining a safe environment for patrons and staff of the premises; and	9
(b) ensuring liquor is served, supplied and promoted in a way that is compatible with minimising harm from the use of liquor and preserving the peace and good order of the neighbourhood of the premises.	10
‘(2) The licensee or permittee must not engage in a practice or promotion that may encourage rapid or excessive consumption of liquor.	11
Maximum penalty—100 penalty units.	12
‘(3) The licensee or permittee must engage in practices and promotions that encourage the responsible consumption of liquor.	13
Maximum penalty—100 penalty units.	14
‘(4) The licensee or permittee must provide and maintain a safe environment in and around the premises.	15
Maximum penalty—100 penalty units.	16
‘(5) A regulation may prescribe examples of what are acceptable or unacceptable practices or promotions for subsections (2) to (4).	17
‘(6) A practice or promotion prescribed under a regulation for a subsection does not limit the subsection.’.	18
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63 Amendment of s 154 (Alteration etc. and maintenance of licensed premises)	1
	2
Section 154(1), before the penalty—	3
<i>insert—</i>	4
‘ <i>Examples for subsection (1)—</i>	5
1. The licensee of a detached bottle shop in a shopping centre changes the relevant leasing arrangements by reducing the overall area the shop is to occupy. Therefore the licensee must apply for the chief executive’s approval to alter the licensed premises permanently.	6 7 8 9
2. An RSL club is the licensee of a licensed club and wishes to erect a tent next to its licensed premises to provide liquor on Anzac Day. Therefore the licensee must apply for the chief executive’s approval to increase the area of the licensed premises for that occasion.’	10 11 12 13
64 Insertion of new s 168B	14
Part 6, division 2—	15
<i>insert—</i>	16
‘168B Prohibition of possession of liquor in restricted area	17
‘(1) A person must not, in a public place in a restricted area to which this section applies because of a declaration under section 173H, have in possession more than the prescribed quantity of liquor for the area, other than under the authority of a restricted area permit.	18 19 20 21
Maximum penalty—	22
(a) for a first offence—500 penalty units; or	23
(b) for a second offence—700 penalty units or 6 months imprisonment; or	24 25
(c) for a third or later offence—1 000 penalty units or 18 months imprisonment.	26 27
‘(2) However, subsection (1) does not apply to the possession of liquor in the ordinary course of lawful business by—	28 29
(a) a licensee or permittee in the licensee’s or permittee’s licensed premises; or	30 31
(b) a carrier who—	32
(i) has collected it from, and is delivering it to, licensed premises in the area; or	33 34

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(ii) has collected it from licensed premises outside the area and is delivering it to licensed premises in the area; or	1 2
(iii) has collected it from licensed premises in the area and is delivering it to licensed premises outside the area; or	3 4
(c) if the liquor was seized under part 7, division 1—a carrier who is carrying it, under the direction of an investigator, in a restricted area.	5 6 7
‘(3) In a proceeding for an offence against subsection (1), proof that liquor was, at the material time, in or on a vehicle is conclusive evidence that the operator of the vehicle had in possession all the liquor in or on the vehicle unless the operator proves that, at the time, he or she neither knew nor had reason to suspect that the liquor was in or on the vehicle.	8 9 10 11 12
‘(4) For subsection (3), it is immaterial that another person claims to have had in possession any of the liquor at the material time.	13 14
‘(5) In this section—	15
“ carrier ” means a carrier, delivery person or other person engaged in the ordinary course of lawful business of delivering liquor.	16 17
“ licensed premises ” includes premises to which a permit relates.	18
“ operator ”, of a vehicle, includes—	19
(a) the person in command or control, or who appears to be in command or control, of the vehicle; and	20 21
(b) for a vehicle registered in a State or Territory under a law of the State or Territory providing for the registration of vehicles—the person in whose name the vehicle is so registered.	22 23 24
“ vehicle ” includes a boat and an aircraft.’.	25
 65 Amendment of s 173A (Definitions)	 26
Section 173A—	27
<i>insert—</i>	28
‘ “ local government ” does not include a Council.’.	29

