



Queensland

# **Safe Night Out Legislation Amendment Bill 2014**

**Includes amendments agreed during Consideration**





## Queensland

# Safe Night Out Legislation Amendment Bill 2014

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# 2014

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## A Bill

for

**An Act to amend the *Bail Act 1980*, the *Corrective Services Act 2006*, the *Criminal Code*, the *Drugs Misuse Act 1986*, the *Drugs Misuse Regulation 1987*, the *Evidence Act 1977*, the *Introduction Agents Act 2001*, the *Liquor Act 1992*, the *Penalties and Sentences Act 1992*, the *Police Powers and Responsibilities Act 2000*, the *Security Providers Act 1993*, the *State Penalties Enforcement Regulation 2014*, the *Summary Offences Act 2005*, the *Transport Operations (Passenger Transport) Act 1994*, the *Vicious Lawless Association Disestablishment Act 2013*, the *Victims of Crime Assistance Act 2009* and the *Wine Industry Act 1994* for particular purposes**

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[s 1]

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## The Parliament of Queensland enacts—

# Part 1 Preliminary

## 1 Short title

This Act may be cited as the *Safe Night Out Legislation Amendment Act 2014*.

## 2 Commencement

(1) Section 49 is taken to have commenced on 6 June 2014.

(2) The following provisions commence on assent—

- part 3
- part 4, heading
- section 12
- section 14
- section 16, other than section 16(1) and (3)
- part 5
- part 6
- part 6A
- part 6B
- part 7, heading
- section 27
- section 28, other than to the extent it omits the definitions *drink safe precinct* and *entertainment* and inserts the definitions *irresponsible* and *system failure*
- section 29A
- section 30



- section 32(1) to the extent it inserts new section 21(1)(eaa)
- section 33, other than to the extent it inserts new section 42A(1), example 4
- sections 33A to 39
- sections 40A and 40B
- section 46A
- sections 50 to 52
- section 54
- sections 56 and 57
- section 61
- section 63
- section 69
- sections 72 and 73
- section 75
- section 76, other than to the extent it omits part 6B
- sections 77 to 80
- section 81 to the extent it inserts sections 324, 327 and 328
- part 8, heading
- section 82
- section 84
- section 86
- sections 98 and 99
- section 100, other than to the extent it inserts new section 238
- section 101
- part 9, heading
- sections 102 and 103

[s 2]

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- section 109
  - section 110, other than section 110(2)
  - section 114
  - section 120, other than section 120(2)
  - section 121
  - section 122, heading
  - section 122(1), other than to the extent it omits the definition *photograph*
  - section 122(2) to the extent it inserts the definitions *intoxicated* and *licensed premises*
  - part 9A
  - part 9B
  - part 10
  - part 10A
  - part 11
  - part 12
  - part 13.
- (3) The following provisions commence, or are taken to have commenced, on 1 September 2014—
- section 46
  - section 81, to the extent it inserts new part 12, division 16, heading and sections 319 to 321.
- (4) The following provisions commence on 1 October 2014—
- part 2, other than sections 4(3), 5 and 7
  - sections 85, 87 and 88
  - sections 104 to 108
  - section 110(2)
  - sections 111 to 113

- 
- section 116, other than to the extent it inserts new section 442(cb)
  - section 118
  - section 122(1) to the extent it omits the definition *photograph*
  - section 122(2), other than to the extent it inserts the definitions *intoxicated*, *licensed premises* and *relevant assault offence*.
- (5) The following provisions commence on 1 December 2014—
- section 4(3)
  - section 5
  - section 7
  - section 13
  - sections 15 to 15C
  - section 16(1) and (3)
  - section 17
  - section 83
  - sections 89 to 97
  - section 100 to the extent it inserts new section 238
  - section 115
  - section 116 to the extent it inserts new section 442(cb)
  - section 117
  - section 119
  - section 120(2)
  - section 122(2) to the extent it inserts the definition *relevant assault offence*.
- (6) The following provisions commence on 1 July 2015—
- section 28, to the extent it omits the definition *entertainment*

[s 2]

---

- section 29
  - sections 40
  - sections 41 to 45
  - sections 47 and 48
  - section 53
  - section 55
  - sections 70 and 71
  - section 81, to the extent it inserts new sections 321A, 322 and 323.
- (7) The following provisions commence on a day to be fixed by proclamation—
- section 28, to the extent it omits the definition *drink safe precinct* and inserts the definitions *irresponsible* and *system failure*
  - section 31
  - section 32, other than to the extent it inserts new section 21(1)(eaa)
  - section 33(2) to the extent it inserts new section 42A(1), example 4
  - sections 58 to 60
  - section 62
  - sections 64 to 68
  - section 74
  - section 76 to the extent it omits part 6B
  - section 81, to the extent it inserts new sections 325, 326 and 329.

---

## Part 2 **Amendment of Bail Act 1980**

### **3 Act amended**

This part amends the *Bail Act 1980*.

### **4 Amendment of s 11 (Conditions of release on bail)**

- (1) Section 11(3)(b), examples, third dot point, 'drink safe precinct'—

*omit, insert—*

safe night precinct

- (2) Section 11—

*insert—*

- (4AA) If bail for a person is subject to a special condition mentioned in subsection (3)—

(a) for bail that is granted by a police officer at a police station, watch-house or police establishment (each a *relevant place*)—a police officer may detain and photograph the person at the relevant place for the purposes of the *Police Powers and Responsibilities Act 2000*, chapter 19, part 5B; or

(b) otherwise—the court may impose a condition that requires the person to report to a police station within 48 hours after bail is granted to be photographed under the *Police Powers and Responsibilities Act 2000*, chapter 19, part 5B.

- (3) Section 11—

*insert—*

- (9A) Section 11AB also provides for a condition requiring completion of a Drug and Alcohol Assessment Referral course that must be imposed

[s 5]

---

on a person's release on bail in particular circumstances.

## 5 Insertion of new s 11AB

After section 11AA—

*insert—*

### **11AB Condition requiring completion of DAAR course**

- (1) This section applies if a person is charged with a prescribed offence and it is alleged the offence was committed in a public place while the person was adversely affected by an intoxicating substance.
- (2) A court or a police officer authorised by this Act to grant bail for the person's release must impose a condition for the release that the person must complete a DAAR course by a stated day.
- (3) Subsection (2) does not apply if—
  - (a) the person has already completed 2 DAAR courses within the previous 5 years; or
  - (b) the person is less than 18 years old; or
  - (c) section 11A applies.
- (4) In this section—

***approved provider*** means an entity approved by the chief executive (health) by gazette notice to provide DAAR courses.

***chief executive (health)*** means the chief executive of the department within which the *Health Act 1937* is administered.

***DAAR*** stands for Drug and Alcohol Assessment Referral.

***DAAR course*** means a course provided to a person by an approved provider in which—

- (a) the person's drug or alcohol use is assessed; and
- (b) the person is given information about appropriate options for treatment and may be offered counselling or education.

***prescribed offence*** means an offence against—

- (a) any of the following provisions of the Criminal Code—
  - (i) section 72;
  - (ii) section 320;
  - (iii) section 323;
  - (iv) section 335;
  - (v) section 339;
  - (vi) section 340(1)(b) or (2AA); or
- (b) the *Police Powers and Responsibilities Act 2000*, section 790.

***public place*** means—

- (a) a place, or part of a place, that the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or
- (b) a place, or part of a place, the occupier of which allows, whether or not on payment of money, members of the public to enter.

**6 Amendment of s 34F (Commissioner may give information about special condition of bail to licensee under Liquor Act 1992)**

- (1) Section 34F, heading, 'licensee under Liquor Act 1992'—  
*omit, insert—*

**particular persons**

[s 7]

---

(2) Section 34F(1)—

*insert—*

- (e) the Commissioner for Liquor and Gaming under the *Gaming Machine Act 1991*; or
- (f) an approved operator under the *Liquor Act 1992*, section 173EE.

## 7 Insertion of new s 44

After section 43—

*insert—*

### **44 Transitional provision for Safe Night Out Legislation Amendment Act 2014**

- (1) Section 11AB applies in relation to the release of a person on bail on or after the commencement of this section.
- (2) For subsection (1), it is irrelevant whether the act or omission constituting the offence in relation to which the person is released on bail happened, or proceedings for the offence started, before or after the commencement of this section.

## **Part 3 Amendment of Corrective Services Act 2006**

### **8 Act amended**

This part amends the *Corrective Services Act 2006*.



