

Gambling and Other Legislation Amendment Bill 2009

Amendments agreed to during Consideration

1 New clauses 69A and 69B—

Page 76, after line 12—

insert—

‘69A Amendment of s 64 (Authority of commercial special facility licence)

‘Section 64(1)—

omit, insert—

- ‘(1) A commercial special facility licence authorises the licensee—
- (a) to sell liquor on the licensed premises, for consumption on or off the premises, during the times stated in the licence; and
 - (b) to sell liquor on the licensed premises, for consumption on or off the premises, at any time to a resident on the premises; and
 - (c) to sell liquor on the licensed premises, for consumption on the premises, at any time to a guest of a resident on the premises while the guest is in the resident’s company.’.

‘69B Insertion of new s 65A

Part 4, division 3—

insert—

‘65A Consumption of liquor on premises by residents and guests

‘Liquor supplied under the authority of a commercial special facility licence to a resident on the licensed premises, or to a

guest of a resident in the resident's company, for consumption on the premises at any time other than during the times stated in the licence, must be consumed in a residential unit on the premises.'.

2 New clause 72A

Page 77, after line 8—

insert—

'72A Insertion of new pt 4, divs 8 and 9

Part 4—

insert—

'Division 8 Moratorium on extended trading hours approvals

'89 Definitions for div 8

'In this division—

commencement means the commencement of this division.

delegate means a person to whom the chief executive may delegate the chief executive's powers under section 42.

extended trading hours application means an application made under division 7 for an extended trading hours approval for premises between 12a.m. and 5a.m.

extended trading hours precinct means an area that—

- (a) has a concentration of premises that have an extended trading hours approval between 12a.m. and 5a.m; and
- (b) is prescribed under a regulation.

moratorium period means—

- (a) the period from 16 September 2009 to 15 September 2010, both days inclusive; and
- (b) any extended period under section 95.

‘90 Restriction on making extended trading hours applications

- ‘(1) A person may not make an extended trading hours application during the moratorium period.
- ‘(2) An extended trading hours application made or purportedly made during the moratorium period, whether before or after the commencement, is of no effect.
- ‘(3) Subsections (1) and (2) do not apply to premises that are in an extended trading hours precinct.

‘91 Treatment of certain applications for extended trading hours approvals made before start of moratorium period

- ‘(1) This section applies to an extended trading hours application made to the chief executive before the start of the moratorium period for premises that are not in an extended trading hours precinct that, immediately before the commencement, the chief executive had not finally decided.
- ‘(2) The application must not be considered or further considered by the chief executive until after the end of the moratorium period.

‘92 Certain proceedings in court or tribunal for extended trading hours approvals taken to end

- ‘(1) This section applies to a proceeding in a court or tribunal—
 - (a) commenced between the start of the moratorium period and the commencement; and
 - (b) relating to an extended trading hours application for premises that are not in an extended trading hours precinct; and
 - (c) that has not been decided by the court or tribunal at the commencement.
- ‘(2) The proceeding is taken to end and must not be further considered by the court or tribunal.

‘93 Certain court or tribunal decisions of no effect

- ‘(1) This section applies to a decision of a court or tribunal before the commencement—
- (a) on a proceeding commenced between the start of the moratorium period and the commencement; and
 - (b) relating to an extended trading hours application for premises that are not in an extended trading hours precinct.
- ‘(2) The decision is taken to have no effect.

‘94 Protection from liability

- ‘(1) A decision of the chief executive under this division not to consider or further consider an extended trading hours application—
- (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
 - (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.
- ‘(2) The State, the chief executive or a delegate does not incur civil liability for acting, or failing to act, under this division in relation to an extended trading hours application.
- ‘(3) If a civil proceeding relating to an extended trading hours application was started before the commencement against the State, the chief executive or a delegate, the proceeding is stayed and the court dealing with the proceeding must dismiss it.

‘95 Minister may extend moratorium period

‘The Minister, by gazette notice, may extend the moratorium period by a period not exceeding 3 months if satisfied that it

would be in the public interest having regard to this Act's object to regulate the liquor industry in a way compatible with minimising harm caused by alcohol abuse and misuse.

'Division 9 Banning use of regular glass in certain licensed premises

'96 Definitions for div 9

'In this division—

regular glass means glass other than tempered or toughened glass.

regular glass container means a container made entirely or partly of regular glass capable of holding a liquid, for example, a drinking glass, bottle or jug.

glassing means an act of violence by a person that involves the use of regular glass and causes injury to any person.

relevant period, for licensed premises, means the period of 1 year before a notice under section 98 is given.