66 Insertion of new pt 6A	1
After section 173E—	2
<i>insert—</i>	3
‘PART 6A—RESTRICTED AREAS	4
‘173F Purpose of pt 6A	5
‘The purpose of this part is to provide for the declaration of areas for minimising—	6 7
(a) harm caused by alcohol abuse and misuse and associated violence; and	8 9
(b) alcohol related disturbances, or public disorder, in a locality.	10
‘173G Declaration of restricted area	11
‘(1) A regulation may declare an area to be a restricted area.	12
‘(2) Without limiting subsection (1), community area, or part of a community area, may be declared to be a restricted area.	13 14
‘(3) In recommending the Governor in Council make the regulation, the Minister must be satisfied the declaration is necessary to achieve the purpose of this part.	15 16 17
‘173H Declaration of prohibition of possession of liquor in restricted area	18 19
‘(1) A regulation may declare that a restricted area is an area to which section 168B applies.	20 21
‘(2) A regulation under subsection (1) must state the quantity of liquor that a person may have in possession in a public place in the restricted area (the “ prescribed quantity ”) without a restricted area permit.	22 23 24
‘173I Consultation with community justice groups for declarations	25
‘(1) This section applies if a community area is, or a community area or part of a community area is in—	26 27
(a) an area to be declared under a regulation under section 173G to be a restricted area; or	28 29

(b) a restricted area to be declared under a regulation under section 173H to be an area to which section 168B applies.	1 2
‘(2) The Minister may recommend the Governor in Council make the regulation only if the Minister has consulted with the community justice group for the community area about the declaration or, if the group made a recommendation about the declaration, the Minister has considered the recommendation.	3 4 5 6 7
‘(3) Also, the Minister must consider a recommendation made by the community justice group about changing the declaration.	8 9
‘(4) However, failure to comply with subsection (2) or (3) does not affect the validity of a regulation made for the subsection.	10 11
‘173J Notice about prohibition of possession of liquor in restricted area	12 13
‘(1) As soon as practicable after a declaration under section 173H for a restricted area, the chief executive must—	14 15
(a) give written notice about the declaration to the following—	16
(i) the local government that may exercise jurisdiction in the area;	17 18
(ii) each assistant commissioner for a locality in the area;	19
(iii) if the area is, or is in, a community area—the community justice group for the area; and	20 21
(b) publish a notice about the declaration in a newspaper circulating in the area; and	22 23
(c) erect or display and maintain a notice about the declaration at the places where public roads enter the area.	24 25
‘(2) A notice under subsection (1)(c) must—	26
(a) sufficiently identify the area; and	27
(b) state in general terms the effect of section 168B and the penalty for an offence against the section; and	28 29
(c) be easily visible to persons entering the area.	30
‘(3) A failure of the chief executive to erect, display or maintain a notice under subsection (1)(c) does not affect a person’s liability to be prosecuted for an offence against section 168B.	31 32 33

‘(4) In this section—	1
“public road” means a road ordinarily used by the public.’.	2
67 Insertion of new s 174A	3
After section 174—	4
<i>insert—</i>	5
‘174A Powers of Aboriginal and Island police officers	6
‘(1) An investigator who is an Aboriginal police officer or Island police officer may only exercise a power under this part for the administration and enforcement of sections 168B, 169 and 171 in a restricted area that is, or is in, the community area for which the officer holds appointment.	7 8 9 10
‘(2) Subsection (3) applies for an Aboriginal police officer or Island police officer exercising an investigator’s powers under this part for the administration and enforcement of a prescribed provision by the officer.	11 12 13
‘(3) This part applies to the officer as if—	14
(a) a reference to an investigator were a reference to an Aboriginal police officer or Island police officer; and	15 16
(b) the prescribed provision were a provision of this Act.	17
<i>Examples for subsection (3)—</i>	18
1. An Aboriginal or Island police officer may exercise a power under section 175 if the officer has a reasonable suspicion that a vehicle is being used in the commission of an offence against a prescribed provision.	19 20 21
2. An Aboriginal or Island police officer may exercise the power of entry under section 176 for finding out whether a prescribed provision is being complied with.	22 23
3. An Aboriginal or Island police officer may exercise a power of seizure under section 177(4) if the officer has the reasonable belief mentioned in the subsection.’.	24 25
68 Amendment of s 176 (Entry and search—monitoring compliance)	26
Section 176(2)—	27
<i>insert—</i>	28
‘(e) the place is a public place under the <i>Community Services (Aborigines) Act 1984</i> , part 3B, or <i>Community Services (Torres Strait) Act 1984</i> , part 3B, that has been declared under that part as a dry place.’.	29 30 31 32