---

**9 Replacement of s 182A (Parole eligibility date for prisoner serving term of imprisonment for drug trafficking offence)**

Section 182A—

*omit, insert—*

**182A Parole eligibility date for prisoner serving term of imprisonment for other particular serious offences**

- (1) This section applies to a prisoner who is serving a term of imprisonment for a drug trafficking offence.
- (2) Also, this section applies to a prisoner who is serving a term of imprisonment, other than a term of imprisonment for life, for an offence against the Criminal Code, section 314A.
- (3) The prisoner's parole eligibility date is the day after the day on which the prisoner has served—
  - (a) if the prisoner is serving a term of imprisonment for a drug trafficking offence—80% of the term; or
  - (b) if the prisoner is serving a term of imprisonment for an offence against section 314A—the lesser of the following—
    - (i) 80% of the term;
    - (ii) 15 years.
- (4) However, if a later parole eligibility date is fixed for the period of imprisonment under the *Penalties and Sentences Act 1992*, part 9, division 3, the prisoner's parole eligibility date is the later date fixed under that division.
- (5) This section is subject to section 185.

[s 10]

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**10 Amendment of s 184 (Parole eligibility date for other prisoners)**

Section 184(5), definition *offence*, paragraph (d), ‘a drug trafficking offence’—

*omit, insert—*

an offence

**11 Insertion of new ch 7A, pt 8**

Chapter 7A—

*insert—*

**Part 8 Transitional provision  
for Safe Night Out  
Legislation  
Amendment Act 2014**

**490D Application of s 182A**

Section 182A applies to a prisoner who is serving a term of imprisonment for a drug trafficking offence only if the act or omission constituting the offence occurred wholly on or after 13 August 2013.

**Part 4 Amendment of Criminal Code**

**12 Code amended**

This part amends the Criminal Code.

**13 Amendment of s 72 (Affray)**

Section 72—

*insert—*

- (3A) The *Penalties and Sentences Act 1992*, section 108B also states a circumstance of aggravation for an offence against this section.

## 14 Insertion of new ch 28A

After section 314—

*insert—*

# Chapter 28A Unlawful striking causing death

## 314A Unlawful striking causing death

- (1) A person who unlawfully strikes another person to the head or neck and causes the death of the other person is guilty of a crime.  
Maximum penalty—life imprisonment.
- (2) Sections 23(1)(b) and 270 do not apply to an offence against subsection (1).
- (3) An assault is not an element of an offence against subsection (1).
- (3A) For subsection (1), the striking of another person is unlawful unless it is authorised or justified or excused by law.
- (4) A person is not criminally responsible for an offence against subsection (1) if the act of striking the other person is—
- (a) done as part of a socially acceptable function or activity; and
  - (b) reasonable in the circumstances.
- (5) If a court sentences a person to a term of imprisonment for an offence mentioned in

[s 14]

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subsection (1), the court must make an order that the person must not be released from imprisonment until the person has served the lesser of—

- (a) 80% of the person's term of imprisonment for the offence; or
  - (b) 15 years.
- (6) Subsection (5) does not apply if the court sentences the person to—

- (a) a term of imprisonment for life; or

*Note—*

See the *Corrective Services Act 2006*, section 181 for the parole eligibility date for a prisoner serving a term of imprisonment for life for an offence mentioned in subsection (1).

- (b) an indefinite sentence under the *Penalties and Sentences Act 1992*; or

*Note—*

See the *Penalties and Sentences Act 1992*, section 171 for the time of the earliest review of an indefinite sentence being served by a prisoner serving an indefinite sentence for an offence mentioned in subsection (1).

- (c) a term of imprisonment and makes either of the following orders under the *Penalties and Sentences Act 1992* for the person—

- (i) an intensive correction order;
- (ii) an order that the whole or a part of the term of imprisonment be suspended.

- (7) In this section—

***causing*** means causing directly or indirectly.

***function or activity*** includes a sporting event.

***strike***, a person, means directly apply force to the person by punching or kicking, or by otherwise

hitting using any part of the body, with or without the use of a dangerous or offensive weapon or instrument.

**15 Amendment of s 320 (Grievous bodily harm)**

Section 320—

*insert—*

- (3A) The *Penalties and Sentences Act 1992*, section 108B also states a circumstance of aggravation for an offence against this section.

**15A Amendment of s 323 (Wounding)**

Section 323—

*insert—*

- (3) The *Penalties and Sentences Act 1992*, section 108B states a circumstance of aggravation for an offence against this section.

**15B Amendment of s 335 (Common assault)**

Section 335—

*insert—*

- (2) The *Penalties and Sentences Act 1992*, section 108B states a circumstance of aggravation for an offence against this section.

**15C Amendment of s 339 (Assaults occasioning bodily harm)**

Section 339—

*insert—*

- (4) The *Penalties and Sentences Act 1992*, section 108B also states a circumstance of aggravation for an offence against this section.

[s 16]

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## **16 Amendment of s 340 (Serious assaults)**

(1) Section 340—

*insert—*

(1C) The *Penalties and Sentences Act 1992*, section 108B also states a circumstance of aggravation for an offence against subsection (1)(b).

(2) Section 340(2AA), penalty—

*omit, insert—*

Maximum penalty—

(a) if the offender assaults a public officer in any of the following circumstances—

(i) the offender bites or spits on the public officer or throws at, or in any way applies to, the public officer a bodily fluid or faeces;

(ii) the offender causes bodily harm to the public officer;

(iii) the offender is, or pretends to be, armed with a dangerous or offensive weapon or instrument—14 years imprisonment; or

(b) otherwise—7 years imprisonment.

(3) Section 340—

*insert—*

(2B) The *Penalties and Sentences Act 1992*, section 108B also states a circumstance of aggravation for an offence against subsection (2AA).

## **17 Insertion of new ch 35A**

After chapter 35—

*insert—*

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## Chapter 35A Circumstance of aggravation for particular offences

### 365A Application of ch 35A

- (1) This chapter applies to an offence against—
  - (a) section 320; or
  - (b) section 323; or
  - (c) section 340(1)(b), if the circumstances mentioned in section 340(1), penalty, paragraph (a) apply; or
  - (d) section 340(2AA), if the circumstances mentioned in section 340(2AA), penalty, paragraph (a) apply.
- (2) This chapter applies in relation to proof of the circumstance of aggravation that the offence was committed in a public place while the person was adversely affected by an intoxicating substance.

#### Notes—

- 1 The *Penalties and Sentences Act 1992*, part 5, division 2, subdivision 2 provides for the making of a community service order for the person if the offence is committed in a public place while the person is adversely affected by an intoxicating substance.
- 2 The *Police Powers and Responsibilities Act 2000*, chapter 18A applies the *Transport Operations (Road Use Management) Act 1995*, section 80 to allow evidentiary certificates about breath, saliva, blood or urine specimens taken from the person to be used in proceedings for the offence.

### 365B Application of defences

- (1) Section 24 does not apply in relation to a belief of the person that the person is not adversely affected by an intoxicating substance.

[s 17]

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- (2) A person is taken to be not adversely affected by an intoxicating substance at the relevant time if the person proves—
  - (a) the person ingested an intoxicating substance that the person did not know the person was ingesting; and
  - (b) an ordinary person would not reasonably have known the person was ingesting the intoxicating substance; and
  - (c) the person would not be adversely affected by an intoxicating substance at the relevant time apart from that ingestion.
- (3) In this section—

*ingest* includes drink, administer, inhale and smoke.

### **365C Proof of being adversely affected by an intoxicating substance**

- (1) A person is taken to be adversely affected by an intoxicating substance if—
  - (a) the concentration of alcohol in the person's blood is at least 150mg of alcohol in 100mL of blood; or
  - (b) the concentration of alcohol in the person's breath is at least 0.150g of alcohol in 210L of breath; or
  - (c) any amount of a drug prescribed by regulation is present in the person's saliva; or
  - (d) the person fails to provide a specimen as required under the *Transport Operations (Road Use Management) Act 1995*, section 80 as applied under the *Police Powers and Responsibilities Act 2000*, chapter 18A.



- 
- (2) However, subsection (1)(c) or (d) does not apply if the person proves he or she was not adversely affected by an intoxicating substance at the relevant time.
  - (3) Subsection (1) does not limit the circumstances in which a person may be adversely affected by an intoxicating substance.

## Part 5                      **Amendment of Drugs Misuse Act 1986**

### 18      **Act amended**

This part amends the *Drugs Misuse Act 1986*.