'97 When all or part of licensed premises must be classified as high risk

- '(1) The chief executive may classify all or part of licensed premises as high risk if the chief executive is satisfied—
- (a) one or more glassings have happened at the premises during the relevant period; or
 - (b) there has been a level of violence at the premises during the relevant period that is unacceptable having regard to this Act's object to regulate the liquor industry in a way compatible with minimising harm caused by alcohol abuse and misuse.
- '(2) However, before classifying the premises or part of the premises as high risk the chief executive must—
- (a) give the licensee of the premises a written notice under section 98; and

- (b) have regard to the licensee's response, if any, to the notice.

Note—

A guideline may be made by the chief executive under section 42A informing persons about the attitude the chief executive is to adopt on a particular matter or how the chief executive administers this Act.

'98 Notice to licensee of licensed premises considered high risk

- '(1) If the chief executive considers that all or part of licensed premises are high risk, the chief executive must give the licensee of the premises a notice under this section.
- '(2) The notice must state the following—
 - (a) that the chief executive considers all or a stated part of the premises to be high risk;
 - (b) the reasons the chief executive considers the premises or part to be high risk;
 - (c) an invitation to the licensee to show within a stated period, not less than 14 days after the notice is given to the licensee, why the premises or part should not be classified as high risk.

Examples of parts of licensed premises that the chief executive may decide not to classify as high risk—

accommodation rooms, restaurants, bottle shops

'99 Representations about notice

- '(1) The licensee may make written representations about the notice to the chief executive within the 14 day period.
- '(2) The licensee may request that all or part of the licensed premises not be classified as high risk.
- '(3) The chief executive must consider all written representations made under subsection (1).

‘99A Ending process without further action

‘If, after considering any representations by the licensee, the chief executive no longer considers the ground exists to classify the licensed premises or part as proposed, the chief executive—

- (a) must not take further action about the classification of the premises; and
- (b) must, as soon as practicable, give notice to the licensee that no further action will be taken about the classification of the premises.

‘99B Notice classifying relevant premises as high risk

- ‘(1) This section applies if, after considering any representations by the licensee under section 99, the chief executive still considers all or part of licensed premises should be classified as proposed.
- ‘(2) The chief executive must give the licensee a written notice—
 - (a) classifying all or a stated part of the premises as high risk; and
 - (b) stating the day from which the classification starts.
- ‘(3) The notice under subsection (2) must not classify a part of the premises not mentioned in the notice under section 98.

‘99C Obligations of licensee who receives notice that licensed premises are high risk

- ‘(1) Subsection (2) applies to a licensee who receives a notice under section 99B classifying all or a stated part of the licensed premises as high risk.
- ‘(2) The licensee must not at any time during the trading hours for the premises or stated part—
 - (a) serve liquid to a patron in a regular glass container; or
 - (b) leave or place a regular glass container in an area to which a patron has access.

Maximum penalty—100 penalty units.

‘99D When licensee may apply to end the banning of regular glass in the licensed premises

- ‘(1) This section applies if 1 year has elapsed since all or part of licensed premises were classified as high risk.
- ‘(2) The licensee may make written representations to the chief executive to revoke the classification.
- ‘(3) The chief executive may revoke the classification only if the chief executive is satisfied that the licensee has put measures in place at the licensed premises that sufficiently minimise the risk of harm caused by alcohol abuse and misuse.

‘99E Judicial review only to apply to chief executive’s decision

- ‘(1) A decision of the chief executive under this division—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, (whether by the Supreme Court, another court, a tribunal or another entity); and
 - (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.
- ‘(2) However, subsection (1) does not limit the *Judicial Review Act 1991*.

‘99F Chief executive may publish details of classification of premises on website

‘The chief executive may publish details of licensed premises or parts of licensed premises classified as high risk on a website of the department on the internet.

Editor’s note—

The department’s website is <www.olgr.qld.gov.au>.

‘99G Commissioner must provide information

- ‘(1) The chief executive may ask the commissioner to give the chief executive the information the chief executive requires to decide whether to classify licensed premises as high risk under this division.
- ‘(2) Subject to subsection (3), the commissioner must provide the information requested.
- ‘(3) The obligation of the commissioner to comply with the chief executive’s request applies only to information in the possession of the commissioner or to which the commissioner has access.’.

3 New clause 77A

Page 78, after line 10—

insert—

‘77A Amendment of s 121 (Matters the chief executive must have regard to)

‘Section 121(a)—

omit, insert—

- ‘(a) if the application is an application to which section 116 applies—
 - (i) the matters mentioned in section 116(6); and
 - (ii) the public interest in so far as it relates to—
 - (A) the Act’s object to regulate the liquor industry in a way compatible with minimising harm caused by alcohol abuse and misuse; or
 - (B) the impact on the amenity of the community; and’.