69	Amendment of s 178 (General powers of investigator in relation to places)	1
		2
	(1) Section 178(1)(b), after ‘inspect,’—	3
	<i>insert</i> —	4
	‘measure, test,’.	5
	(2) Section 178(1)—	6
	<i>insert</i> —	7
	‘(ca)take a sample of or from a thing at the place for analysis to find out whether or not the thing is liquor;’.	8
		9
	(3) Section 178(1)(e), ‘(d)’—	10
	<i>omit, insert</i> —	11
	‘(e)’.	12
	(4) Section 178(1)(ca) to (f)—	13
	<i>renumber</i> as section 178(1)(d) to (g).	14
	(5) Section 178(2), ‘(1)(e)’—	15
	<i>omit, insert</i> —	16
	‘(1)(f)’.	17
	(6) Section 178(5), after ‘against’—	18
	<i>insert</i> —	19
	‘a prescribed provision or’.	20
	(7) Section 178(5), ‘section’—	21
	<i>omit, insert</i> —	22
	‘subsection’.	23
70	Amendment of s 180 (Offence related warrants)	24
	Section 180(4)(a)(ii), ‘(e)’—	25
	<i>omit, insert</i> —	26
	‘(f)’.	27

71 Amendment of s 183A (Other powers of seizure)	1
(1) Section 183A(1)—	2
<i>insert—</i>	3
‘(ba)if it is known or suspected that liquor is being or has been consumed or is possessed in contravention of a prescribed provision or section 168B—other property that the investigator believes, on reasonable grounds, it is necessary to seize to prevent—	4 5 6 7 8
(i) its concealment, loss or destruction; or	9
(ii) the continuation or repetition of the contravention or suspected contravention;’.	10 11
(2) Section 183A(1)(ba) to (d)—	12
<i>renumber</i> as section 183A(1)(c) to (e).	13
(3) Section 183A(1), example—	14
<i>omit, insert—</i>	15
‘ <i>Examples of property that may be seized under paragraph (c)—</i>	16
A vehicle, boat, aircraft, animal or other thing used to carry the liquor.	17
‘ <i>Examples of property that may be seized under paragraph (d)—</i>	18
Refrigerators, glasses, glass washers, keg lines, measures, pourers, liquor, display cabinets, shelving, signage, dry bars, bar stools, bar servery.’.	19 20
(4) Section 183A(2), ‘subsection (1)(c)’—	21
<i>omit, insert—</i>	22
‘subsection (1)(c) or (d)’.	23
(5) Section 183A(2)(a) and (c), ‘section 169’—	24
<i>omit, insert—</i>	25
‘a prescribed provision, section 168B or 169’.	26
 72 Insertion of new s 183B	 27
After section 183A—	28
<i>insert—</i>	29

‘183B Powers supporting seizure	1
‘(1) Having seized property under this part, an investigator may—	2
(a) move the property from the place where it was seized; or	3
(b) leave the property at the place of seizure but take reasonable action to restrict access to it.	4 5
<i>Examples for paragraph (b)—</i>	6
1. Sealing the seized property and marking it to show access to it is restricted.	7 8
2. Sealing the entrance to a room where the seized property is situated and marking it to show access to it is restricted.	9 10
‘(2) If the investigator restricts access to the seized property, a person must not tamper, or attempt to tamper, with the property or something restricting access to the property without an investigator’s approval.	11 12 13
Maximum penalty—60 penalty units.	14
‘(3) To enable the property to be seized, the investigator may require the person in control of it—	15 16
(a) to take it to a stated reasonable place by a stated reasonable time; and	17 18
(b) if necessary, to remain in control of it at the stated place for a stated reasonable time.	19 20
‘(4) The requirement—	21
(a) must be made by written notice; or	22
(b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by written notice as soon as practicable.	23 24 25
‘(5) The person must comply with the requirement unless the person has a reasonable excuse for not complying with it.	26 27
Maximum penalty—60 penalty units.	28
‘(6) A further requirement may be made under this section in relation to the same property if it is necessary and reasonable to make the further requirement.’	29 30 31