### 19      **Amendment of s 4 (Definitions)**

Section 4—

*insert—*

***whole weight***, of a dangerous drug, means the total weight of the drug and any other substance with which it is mixed or in which it is contained.

### 20      **Amendment of s 8 (Producing dangerous drugs)**

Section 8—

*insert—*

- (2) For a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 1, part 2 (a ***part 2 drug***), a reference in subsection (1) to the quantity of the thing is a reference to the whole weight of all the part 2 drugs (whether of the same or different types) that the person is convicted of unlawfully producing.

[s 21]

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**21 Amendment of s 9 (Possessing dangerous drugs)**

Section 9—

*insert—*

- (2) For a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 1, part 2 (a **part 2 drug**), a reference in subsection (1) to the quantity of the thing is a reference to the whole weight of all the part 2 drugs (whether of the same or different types) that the person is convicted of unlawfully possessing.

**Part 6 Amendment of Drugs Misuse Regulation 1987**

**22 Regulation amended**

This part amends the *Drugs Misuse Regulation 1987*.

**23 Amendment of sch 1 (Dangerous drugs)**

- (1) Schedule 1, after heading—

*insert—*

**Part 1 Non-steroid drugs**

- (2) Schedule 1, at the end—

*insert—*

**Part 2 Steroid drugs**

---

**24 Amendment of schs 1 and 2**

Schedules 1 and 2 are amended by inserting all of the following items in schedule 1, part 2 and omitting all of the following items from schedule 2—

Androisoxazole  
Androstenediol  
Atamestane  
Bolandiol  
Bolasterone  
Bolazine  
Boldenone (dehydrotestosterone)  
Bolenol  
Bolmantalate  
Calusterone  
Chlorandrostenolone  
4-Chloromethandienone  
Chloroxydienone  
Chloroxymesterone  
(dehydrochloromethyltestosterone)  
Clostebol (4-chlorotestosterone)  
Danazol  
Dehydroepiandrosterone (DHEA)  
Dihydrolone  
Dimethandrostanolone  
Drostanolone  
Enestebol  
Epitiostanol  
Ethyldienolone

[s 24]

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Ethylestrenol  
Fluoxymesterone  
Formebolone (formyldienolone)  
Furazabol  
4-Hydroxy-19-nortestosterone  
Hydroxystenozol  
Mebolazine  
Mepitiostane  
Mesabolone  
Mestanolone (androstalone)  
Mesterolone  
Methandienone  
Methandriol  
Methenolone  
Methylclostebol  
Methyltestosterone  
Methyltrienolone  
Metribolone  
Mibolerone  
Nandrolone  
Norandrostenolone  
Norbolethone  
Norclostebol  
Norethandrolone  
Normethandrone  
Ovandrotonone  
Oxabolone

Oxandrolone  
Oxymesterone  
Oxymetholone  
Prasterone  
Propetandrol  
Quinbolone  
Silandrone  
Stanolone  
Stanozolol  
Stenbolone  
Testosterone, other than in implant preparations for  
growth promotion in animals  
Thiomesterone (tiomesterone)  
Tibolone  
Trenbolone (trienbolone, trienolone), other than in  
implant preparations for use in animals  
Trestolone  
Any other anabolic and androgenic steroidal agent

**25 Amendment of sch 3 (Specified quantities for particular dangerous drugs)**

(1) Schedule 3, after heading—

*insert—*

**Part 1                      Quantities of  
non-steroid drugs**

(2) Schedule 3, at the end—

*insert—*

[s 26]

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## Part 2

## Quantities of steroid drugs

**Dangerous drug**

**Whole weight of  
dangerous drug**

a dangerous drug mentioned in schedule 1, part 2 50.0g

### 26 Amendment of sch 4 (Specified quantities for particular dangerous drugs)

(1) Schedule 4, after heading—

*insert—*

## Part 1

## Quantities of non-steroid drugs

(2) Schedule 4, at the end—

*insert—*

## Part 2

## Quantities of steroid drugs

**Dangerous drug**

**Whole weight of  
dangerous drug**

a dangerous drug mentioned in schedule 1, part 2 5000.0g

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## **Part 6A                      Amendment of Evidence Act 1977**

### **26A    Act amended**

This part amends the *Evidence Act 1977*.

### **26B    Amendment of s 21AC (Definitions for div 4A)**

Section 21AC, definition *offence involving violence*, first dot point,  
after ‘chapter 28’—

*insert—*

or 28A

## **Part 6B                      Amendment of Introduction Agents Act 2001**

### **26C    Act amended**

This part amends the *Introduction Agents Act 2001*.

### **26D    Amendment of sch 1 (Disqualifying offence provisions under the Criminal Code)**

Schedule 1, part 1—

*insert—*

5A    Chapter 28A (Unlawful striking causing death)

[s 27]

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## Part 7 Amendment of Liquor Act 1992

### 27 Act amended

This part amends the *Liquor Act 1992*.

### 28 Amendment of s 4 (Definitions)

(1) Section 4, definitions *authorised person, civil banning order, drink safe precinct, entertainment, interim civil banning order, respondent* and *unduly intoxicated*—

*omit.*

(2) Section 4—

*insert—*

*abatement notice* means a notice made under section 187.

*approved evaluator*, for part 6AA, see section 173EE.

*approved ID scanner*, for part 6AA, see section 173EE.

*approved ID scanning system*, for part 6AA, see section 173EE.

*approved operator*, for part 6AA, see section 173EE.

*banning order*, for regulated premises, for part 6AA, see section 173EE.

*compliance order* means an order made under section 46.

*exempt class*, for part 6AA, see section 173EE.

*exempt licensee*, for a safe night precinct, see section 173NB(2).

*ID scanner*, for part 6AA, see section 173EE.



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**ID scanning system**, for part 6AA, see section 173EE.

**incorporated association** see the *Associations Incorporation Act 1981*, schedule.

**irresponsible**, in relation to consumption of liquor, includes rapid or excessive.

**licensee**, for part 6AA, division 4, see section 173EE.

**licensee ban**, for part 6AA, see section 173EE.

**licensee member**, of the local board of a safe night precinct, see section 173NL(2).

**local board**, for a safe night precinct, see section 173NC(2).

**management committee**, for a local board, means the board's management committee formed under the *Associations Incorporation Act 1981*.

**photo ID**, for a person, for part 6AA, see section 173EE.

**police service** means the Queensland Police Service.

**regulated premises**, for part 6AA, see section 173EE.

**relevant licensee**, for a safe night precinct, see section 173NB(1).

**rules**, of a local board, means the rules of the local board under the *Associations Incorporation Act 1981*.

**safe night precinct** see section 173NC(1).

**system failure**, for regulated premises, for part 6AA, see section 173EE.

**unreasonable noise**, in relation to licensed premises, means noise that—

[s 29]

---

- (a) exceeds the limits (if any) prescribed by regulation; or
  - (b) contravenes a compliance order that applies to the premises; or
  - (c) contravenes a condition that applies to the licence or permit for the premises.
- (3) Section 4, definition *amenity*, paragraph (b)—  
*omit, insert—*
- (b) the health and safety of persons who live in, work in or visit the community or locality and the comfort or enjoyment they derive from the community or locality.
- (4) Section 4, definition *approved risk-assessed management plan*, after ‘section 52’—  
*insert—*  
or 52A
- (5) Section 4, definition *information notice*, ‘under part 5A’—  
*omit.*

## **29 Omission of s 4AA (Meaning of entertainment)**

Section 4AA—  
*omit.*

## **29A Amendment of s 9 (Ordinary trading hours)**

- (1) Section 9(1B) and (1C), ‘and (3)’—  
*omit, insert—*  
to (3A)
- (2) Section 9(3)(a)(ii), after ‘paragraph (b)’—  
*insert—*  
and subsection (3A)

(3) Section 9—

*insert—*

- (3A) Subject to subsection (2), if a licence condition of a commercial special facility licence relating to an airport or casino specifies the trading hours for the licensed premises on Anzac Day, the ordinary trading hours on Anzac day are the hours specified in the condition.

(4) Section 9(5), after ‘relates’—

*insert—*

or an airport or casino to which subsection (5A) applies

(5) Section 9—

*insert—*

- (5A) Subject to subsection (2), if a licence condition of a commercial special facility licence relating to an airport or casino specifies the trading hours for the licensed premises on Good Friday or Christmas Day, the ordinary trading hours on that day are the hours specified in the condition.