73 Amendment of s 187A (Application)	1
Section 187A(2)—	2
<i>omit, insert—</i>	3
‘(2) If an investigator who is a police officer seizes property under this part—	4
	5
(a) the <i>Police Powers and Responsibilities Act 2000</i> , other than chapter 11, part 3, division 7, ⁹ applies as if the property were seized as evidence under that Act; and	6
	7
	8
(b) sections 187F and 187G of this Act apply to the property.’	9
74 Amendment of s 187C (Return of seized property)	10
Section 187C(1), ‘section 187E or 187F’—	11
<i>omit, insert—</i>	12
‘section 187E, 187EA, 187EB or 187F’.	13
75 Insertion of new ss 187EA–187EC	14
After section 187E—	15
<i>insert—</i>	16
‘187EA Forfeiture of seized property to prevent commission of particular offences—investigator	17
	18
‘(1) This section applies if—	19
(a) the seized property was seized in relation to the contravention of a prescribed provision or section 168B, 169 or 171; and	20
	21
(b) the investigator believes on reasonable grounds the property is liquor having a value of less than \$50; and	22
	23
(c) the investigator is satisfied it is necessary to retain the property to prevent it being used in the commission of another contravention of a prescribed provision or section 168B, 169 or 171.	24
	25
	26
‘(2) The investigator may exercise the following powers—	27

9 *Police Powers and Responsibilities Act 2000*, chapter 11 (Administration), part 3 (Dealing with things in the possession of police service), division 7 (Dealing with forfeited things)

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(a) decide to forfeit the property;	1
(b) destroy or dispose of the property in the way the investigator considers reasonably appropriate.	2 3
<i>Examples for subsection (2)(b)—</i>	4
1. The investigator may empty an opened can of beer found by the investigator being consumed by a person in contravention of section 168B.	5 6
2. The investigator may retain a carton of beer found in a person’s possession in contravention of section 171.	7 8
‘(3) If the investigator exercises the power under subsection (2)(a)—	9
(a) the investigator must immediately tell the person who owned the property immediately before its seizure of the forfeiture; and	10 11
(b) the property is forfeited to, and becomes the property of, the State immediately after the investigator exercises the power; and	12 13
(c) compensation is not recoverable against any person for the forfeiture.	14 15
‘(4) However, subsection (3)(a) does not apply if—	16
(a) the investigator can not find the person, after making reasonable inquiries; or	17 18
(b) it is impracticable or would be unreasonable to comply with the paragraph.	19 20
‘187EB Forfeiture of seized property to prevent commission of particular offences—chief executive	21 22
‘(1) This section applies if—	23
(a) the seized property was seized in relation to the contravention of a prescribed provision or section 168B, 169 or 171; and	24 25
(b) the chief executive is satisfied it is necessary to retain the property to prevent it being used in the commission of another contravention of a prescribed provision or section 168B, 169 or 171.	26 27 28 29
‘(2) However, this section does not apply if the property is forfeited under section 187EA.	30 31
‘(3) The chief executive may, under this section, order the forfeiture of the property to the State.	32 33

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‘(4) The chief executive may make the order only if the chief executive gives written notice to—	1 2
(a) the person who owned the property immediately before its seizure; and	3 4
(b) if another person appeared to have possession of it before its seizure—the other person.	5 6
‘(5) However, if the person mentioned in subsection (4)(a) is not known—	7 8
(a) the notice may be given by advertisement in a newspaper circulating in the locality where the property was seized; or	9 10
(b) if the property was seized in a community area—the notice may be given by displaying a notice in a conspicuous place in the Council’s office for the area.	11 12 13
‘(6) Subsection (5)(a) does not apply if the cost of giving the notice is more than the value of the property.	14 15
‘(7) The notice must—	16
(a) sufficiently describe the property; and	17
(b) state the following—	18
(i) the date and place the property was seized;	19
(ii) the property may be forfeited to the State;	20
(iii) an application may be made to a Magistrates Court under section 187EC for an order for the return of the property;	21 22
(iv) if an application is not made to a Magistrates Court within 14 days after the notice is given—the chief executive may order that the property be forfeited to the State.	23 24 25
‘(8) If a person applies under section 187EC to a Magistrates Court, the chief executive may not order the forfeiture of the property, unless the court refuses to order the delivery of the property to the applicant or the application is withdrawn, whichever happens first.	26 27 28 29
‘187EC Application for return of seized property	30
‘(1) This section applies to seized property described in a notice given under section 187EB(4) or (5).	31 32

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- ‘(2) A person who claims to have a legal or equitable interest in the property may apply to a Magistrates Court for an order that the property be delivered to the person. 1
2
3
- ‘(3) The application must— 4
- (a) be in the approved form; and 5
 - (b) if the applicant reasonably believes another person has a legal or equitable interest in the property—state the name and address of the person; and 6
7
8
 - (c) be filed in the court. 9
- ‘(4) Within 7 days after the application is filed, the registrar of the court must give a copy of the application to— 10
11
- (a) the chief executive; and 12
 - (b) the persons mentioned in subsection (3)(b). 13
- ‘(5) The registrar of the court must give 7 days written notice of the hearing of the application to the applicant and the persons given a copy of the application under subsection (4). 14
15
16
- ‘(6) Each of the persons given notice of the hearing under subsection (4) is entitled to be heard at the hearing of the application. 17
18
- ‘(7) The court may order that the property be delivered to a person on the conditions, if any, the court considers appropriate if satisfied— 19
20
- (a) the person may lawfully possess the property; and 21
 - (b) it is appropriate that the property be delivered to the person. 22
- ‘(8) However, the court must not order the delivery of the property to the person if the court is reasonably satisfied the property may be evidence in a proceeding started in relation to the property.’. 23
24
25
- 76 Amendment of s 187G (Dealing with forfeited property) 26**
- (1) Section 187G(3)(b), after ‘expenses of’— 27
- insert—* 28
- ‘, or relating to,’. 29

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(2) Section 187G—	1
<i>insert—</i>	2
‘(2A) Subsection (1) does not affect an investigator’s powers under section 187EA.’	3 4
77 Omission of ss 188–191	5
Sections 188 to 191—	6
<i>omit.</i>	7
78 Amendment of s 197 (Continuance of authority to sell liquor)	8
(1) Section 197(1), ‘premises in the community area’—	9
<i>omit, insert—</i>	10
‘the premises in the community area or 30 September 2003, whichever is the earlier’.	11 12
(2) Section 197—	13
<i>insert—</i>	14
‘(3) For a variation of the authority, part 5 applies as if a reference in the part—	15 16
(a) to a licence were a reference to an authority continued by subsection (1); and	17 18
(b) to a licensee were a reference to the holder of the authority.’.	19
79 Amendment of s 198 (Cancellation or suspension of liquor facility on complaint of Council)	20 21
(1) Section 198, heading, ‘of Council’—	22
<i>omit.</i>	23
(2) Section 198(1), ‘of a Council’—	24
<i>omit, insert—</i>	25
‘of any person’.	26

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(3) Section 198(1)(a), ‘the community area of the Council’—	1
<i>omit, insert—</i>	2
‘a community area’.	3
80 Insertion of new s 198A	4
Part 8—	5
<i>insert—</i>	6
‘198A Expiry of pt 8	7
‘This part expires on 30 September 2003.’.	8
81 Amendment of s 226 (Contravention of conditions of licences etc.)	9
(1) Section 226(b), ‘part 8’—	10
<i>omit, insert—</i>	11
‘section 197’.	12
(2) Section 226, penalty—	13
<i>omit, insert—</i>	14
‘Maximum penalty—	15
(a) if the licensed premises or premises to which the permit or authorisation relates is in a restricted area—	16 17
(i) for a first offence—500 penalty units; or	18
(ii) for a second offence—700 penalty units or 6 months imprisonment; or	19 20
(iii) for a third or later offence—1 000 penalty units or 18 months imprisonment; or	21 22
(b) if paragraph (a) does not apply—40 penalty units.’.	23