### 30 Insertion of new s 9A

After section 9—

*insert—*

#### **9A When a person may be taken to be unduly intoxicated**

For this Act, a person may be taken to be unduly intoxicated if—

- (a) the person’s speech, balance, coordination or behaviour is noticeably affected; and
- (b) there are reasonable grounds for believing the affected speech, balance, coordination or behaviour is the result of the consumption of

[s 31]

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liquor, drugs or another intoxicating substance.

**31 Amendment of s 13 (Exemption for the sale of liquor at fundraising event)**

(1) Section 13(2)(a), ‘rapid or excessive’—

*omit, insert—*

the irresponsible

(2) Section 13(3)(d)(ii), ‘148A(2) or (4)’—

*omit, insert—*

142ZZ or 142ZZB

**32 Amendment of s 21 (Jurisdiction and powers of tribunal)**

(1) Section 21(1)—

*insert—*

(baa)the giving of a compliance notice under section 142ZZD; or

(bab)a request under section 142ZZD(8) to amend or revoke a compliance notice; or

(eaa)a direction to change an approved risk-assessed management plan under section 52A; or

(h) a decision for which an information notice must be given under part 6AA.

(2) Section 21(1)(a) to (h)—

*renumber* as section 21(1)(a) to (x).

**33 Amendment of s 42A (Commissioner may make guidelines)**

(1) Section 42A(1)—

*insert—*

- 
- (c) matters that may help persons comply with their responsibilities, or lawfully and appropriately exercise powers, under this Act.
- (2) Section 42A(1), examples—  
*insert—*
- 3 The commissioner might make a guideline to help licensees and others determine if a person is unduly intoxicated.
  - 4 The commissioner may make guidelines under sections 142ZZ, 142ZZA or 142ZZD.

### **33A Amendment of s 46 (Orders for licensed premises etc.)**

- (1) Section 46, heading, ‘Orders’—  
*omit, insert—*
- Compliance orders**
- (2) Section 46(1)(c)—  
*omit, insert—*
- (c) stopping or preventing unreasonable noise coming from the premises; or
- (3) Section 46(2) and (3)—  
*omit, insert—*
- (2) The order must state—
- (a) the action that is required to be taken; and
  - (b) the grounds for requiring the action to be taken; and
  - (c) an outline of the facts and circumstances that form the basis for the grounds; and
  - (d) for each action that is required to be taken—the time, of up to 6 months, within which the person to whom the order is issued must take the action; and

[s 33A]

---

- (e) the time, of up to 6 months, that the order has effect for; and
  - (f) that, if the person to whom the order is issued fails to comply with the order, the commissioner may start proceedings in the Magistrates Court in relation to the failure, without further notice to the person.
- (3) The commissioner may, by written notice, extend a time under subsection (2)(d) or (e) for 1 or more periods of up to 6 months to enable the person to whom the order is issued to comply with the order.
- (4) The person to whom the order is issued must comply with the order.
- Maximum penalty—100 penalty units.
- (5) The issuing of an order under this section does not stop any other action being taken under this Act in relation to the matter that is the subject of the order, including, for example—
- (a) an abatement notice being issued; or
  - (b) the licence or permit for the premises being varied; or
  - (c) disciplinary action being taken in relation to the licence; or
  - (d) proceedings being started for an offence against this Act.
- (6) No compensation is payable by the State to any person because of an order made under this section, despite any other Act or law.
- (7) In this section—
- premises* includes an area containing plant or equipment that is not part of the premises, but is used for the benefit of the premises.

**33B Insertion of new s 46A**

After section 46—

*insert—*

**46A Compliance orders for unreasonable noise**

- (1) The commissioner may issue a compliance order, in accordance with section 46, in relation to unreasonable noise coming from premises if an abatement notice has been issued in the last 1 year in relation to the premises.
- (2) The commissioner must consider at least the following before making the order—
  - (a) the order of occupancy between—
    - (i) the licensee or permittee; and
    - (ii) any person who has complained about the noise to the commissioner;
  - (b) any changes, including structural changes, made over time to—
    - (i) the premises; or
    - (ii) the premises occupied by any person who has complained about the noise to the commissioner;
  - (c) any changes made over time in the activities conducted on the premises;
  - (d) for each abatement notice issued for the premises—
    - (i) the reason for issuing the notice; and
    - (ii) whether the notice was complied with.
- (3) The commissioner, as part of the action required to be taken under the order, may require the person to stop all specified noise coming from the premises until the person demonstrates to the commissioner that the noise can be permanently limited to reasonable noise.

[s 33B]

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*Example of specified noise—*

- noise of a specified kind or level
  - noise at a certain time of the day
  - noise from a specified location
- (4) Also, the order may require the person to give the commissioner an acoustic report that complies with the commissioner’s guideline (if any) about acoustic reports.
- (5) After considering the acoustic report, the commissioner may amend the order to require the person to take action to improve the acoustics of the premises in order to stop unreasonable noise coming from the premises.
- (6) Also, the commissioner may amend the order if—
- (a) the commissioner is satisfied the person has taken, or is in the process of taking, the action required under the order to stop unreasonable noise coming from the premises; or
  - (b) the licence or permit for the premises is varied in a way that the commissioner considers is reasonably likely to stop unreasonable noise coming from the premises.
- (7) In this section—
- acoustic report*** means a current report from a qualified acoustic engineer that identifies—
- (a) how much noise can come from the premises before the noise is unreasonable; and
  - (b) ways to improve the acoustics of the premises to stop unreasonable noise coming from the premises.



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**34 Amendment of s 50 (Application of pt 3A)**

Section 50—

*insert—*

- (2) This part applies in relation to the permittee for a restricted liquor permit in the same way it applies to a licensee and, for that purpose—
  - (a) a reference in this part to a licence includes a restricted liquor permit; and
  - (b) a reference in this part to licensed premises includes premises to which a restricted liquor permit relates.

**35 Amendment of s 51 (Approval of plan or revised plan)**

Section 51(b), ‘or permittee’—

*omit.*

**36 Amendment of s 52 (Changing plan)**

- (1) Section 52, heading, after ‘plan’—

*insert—*

**on application by licensee**

- (2) Section 52(1)—

*omit, insert—*

- (1) A licensee may apply to the commissioner to change the licensee’s approved risk-assessed management plan for the licensed premises.
- (3) Section 52(3) and (5), ‘or permittee’—

*omit.*
- (4) Section 52(4)(b), ‘or permit’—

*omit.*

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### **37 Insertion of new s 52A**

After section 52—

*insert—*

#### **52A Commissioner may direct licensee to change plan**

- (1) The commissioner may, by written notice given to a licensee, direct the licensee to change the licensee's approved risk-assessed management plan for the licensed premises.
- (2) The commissioner may decide to give the direction for a purpose for which a condition may be imposed on the licence under section 107C(1).
- (3) The notice given to the licensee must state—
  - (a) particulars of the required change; and
  - (b) the reasons for the required change; and
  - (c) that the licensee must, within a stated reasonable time, give the commissioner a copy of the licensee's plan amended to incorporate the required change.
- (4) The licensee must comply with the notice.  
Maximum penalty—25 penalty units.
- (5) After receiving a copy of the licensee's amended plan, the commissioner must give to the licensee—
  - (a) a notice approving the amended plan; or
  - (b) if the commissioner considers the amended plan does not appropriately incorporate the required change—a further notice under subsection (1).
- (6) The amended plan takes effect on the day that the commissioner gives the licensee a notice approving it and does not depend on the licence being amended to identify the amended plan.

- (7) The commissioner may give a direction under this section to each licensee, or each licensee of a particular class, for licensed premises in a safe night precinct, restricted area or other area.

**38 Amendment of s 53 (Recording change of plan)**

- (1) Section 53(1)—

*omit, insert—*

- (1) This section applies if a licensee receives a notice under section 52(3) or 52A(5)(a) about a change to the licensee's approved risk-assessed management plan for the licensed premises.

- (2) Section 53(2), (3) and (4), 'or permittee'—

*omit.*

- (3) Section 53(2)(b), ', or permittee's permit,'—

*omit.*

- (4) Section 53(4), 'or permit'—

*omit.*

**39 Replacement of s 54 (Conditions about approved plan)**

Section 54—

*omit, insert—*

**54 Conditions about approved plan**

It is a condition of a licence that the licensee—

- (a) keep the licensee's approved risk-assessed management plan for the licensed premises available for inspection at the licensed premises by an investigator and patrons of the premises; and
- (b) display signage at the premises in a way that is likely to make patrons aware that—

[s 40]

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- (i) the licensee has an approved risk-assessed management plan for the premises; and
- (ii) the plan is available for inspection by patrons; and
- (c) ensure all staff of the premises, and crowd controllers engaged in maintaining order in and around the premises, are aware of the plan and perform their duties at the premises in compliance with the plan.