82	Amendment of s 228 (Suspension of licence for offences concerning minors)	1
		2
	Section 228(a)—	3
	<i>omit, insert—</i>	4
	‘(a) section 155(3A); or’.	5
83	Amendment of s 233 (Evidentiary provisions)	6
	(1) Section 233, before subsection (1)—	7
	<i>insert—</i>	8
	‘(1AA) In a proceeding under this Act, a signature purporting to be the signature of the chief executive is evidence of the signature it purports to be.’.	9 10 11
	(2) Section 233(1), ‘In proceedings’—	12
	<i>omit, insert—</i>	13
	‘Also, in a proceeding’.	14
	(3) Section 233—	15
	<i>insert—</i>	16
	‘(1A) In addition, in a proceeding under this Act, a certificate signed by the chief executive stating any of the following matters is evidence of the matter—	17 18 19
	(a) on a stated date, a stated person was or was not the holder of a restricted area permit;	20 21
	(b) on a stated date, a stated place was or was not, in a restricted area;	22 23
	(c) the conditions of a restricted area permit;	24
	(d) a notice complying with section 173J(2) was, at a stated time, erected or displayed at a place mentioned in section 173J(1)(c). ¹⁰ .	25 26 27
	(4) Section 233(1AA) to (2)—	28
	<i>renumber</i> as section 233(1) to (4).	29

10 Section 173J (Notice about prohibition of possession of liquor in restricted area)

84 Amendment of s 235 (Regulations)	1
(1) Section 235, heading—	2
<i>omit, insert—</i>	3
‘235 Regulation-making power’.	4
(2) Section 235(2)(b), after ‘permits’—	5
<i>insert—</i>	6
‘, or holders of particular licences or permits’.	7
(3) Section 235(2)(c), ‘payment of’—	8
<i>omit.</i>	9
(4) Section 235(2)—	10
<i>insert—</i>	11
‘(fa) the circumstances in which, and purposes for which, the chief executive may grant a restricted area permit; and’.	12
	13
(5) Section 235(2)(fa) to (m)—	14
<i>renumber</i> as section 235(2)(g) to (n).	15
85 Insertion of new pt 12, div 4	16
After section 265—	17
<i>insert—</i>	18
‘Division 4—Transitional provision for Indigenous Communities Liquor Licences Act 2002	19
	20
‘266 Licence applications for community areas	21
‘(1) This section applies if—	22
(a) before the commencement of this section, an application was made for a licence or permit for premises in a community area of a Council; and	23
	24
	25
(b) immediately before the commencement, the application had not been finalised.	26
	27
‘(2) On and from the commencement, sections 188 to 191 continue to apply to the application as if they had not been repealed.’.	28
	29

PART 7—AMENDMENT OF POLICE POWERS AND RESPONSIBILITIES ACT 2000	1 2
86 Act amended in pt 7	3
This part amends the <i>Police Powers and Responsibilities Act 2000</i> .	4
87 Amendment of s 44 (Prevention of offences)	5
Section 44, heading—	6
<i>omit, insert—</i>	7
‘ 44 Prevention of offences—general ’.	8
88 Insertion of new s 44A	9
Chapter 2, part 5—	10
<i>insert—</i>	11
‘ 44A Prevention of particular offences relating to liquor	12
‘(1) This section applies if—	13
(a) a police officer reasonably suspects an offence against a liquor provision has been committed, is being committed or is about to be committed at a place; and	14 15 16
(b) the officer reasonably suspects an opened container of liquor, as defined in the <i>Liquor Act 1992</i> , section 4B, at the place relates to the offence.	17 18 19
‘(2) The police officer may seize and dispose of the container and its contents (the “ thing ”) in the way the officer considers reasonably necessary to prevent the commission, continuation or repetition of an offence against the liquor provision.	20 21 22 23
<i>Example for subsection (2)—</i>	24
The police officer may empty an opened can of beer found by the officer being consumed by a person in contravention of a liquor provision.	25 26
‘(3) If the police officer exercises the power under subsection (2)—	27
(a) the thing is taken to have been forfeited to, and to have become the property of, the State immediately after the officer seized it; and	28 29 30