#### **40 Amendment of s 58 (Available licences)**

Section 58(1)—

*insert—*

- (f) nightclub licence.

#### **40A Amendment of s 58A (Licences subject to conditions imposed under regulation)**

- (1) Section 58A(3), ‘the condition applies to all licenses’—

*omit, insert—*

or all licences in a particular area, the condition applies to all the licences or all the licences in the area

- (2) Section 58A(4), ‘the condition applies to all licences of that class’—

*omit, insert—*

or a particular class of licence in a particular area, the condition applies to all the licences of that class or all the licences of that class in the area

- (3) Section 58A—

*insert—*

- (6) However, if the commissioner imposes a condition on a licence under section 107C or

varies a licence under section 111 by amending or revoking a condition of the licence, the condition or variation prevails over any condition prescribed by regulation to the extent of any inconsistency.

**40B Amendment of s 64 (Authority of commercial special facility licence)**

Section 64(1)(a), ‘the times stated in the licence’—

*omit, insert—*

ordinary trading hours or approved extended trading hours

**41 Omission of s 67AA (Principal activity is the provision of entertainment)**

Section 67AA—

*omit.*

**42 Amendment of s 67A (Principal activity is the provision of meals)**

Section 67A—

*insert—*

- (3) For subsection (1), a licensee is taken not to be conducting a business on the licensed premises that is consistent with the principal activity of the licence unless—
- (a) for each trading day, most of the patrons of the business on that day consume a meal on the premises; and
  - (b) throughout each trading day, most of the area of the licensed premises is set up with tables and chairs, or another combination of seating and surfaces, that are being used or

[s 42A]

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ready for use by patrons for consuming meals; and

- (c) there is a kitchen in the licensed premises which is open throughout each trading day other than a period of up to 1 hour before the end of a trading period; and
- (d) throughout each trading day there are sufficient staff at the licensed premises engaged in, or available to engage in, the preparation and service of meals.

(4) In this section—

*open*, for a kitchen, means being used or available for use for meal preparation.

*trading day*, for licensed premises, means—

- (a) if only 1 trading period for the premises starts on a day—that trading period; or
- (b) if 2 or more trading periods for the premises start on a day—the total of the trading periods.

*trading period*, for licensed premises, means a continuous period during which the premises are open for business (including a period starting on a day and ending on the following day).

## **42A Amendment of s 67D (Restriction on grant of subsidiary on-premises licence)**

Section 67D—

*insert—*

- (2) Also, the commissioner must not grant a subsidiary on-premises licence to a person if the commissioner is satisfied that the sale of liquor proposed to be carried on under the authority of the licence would more appropriately be carried

on under the authority of a licence of another kind.

**43 Insertion of new pt 4, div 6A**

Part 4—

*insert—*

**Division 6A Nightclub licence**

**83A Principal activity of a business under a nightclub licence**

- (1) The principal activity of a business conducted under a nightclub licence is the provision of entertainment on the licensed premises and the sale of liquor for consumption on the licensed premises while the entertainment is provided.
- (2) The authority under a nightclub licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).
- (3) It is consistent with the principal activity of a nightclub licence to sell or supply liquor for consumption on the premises during a relevant period, even though no entertainment is being provided, if the liquor is sold or supplied in association with a consumer eating a meal on the premises.
- (4) However, subsection (3) applies only if the licensee complies with section 67A(3)(b) to (d) as if a reference in that provision to a trading day were a reference to the part of a trading day during a relevant period that the licensee sells or supplies liquor while no entertainment is being provided.
- (5) In this section—

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***entertainment***—

- (a) means entertainment provided by a person—
  - (i) who is physically present when providing the entertainment; and
  - (ii) whose function is to present the entertainment; and
- (b) does not include entertainment using facilities that do not require a person present to provide the entertainment.

*Examples of facilities that do not require a person to be present—*

- pool tables
- jukeboxes

***relevant period***, for premises, means—

- (a) for premises to which an extended trading hours approval applies for trading between 9a.m. and 10a.m.—between 9a.m. and 5p.m.; or
- (b) if paragraph (a) does not apply—between 10a.m. and 5p.m.

**83B Authority of nightclub licence**

- (1) A nightclub licence authorises the licensee to sell liquor on the licensed premises during ordinary trading hours or approved extended trading hours—
  - (a) for consumption on the premises; and
  - (b) if stated in the licence—for consumption off the licensed premises, subject to section 83D.



- (2) The authority under subsection (1) is subject to this Act and the conditions stated in a particular licence.

### **83C Restrictions on grant of nightclub licence**

- (1) The commissioner may grant a nightclub licence only if the commissioner is satisfied the licensed premises have toilet facilities for male and female patrons of the business to be conducted under the licence on the licensed premises.
- (2) The commissioner must not grant a nightclub licence to a person for a vehicle the commissioner reasonably considers is, or is to be, used primarily to transport persons by road between licensed premises.

### **83D Restriction on sale of liquor for consumption off premises**

- (1) The commissioner may decide that liquor may be sold under the authority of a nightclub licence for consumption off the licensed premises only if the commissioner is satisfied the sale of liquor will be made only in the course of the licensee providing catering facilities for functions.
- (2) The authority conferred by a nightclub licence to sell liquor for consumption off the licensed premises is restricted to the sale of liquor—
  - (a) as ancillary to a function that—
    - (i) happens at a place at which the liquor is consumed; and
    - (ii) includes the licensee providing food for the function of sufficient substance as to be ordinarily accepted as a meal for consumption by persons genuinely attending the function, even though the

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food may be eaten while standing and without cutlery; and

- (b) for consumption by persons genuinely attending the function.

**44 Amendment of s 85 (Application for approval)**

Section 85—

*insert—*

- (3) Subsection (1) does not apply to an applicant for, or holder of, a community other licence.

**45 Amendment of s 86 (Hours to which application may relate etc.)**

- (1) Section 86(1), ‘other than a community other licence’—

*omit.*

- (2) Section 86—

*insert—*

- (1A) Subsection (1) does not apply to a subsidiary on-premises licence (meals) or community other licence.

- (1B) An application may be made for an extended trading hours approval for a subsidiary on-premises licence (meals) that, if granted, would extend trading hours on a regular basis to include trading between 12a.m. and 1a.m.

**46 Omission of pt 4, div 8 (Moratorium on extended trading hours approvals)**

Part 4, division 8—

*omit.*

**46A Amendment of s 97 (When all or part of licensed premises must be classified as high risk)**

Section 97(2), note, from ‘or how the commissioner’—

*omit, insert—*

, how the commissioner administers this Act or matters that may help persons comply with this Act.

**47 Amendment of s 101 (Definitions for div 2)**

Section 101, definition *licence*—

*insert—*

(d) nightclub licence.

**48 Amendment of s 105A (Additional requirement for particular applications—risk-assessed management plan)**

Section 105A(6), definition *low risk premises*, ‘5a.m.’—

*omit, insert—*

1a.m.

**49 Insertion of new s 105B**

After section 105A—

*insert—*

**105B Application for adult entertainment permit requires local government consent**

- (1) An application for an adult entertainment permit may be made only with the consent of the local government for the area in which the relevant premises are located.
- (2) The application must include, or be accompanied by, the written consent or written evidence of the consent.

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- (3) However, subsection (1) does not apply to an application for an adult entertainment permit if—
  - (a) an adult entertainment permit (the *previous permit*) was previously granted for the relevant premises; and
  - (b) the application is made before, or no later than 30 days after, the previous permit expires.
- (4) Also, subsection (1) does not apply if the local government abstains, in writing, from consenting to the application.
- (5) In this section—

*consent*, of a local government to an application for an adult entertainment permit, does not include a development approval for the relevant premises given by the local government under the *Sustainable Planning Act 2009*.

*relevant premises* means the premises in relation to which the adult entertainment permit is sought.

## 50 **Amendment of s 107C (Commissioner may impose conditions on licences and permits)**

Section 107C—

*insert—*

- (3) Without limiting subsection (1), a condition of a commercial special facility licence relating to an airport or casino may, and always could, specify the trading hours for the licensed premises on Anzac Day, Good Friday or Christmas Day.
- (4) A condition may provide for matters mentioned in section 173EG.

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**51 Amendment of s 111 (Variation of licence)**

(1) Section 111(2)(g)—

*omit, insert—*

(g) another matter for the purpose of—

(i) ensuring compliance with this Act; or

(ii) minimising alcohol-related disturbances, or public disorder, in a locality; or

(iii) otherwise giving effect to the main purpose of this Act mentioned in section 3(a).

(2) Section 111(2A)—

*omit, insert—*

(3) The ways the commissioner may seek to vary a licence under subsection (2) include imposing a new condition, amending a condition and revoking a condition.

(4) The commissioner may, under subsection (2), seek to make the same variation to each licence, or each licence of a particular class, for licensed premises in a particular safe night precinct, restricted area or other area.

*Examples—*

1. The commissioner may seek to vary all the licences for licensed premises in a particular safe night precinct by imposing on each licence a condition requiring that a patron must not be allowed to enter the premises during a stated period.

2. The commissioner may seek to vary all the commercial hotel licences for licensed premises in a central business district by imposing on each licence a condition under section 173EF(2).

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**52 Amendment of s 112 (Procedure for variation by commissioner)**

Section 112(1A)—

*insert—*

- (c) the chief executive of the department that administers the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

**53 Amendment of s 116 (When community impact statement to be given to commissioner)**

Section 116(3)(b), ‘5a.m.’—

*omit, insert—*

1a.m.

**54 Amendment of s 117A (Comments about particular applications)**

Section 117A(1)—

*insert—*

- (d) the chief executive of the department that administers the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

**55 Amendment of s 118 (Advertisement of applications)**

Section 118(1)(b)(ii), ‘5a.m.’—

*omit, insert—*

1a.m.

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**56 Amendment of s 121 (Matters the commissioner must have regard to)**

Section 121(1)(e), after ‘for the area’—

*insert—*

and the chief executive of the department that administers the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*

**57 Insertion of new s 121A**

After section 121—

*insert—*

**121A Commissioner must publish information after granting particular applications**

- (1) This section applies if—
  - (a) the commissioner receives an application for an extended trading hours approval; and
  - (b) under section 117, the police district officer for the locality objects to the grant of the application; and
  - (c) the commissioner grants the application.
- (2) The commissioner must publish, on the department’s website, information about how public safety concerns will be addressed in relation to the licensed premises to which the approval applies.
- (3) The information must—
  - (a) be published on the department’s website as soon as practicable after the commissioner grants the application; and
  - (b) continue to be published for a period of at least 3 months.

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**58 Insertion of new pt 5, div 1A**

Part 5—

*insert—*

**Division 1A Public safety and amenity**

**128A Application of div 1A**

- (1) This division applies to the commissioner for the purpose of making a decision under this Act, in relation to relevant premises, about the effects of a thing on—
  - (a) the health and safety of members of the public; or
  - (b) the amenity of a community or locality.
- (2) This division does not limit the matters the commissioner may consider in making the decision.
- (3) In this section—

*relevant premises* means —

  - (a) licensed premises; or
  - (b) premises to which a permit relates; or
  - (c) premises for which an application for a licence or permit has been made.

**128B Particular matters the commissioner may consider**

- (1) The matters that the commissioner may consider include—
  - (a) the disbursement of persons leaving the relevant premises; and



- (b) the availability of public transport during, and immediately before or after, the hours of operation of the relevant premises; and
  - (c) the nature and level of noise from the relevant premises.
- (2) The commissioner may consider whether any of the following has happened, and the likelihood of any of the following happening, in relation to the behaviour of persons in or near the relevant premises—
- (a) violence;
  - (b) vandalism;
  - (c) nuisance;
  - (d) drunkenness;
  - (e) public urination, vomiting or defecation;
  - (f) disorderly, riotous, threatening, indecent, offensive or insulting behaviour;
  - (g) noisiness;
  - (h) obstruction of a road, footpath or other thoroughfare.

### **128C Conditions relating to public safety or amenity**

The conditions that the commissioner may impose on a licence or permit under part 5 to give effect to the main purpose of this Act mentioned in section 3(a) include a condition about any of the following—

- (a) the days on which, or times during which, liquor may be sold on the relevant premises;
- (b) the availability of liquor from the relevant premises, including the type or quantity of

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liquor that may be sold on the relevant premises;

- (c) the adoption of stated responsible practices about service, supply or promotion of liquor;
- (d) the adoption of stated noise abatement measures;

*Examples—*

- a condition relating to the structure of the premises
- a condition about the conduct of the business at the premises

- (e) the adoption of stated security arrangements.

*Examples—*

- a condition requiring a stated number of security staff by reference to the number of patrons in the relevant premises
- a condition requiring closed-circuit television equipment to be used at stated places on the licensed premises

## **59 Amendment of s 134 (Cancellation, suspension or variation of permits)**

- (1) Section 134(1)(b)—

*omit, insert—*

- (b) the use of the premises in relation to which the permit is held has caused, or is causing, an adverse effect on the amenity of the area in which the premises are located.

- (2) Section 134—

*insert—*

- (2A) The ways the commissioner may vary a permit under subsection (1) include imposing a new

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condition, amending a condition and revoking a condition.

**60 Amendment of s 136 (Grounds for disciplinary action)**

Section 136(1)(h)—

*omit, insert—*

- (h) the use of the licensed premises has caused, or is causing, an adverse effect on the amenity of the area in which the premises are located;

**61 Amendment of s 142AA (Application of div 5)**

Section 142AA(3)(a)—

*omit, insert—*

- (a) on Anzac Day to licensed premises if—
  - (i) the premises are on the premises of an RSL or Services Club; or
  - (ii) a commercial public event permit for that day has been granted for the premises under section 103(4); or
  - (iii) an extended hours permit for that day has been granted for the premises under section 103H(2); or

**62 Amendment of s 142AF (Purpose of div 6)**

- (1) Section 142AF(1), ‘148A(1)’—

*omit, insert—*

142ZX

- (2) Section 142AF(2), ‘section 148A’—

*omit, insert—*

sections 142ZX to 142ZZB

[s 63]

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**63 Amendment of s 142AG (Conditions about crowd controllers)**

- (1) Section 142AG(1)(a), ‘number of crowd controllers prescribed under a regulation’—

*omit, insert—*

required number of crowd controllers

- (2) Section 142AG—

*insert—*

- (2) For subsection (1)(a), the required number of crowd controllers for a licence is—
- (a) if a condition of the licence requires a stated number of crowd controllers to be engaged in the circumstances stated in subsection (1)(a)—that number; or
  - (b) otherwise—the number of crowd controllers prescribed by regulation.

**64 Amendment of s 142AH (Conditions about closed-circuit television equipment)**

- (1) Section 142AH—

*insert—*

- (ca) must comply with any requirements prescribed by regulation about maintaining the equipment; and

- (2) Section 142AH(f)—

*omit, insert—*

- (f) must store each recording made by the equipment in a secure place at the premises in compliance with any requirements prescribed by regulation; and

- 
- (fa) must keep each recording available for inspection and viewing by an investigator at the premises until—
- (i) the recording is erased or destroyed under paragraph (h); or
  - (ii) if the recording is earlier given to an investigator—the investigator has confirmed by written notice that the recording is viewable; and
- (3) Section 142AH(h), after ‘given to an investigator’—
- insert—*
- and the investigator has confirmed by written notice that the recording is viewable

**65 Amendment of s 142AJ (Conditions about drinking practices)**

Section 142AJ(b), ‘rapid or excessive’—

*omit, insert—*

irresponsible

**66 Insertion of new pt 6, div 1AA**

Part 6, before division 1—

*insert—*

**Division 1AA Responsible service,  
supply and promotion of  
liquor and preservation of  
amenity**

**142ZX Purposes of div 1AA**

This division imposes obligations on licensees and permittees for the purposes of—

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- (a) maintaining a safe environment for patrons and staff of the relevant premises; and
- (b) ensuring liquor is served, supplied and promoted in a way that is compatible with minimising harm to anyone; and
- (c) preserving the amenity of the area in which the relevant premises are located.

### **142ZY Meaning of *relevant premises***

In this division—

*relevant premises* means—

- (a) for a licensee—the licensed premises; or
- (b) for a permittee—the premises to which the permit relates.

### **142ZZ Unacceptable practices and promotions**

- (1) A licensee or permittee must not engage in, or allow another person to engage in, an unacceptable practice or promotion in the conduct of business on the relevant premises.

Maximum penalty—100 penalty units.