(b) chapter 11, part 2, division 3 and chapter 11, part 3 do not apply to the thing. ¹¹	1 2
‘(4) In this section—	3
“ liquor provision ” means any of the following provisions—	4
(a) the <i>Liquor Act 1992</i> , section 164, 168B or 173B;	5
(b) the <i>Community Services (Aborigines) Act 1984</i> , section 45T;	6
(c) the <i>Community Services (Torres Strait) Act 1984</i> , section 43T;	7
(d) the <i>Local Government (Aboriginal Lands) Act 1978</i> , section 67. ¹²	8
“ opened container ” includes a container that has been opened, even if it is closed at the material time and regardless of whether or not some of its contents have been removed.’.	9 10 11
89 Amendment of s 44A (Prevention of particular offences relating to liquor)	12 13
Section 44A(4), definition “liquor provision”, paragraph (d)—	14
<i>omit.</i>	15
90 Amendment of s 51 (Stopping vehicles for prescribed purposes)	16
(1) Section 51(1), ‘an aircraft or’—	17
<i>omit, insert—</i>	18
‘a’.	19
(2) Section 51(2), penalty, paragraph (b), ‘a heavy’—	20
<i>omit, insert—</i>	21
‘another’.	22

11 Chapter 11 (Administration), part 2 (Registers), division 3 (Enforcement registers) and part 3 (Dealing with things in the possession of police service).

12 *Liquor Act 1992*, section 164 (Conduct causing public nuisance), 168B (Prohibition of possession of liquor in restricted area) or 173B (Consumption of liquor in certain public places prohibited), *Community Services (Aborigines) Act 1984*, section 45T (Possession or consumption of alcohol in or on dry place), *Community Services (Torres Strait) Act 1984*, section 43T (Possession or consumption of alcohol in or on dry place) and *Local Government (Aboriginal Lands) Act 1978*, section 67 (Possession or consumption of alcohol on controlled or dry place).

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(3) Section 51(3)—	1
<i>insert—</i>	2
‘(ba)for monitoring or enforcing a liquor provision;’.	3
(4) Section 51(3)(ba) to (d)—	4
<i>renumber</i> as section 51(3)(c) to (e).	5
(5) Section 51—	6
<i>insert—</i>	7
‘(3A) For monitoring or enforcing a liquor provision, the police officer may exercise any of the following powers if the officer reasonably suspects the exercise of the power may be effective for the purpose—	8 9 10
(a) enter the vehicle and remain in it for the time reasonably necessary for the purpose;	11 12
(b) search the vehicle and anything in it;	13
(c) inspect, measure, test, photograph or film the vehicle or anything in it;	14 15
(d) take samples of anything in or on the vehicle;	16
(e) seize anything the officer reasonably suspects is evidence of the commission of an offence against a liquor provision;	17 18
(f) copy a document in the vehicle;	19
(g) move the vehicle’s load.’.	20
(6) Section 51(4), ‘or on’—	21
<i>omit.</i>	22
(7) Section 51(4), ‘Examples for subsection (4)’—	23
<i>omit, insert—</i>	24
‘Examples for subsection (5)’.	25
(8) Section 51(3A) and (4)—	26
<i>renumber</i> as section 51(4) and (5).	27
(9) Section 51—	28
<i>insert—</i>	29
‘(6) In this section—	30
“in”, for a vehicle, includes on the vehicle.	31

“liquor provision” means any of the following provisions—	1
(a) the <i>Liquor Act 1992</i> , section 168B, 169 or 171;	2
(b) the <i>Community Services (Aborigines) Act 1984</i> , section 45T;	3
(c) the <i>Community Services (Torres Strait) Act 1984</i> , section 43T;	4
(d) the <i>Local Government (Aboriginal Lands) Act 1978</i> , section 67. ¹³	5
“monitor” , a liquor provision, means check whether the provision is being complied with.’.	6 7
91 Amendment of s 51 (Stopping vehicles for prescribed purposes)	8
Section 51(6), definition “liquor provision”, paragraph (d)—	9
<i>omit.</i>	10
92 Amendment of s 52 (Power to require vehicles to be moved)	11
(1) Section 52(1)—	12
<i>omit, insert—</i>	13
‘(1) This section applies to a vehicle that is stationary or has been stopped under section 51.’.	14 15
(2) Section 52(3)(b), ‘a heavy’—	16
<i>omit, insert—</i>	17
‘another’.	18
(3) Section 52(4), from ‘Despite’ to ‘heavy’—	19
<i>omit, insert—</i>	20
‘Despite subsection (3)(b), a stated reasonable place for the other’.	21