- (2) For subsection (1), each of the following is an *unacceptable practice or promotion*—
  - (a) a practice or promotion that may encourage the irresponsible consumption of liquor;
  - (b) a practice or promotion that may discourage a patron from monitoring or controlling the patron's consumption of liquor;
  - (c) a practice or promotion likely to have a special appeal to children, for example, because of the use of designs, names, motifs or characters that are likely to be attractive to children;

- 
- (d) a practice or promotion that is indecent or offensive;
  - (e) a practice or promotion using emotive descriptions that are likely to encourage the irresponsible consumption of liquor;
  - (f) a practice or promotion that involves providing free drinks, or providing drinks at discounts, in a way that encourages patrons to consume excessive amounts of liquor or consume liquor more rapidly than they would otherwise do;
  - (g) a practice or promotion prescribed by regulation for this section.
- (3) For subsection (2)(g), a regulation may prescribe a practice or promotion for all licensees or permittees, or for a particular class of licensees or permittees.
  - (4) The commissioner may make a guideline under section 42A that includes examples of practices and promotions mentioned in subsection (2).

### **142ZZA Responsible practices and promotions**

- (1) A licensee or permittee must, in the conduct of business on the relevant premises, engage in practices and promotions that encourage the responsible consumption of liquor—
  - (a) generally; and
    - Examples—*
      - having non-alcoholic and low alcohol beverages available
      - supplying liquor in standardised quantities that can be recognised by patrons
      - serving patrons half-measures of spirits on request
  - (b) prescribed by regulation for this section.

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Maximum penalty—100 penalty units.

- (2) For subsection (1)(b), a regulation may prescribe a practice or promotion for all licensees or permittees, or for a particular class of licensees or permittees.
- (3) The commissioner may make a guideline under section 42A that includes examples of practices and promotions that encourage the responsible consumption of liquor.

#### **142ZZB Providing a safe environment and preserving amenity**

- (1) A licensee or permittee must, in the conduct of business on the relevant premises, provide and maintain a safe environment in and around the relevant premises.

Maximum penalty—100 penalty units.

- (2) A licensee or permittee must, in the conduct of business on the relevant premises, take all reasonable steps to ensure the use of the premises does not adversely affect the amenity of the area in which the premises are located.

Maximum penalty—100 penalty units.

- (3) A licensee or permittee must, in the conduct of business on the relevant premises, take all reasonable steps to ensure the behaviour of persons entering or leaving the premises does not adversely affect the amenity of the area in which the premises are located.

Maximum penalty—100 penalty units.

- (4) If a licensee or permittee knows or has reason to believe that a relevant offence is being, or is about to be, committed in or around the relevant premises, the licensee or permittee must take



reasonable steps to stop or prevent the commission of the offence.

Maximum penalty—100 penalty units.

- (5) For subsection (4), an offence is a *relevant offence* if the commission of the offence may reasonably be expected to have an adverse impact on—
- (a) the health and safety of a person in or around the relevant premises; or
  - (b) the amenity of the area in which the premises are located.

- (6) A licensee or permittee must, in the conduct of business on the relevant premises, engage in the positive practices prescribed by regulation for this section.

Maximum penalty—100 penalty units.

- (7) A licensee or permittee must not, in the conduct of business on the relevant premises, engage in, or allow another person to engage in, an unacceptable practice prescribed by regulation for this section.

Maximum penalty—100 penalty units.

- (8) A regulation may prescribe a practice to be a positive practice for subsection (6) or an unacceptable practice for subsection (7) for the purposes of—
- (a) providing and maintaining a safe environment in and around licensed premises and premises to which permits relate; and
  - (b) ensuring the use of the premises does not adversely affect the amenity of the areas in which they are located.

## **142ZZC Advertising**

- (1) A licensee or permittee must not advertise or allow anyone to advertise—
  - (a) the availability of the following for consumption on the relevant premises—
    - (i) free liquor;
    - (ii) multiple quantities of liquor; or

*Example—*

2 drinks for the price of 1

- (b) the sale price of liquor for consumption on the relevant premises; or
- (c) a promotion that is likely to indicate to an ordinary person the availability of liquor, for consumption on the relevant premises, at a price less than that normally charged for the liquor.

*Examples of promotions for paragraph (c)—*

- ‘happy hours’
- ‘all you can drink’
- ‘toss the boss’

Maximum penalty—100 penalty units.

- (2) A person does not contravene subsection (1) if—
  - (a) the advertising happens only within the relevant premises; and
  - (b) the advertisement is not visible or audible to a person who is outside the relevant premises.
- (3) Subsection (1)(b) does not apply to the holder of a subsidiary on-premises licence if the principal activity of the business conducted under the licence is the principal activity mentioned in section 67A.

- 
- (4) A licensee or permittee must not advertise or allow anyone to advertise anything that is, or would be if it were engaged in, an unacceptable practice or promotion under section 142ZZ.

Maximum penalty—100 penalty units.

- (5) In this section—

*advertise* means advertise in any way including, for example, in any of the following ways—

- (a) by signage;
- (b) in print;
- (c) orally;
- (d) electronically.

#### **142ZZD Compliance notices**

- (1) This section applies if the commissioner reasonably believes a licensee or permittee—

- (a) is engaging in an unacceptable practice or promotion in contravention of section 142ZZ; or
- (b) has engaged in an unacceptable practice or promotion in contravention of section 142ZZ in circumstances that make it likely the contravention will continue or be repeated; or
- (c) is advertising a matter in contravention of section 142ZZC; or
- (d) has advertised a matter in contravention of section 142ZZC in circumstances that make it likely the contravention will continue or be repeated.

- (2) This section also applies if the commissioner—

- (a) reasonably believes a licensee or permittee—

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- (i) is engaging in a practice or promotion in the conduct of business on the relevant premises; or
  - (ii) has engaged in a practice or promotion in the conduct of business on the relevant premises in circumstances that make it likely the practice or promotion will continue or be repeated; or
  - (iii) is advertising a matter relating to the business conducted on the relevant premises; or
  - (iv) has advertised a matter relating to the business conducted on the relevant premises in circumstances that make it likely the advertisement will continue or be repeated; and
- (b) considers that, having regard to the purposes of this Act, the practice, promotion or advertisement is contrary to the public interest.
- (3) The commissioner may give to the licensee or permittee a notice (a *compliance notice*) stating the following—
- (a) that the commissioner—
    - (i) holds the belief mentioned in subsection (1); or
    - (ii) holds the belief mentioned in subsection (2)(a) and considers the practice, promotion or advertisement is contrary to the public interest;
  - (b) a description of the practice, promotion or advertisement;
  - (c) briefly—
    - (i) for subsection (1), how it is believed section 142ZZ or 142ZZC is being

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contravened or has been contravened;  
or

- (ii) for subsection (2), why the commissioner considers the practice, promotion or advertisement is contrary to the public interest;
- (d) whichever of the following that is relevant—
- (i) that the licensee or permittee must not engage, or continue to engage, in the practice or promotion;
  - (ii) that the licensee or permittee must not continue or repeat the advertisement;
  - (iii) that the licensee or permittee must take particular action to remedy the contravention, or avoid further contravention, of section 142ZZ or 142ZZC;

*Example for subparagraph (iii)—*

A licensee may be required to ensure stated harm minimisation measures are in place whenever a licensee engages in a particular practice.

- (e) that it is an offence to fail to comply with the compliance notice unless the licensee or permittee has a reasonable excuse.
- (4) The licensee or permittee must comply with the compliance notice unless the licensee or permittee has a reasonable excuse.

Maximum penalty—100 penalty units.

- (5) The compliance notice may state other matters the commissioner considers appropriate.

*Example—*

The compliance notice may refer to the commissioner's powers under this Act to take disciplinary action relating to the licence or permit.

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- (6) To remove any doubt, it is declared that, except to the extent the compliance notice states otherwise, it continues to have effect until it is revoked.
- (7) While a compliance notice remains in force, the commissioner must review it at 1 yearly intervals to ensure it remains appropriate.
- (8) A person given a compliance notice may, at any time while the notice is in force, apply to the commissioner to revoke the notice or make a stated amendment of the notice.
- (9) The commissioner may make a guideline under section 42A about practices, promotions or advertisements that may be considered to be contrary to the public interest for subsection (2).

**67 Omission of ss 148A and 148B**

Sections 148A and 148B—

*omit.*

**68 Insertion of new s 148AA**

After section 148—

*insert—*

**148AA Licences subject to conditions about closed-circuit television equipment**

- (1) This section applies in relation to a licence that is subject to a CCTV condition, other than a licence to which section 142AH applies.
- (2) The licensee must comply with the requirements stated in section 142AH(a) to (h).  
Maximum penalty—100 penalty units.
- (3) The requirements mentioned in subsection (2) apply to the licensee as if the requirement under section 142AH(a) were the requirement to have

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closed-circuit television equipment that is stated in the licensee's CCTV condition.