13 *Liquor Act 1992*, section 168B (Prohibition of possession of liquor in restricted area), 169 (Authority required for sale) or 171 (Carrying or exposing liquor for sale) and *Community Services (Aborigines) Act 1984*, section 45T (Possession or consumption of alcohol in or on dry place), *Community Services (Torres Strait) Act 1984*, section 43T (Possession or consumption of alcohol in or on dry place) and *Local Government (Aboriginal Lands) Act 1978*, section 67 (Possession or consumption of alcohol on controlled or dry place).

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(4) Section 52(5), penalty, paragraph (b), ‘a heavy’—	1
<i>omit, insert—</i>	2
‘another’.	3
(5) Section 52(6), ‘heavy vehicle’—	4
<i>omit, insert—</i>	5
‘vehicle, other than a private vehicle.’.	6
(6) Section 52—	7
<i>insert—</i>	8
‘(7) However, if the vehicle is an aircraft or boat, the police officer may move the vehicle only if the officer has the necessary qualification, or has received appropriate training, to control the vehicle.’.	9 10 11
93 Amendment of s 53 (Requirement to remain at a place)	12
(1) Section 53, ‘This’—	13
<i>omit, insert—</i>	14
‘(1) This’.	15
(2) Section 53(2), penalty, paragraph (b), ‘a heavy’—	16
<i>omit, insert—</i>	17
‘another’.	18
94 Amendment of s 59 (Power to enable effective and safe exercise of other powers)	19 20
Section 59(3), penalty, paragraph (b), ‘a heavy’—	21
<i>omit, insert—</i>	22
‘another’.	23

95	Amendment of s 373 (Police officer may use assistance in exercising certain powers)	1
		2
	(1) Section 373, heading—	3
	<i>omit, insert—</i>	4
	‘373 Assistance in exercising powers’.	5
	(2) Section 373(1)(a), ‘assistance’—	6
	<i>omit, insert—</i>	7
	‘help’.	8
	(3) Section 373(1), examples—	9
	<i>insert—</i>	10
	‘4. A police officer may seek the help of an investigator authorised under the <i>Liquor Act 1992</i> , section 174(1), for exercising powers under section 51 for monitoring or enforcing a liquor provision under that section.’.	11
		12
		13
96	Amendment of s 440 (Application of div 7)	14
	Section 440(2), ‘part applies to a forfeited thing’—	15
	<i>omit, insert—</i>	16
	‘division applies to a forfeited thing, other than a thing forfeited under division 6.’.	17
		18

SCHEDULE	1
DICTIONARY	2
section 4	3
“administrator” see section 20(2).	4
“appropriately qualified” , for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.	5 6 7
“approved form” means a form approved by the chief executive under section 40.	8 9
“board” means a community liquor licence board established under part 2, division 1.	10 11
“canteen” means premises to which a general licence relates.	12
“chairperson” means the chairperson of a board.	13
“chief executive for liquor” means the chief executive of the department in which the <i>Liquor Act 1992</i> is administered.	14 15
“community area” means the area of the State in which an indigenous council may exercise jurisdiction.	16 17
“community justice group” means a community justice group established under the <i>Community Services (Aborigines) Act 1984</i> , part 3A, or <i>Community Services (Torres Strait) Act 1984</i> , part 3A.	18 19 20
“general licence” means a general licence granted and held under the <i>Liquor Act 1992</i> , part 4, division 2.	21 22
“implementation regulation” see section 34(1).	23
“indigenous council” means—	24
(a) an Aboriginal council under the <i>Community Services (Aborigines) Act 1984</i> ; or	25 26
(b) an Island council under the <i>Community Services (Torres Strait) Act 1984</i> ; or	27 28

SCHEDULE (continued)

- | | |
|---|---|
| (c) the Council of the Shire of Aurukun; or | 1 |
| (d) the Council of the Shire of Mornington. | 2 |
| “member” means a member of a board. | 3 |