(4) In this section—

***CCTV condition*** means a licence condition requiring the licensee to have closed-circuit television equipment at 1 or more entrances or exits of the licensed premises, or somewhere else on the licensed premises.

**69 Amendment of s 153 (Letting or subletting of licensed premises)**

Section 153(2), 'the sale of'—

*omit, insert*—

a person other than the licensee to sell

**70 Amendment of s 155 (Minors on premises)**

Section 155(5)(b)—

*omit, insert*—

(b) the licence for the premises is a nightclub licence.

**71 Insertion of new s 162A**

After section 162—

*insert*—

**162A Taking liquor onto or away from premises subject to nightclub licence**

(1) A person must not take liquor onto premises to which a nightclub licence relates for consumption on the premises.

Maximum penalty—25 penalty units.

(2) A person must not take liquor from premises to which a nightclub licence relates.

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Maximum penalty—25 penalty units.

**72 Amendment of s 165 (Removal of persons from premises)**

Section 165(2) and (4), ‘25 penalty units’—

*omit, insert—*

50 penalty units

**73 Amendment of s 165A (Refusing entry to premises)**

Section 165A(2) and (4), ‘25 penalty units’—

*omit, insert—*

50 penalty units

**74 Insertion of new pt 6AA**

After part 6—

*insert—*

**Part 6AA ID scanning**

**Division 1 Preliminary**

**173EE Definitions for pt 6AA**

In this division—

*approved evaluator* means—

- (a) a licensed testing facility operator under the *Gaming Machine Act 1991*; or
- (b) an approved evaluator under a gaming Act within the meaning of the *Gaming Machine Act 1991*; or
- (c) an entity prescribed by regulation as an approved evaluator for this part.



**approved ID scanner** means an ID scanner for which an approval is in force under section 173EN.

**approved ID scanning system** means an ID scanning system for which an approval is in force under section 173EO.

**approved operator** means a person holding an approval under section 173EQ to operate an approved ID scanning system.

**banning order**, for regulated premises, means any of the following under which a person is required not to be at the regulated premises or in an area in which the regulated premises are located—

- (a) a direction under the *Police Powers and Responsibilities Act 2000*, section 48;
- (b) a police banning notice under the *Police Powers and Responsibilities Act 2000*, section 602B;
- (c) a special condition of the person's release on bail imposed under the *Bail Act 1980*, section 11(3);
- (d) a banning order under the *Penalties and Sentences Act 1992*, part 3B.

**exempt class** means a class of licence prescribed by regulation as an exempt class for this part.

**ID scanner** means a device capable of interpreting a photo ID and processing the information contained in or on it.

**ID scanning system** means an integrated database system comprising—

- (a) the following information—

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- (i) information about persons scanned and recorded by ID scanners linked to the system;
  - (ii) information about persons subject to banning orders or licensee bans entered into the system under section 173EJ; and
- (b) the equipment used to scan, record, transmit, store or otherwise deal with information mentioned in paragraph (a).

**licensee**, for division 4, includes an applicant for a licence.

**licensee ban** means a decision of a licensee to ban a particular person from entering the licensee's licensed premises.

**operating**, in relation to an ID scanning system, does not include operating an ID scanner linked to the system under section 173EH(1).

**photo ID**, for a person, means a document that is acceptable evidence of the person's age under section 6.

**regulated premises** means premises to which division 2 applies under section 173EF.

**system failure**, for regulated premises, means—

- (a) a fault in, damage to, or discontinuation or ending of the approval of, the approved ID scanner ordinarily used at the regulated premises; or
- (b) a failure, or discontinuation or ending of the approval, of the approved ID scanning system to which the approved ID scanner at the regulated premises is linked.

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## **Division 2      Use of ID scanners in particular licensed premises**

### **173EF Licensed premises to which this division applies**

- (1) This division applies to licensed premises if—
  - (a) the premises are located in a safe night precinct; and
  - (b) the licensee is authorised under this Act to sell or supply liquor on the premises during all or any part of the period between midnight and 5a.m.; and
  - (c) the licence for the premises is not of an exempt class.
- (2) Also, this division applies to licensed premises if the licence for the premises is subject to a condition declaring the premises to be regulated premises for this division.
- (3) This division does not apply to licensed premises if the licensee holds an extended hours permit mentioned in section 103I(1) for the premises.

### **173EG Licence conditions about regulated premises**

- (1) The conditions that may be imposed on a licence under part 4 or 5 include a condition declaring the licensed premises to be regulated premises for this division.
- (2) Subsection (1) applies to a licence even if it is of an exempt class.
- (3) The police commissioner may make a recommendation to the commissioner about imposing a condition on a particular licence

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declaring the licensed premises to be regulated premises.

- (4) The commissioner must have regard to a recommendation under subsection (3).
- (5) A licence condition for regulated premises may state a period to be the premises' regulated hours for section 173EH.
- (6) To remove any doubt, it is declared that the reference in subsection (5) to regulated premises includes regulated premises to which this division applies under section 173EF(1).

### **173EH Scanning obligations of licensees for regulated premises**

- (1) The licensee for regulated premises must ensure that, during the regulated hours for the premises, no person is allowed to enter the premises as a patron unless—
  - (a) the person produces a photo ID; and
  - (b) a staff member of the licensed premises scans the photo ID using an approved ID scanner linked to an approved ID scanning system; and
  - (c) the scan of the photo ID indicates the person is not subject to a banning order for the premises.

Maximum penalty—10 penalty units.

- (2) Subsection (1) does not apply during regulated hours starting on a day if the licensee is not authorised to sell or supply liquor on the licensed premises after midnight of that day.
- (3) Despite subsection (2), a licence condition for regulated premises may require the licensee for the premises to ensure that, during the regulated

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hours for the premises, no person is allowed to enter the premises as a patron unless—

- (a) the person produces a photo ID; and
  - (b) a staff member of the licensed premises scans the photo ID using an approved ID scanner linked to an approved ID scanning system; and
  - (c) the scan of the photo ID indicates the person is not subject to a banning order for the premises.
- (4) A reference in subsection (1)(b) or (3)(b) to scanning a photo ID is a reference to operating the approved ID scanner in a way that—
- (a) records the photo and other permitted information contained in or on the photo ID; and
  - (b) indicates to the staff member whether or not the person is subject to a banning order recorded in the approved scanning system to which the approved ID scanner is linked.
- (5) If, during the regulated hours for the premises, the licensee can not comply with subsection (1) or (3) because of a system failure, the licensee must—
- (a) comply with subsection (1) or (3) as if a reference to scanning a photo ID using an approved ID scanner were a reference to checking the photo ID against a current list of persons subject to banning orders; and
  - (b) comply with any other requirements prescribed by regulation; and
  - (c) give written notice of the system failure to the commissioner and the police commissioner within 48 hours after first

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allowing entry to a patron during the system failure; and

- (d) make reasonable efforts to rectify, as soon as possible, any part of the system failure that is a fault of, or damage to, the approved ID scanner.

Maximum penalty—10 penalty units.

- (6) For subsection (5)(a), a current list of persons is a current list within the meaning of section 173EJB.
- (7) This section does not apply to any of the following persons entering the premises—
  - (a) a resident, whether temporary or permanent, of the regulated premises;
  - (b) an exempt minor;
  - (c) a person whose sole purpose for entering the premises is to attend a function held on the premises;
  - (d) for premises to which any of the following licences relates—a person whose sole purpose for entering the premises is to eat a meal in a part of the premises ordinarily set aside for dining, whether or not liquor is sold and supplied to the person for consumption by the person in association with the eating of the meal—
    - (i) a commercial hotel licence;
    - (ii) a subsidiary on-premises licence if the principal activity of a business conducted under the licence is the provision of accommodation;
    - (iii) a community club licence.
- (8) Also, this section does not apply to a person entering the premises—

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- (a) if the licence for the premises is subject to a condition declaring the premises not to be regulated premises for this division; or
  - (b) to access a part of the premises if the licence for the premises is subject to a condition declaring the part not to be regulated premises for this division.
- (9) In this section—

*enter*, premises, includes re-enter the premises.

*permitted information* does not include personal information about a person other than the information mentioned in section 173EJ(1)(a), (c) or (d) for the person.

*regulated hours*, for regulated premises, means—

- (a) if a condition of the licence for the premises states a period that is the premises' regulated hours for this section—that period; or
- (b) otherwise—the period during which the licensed premises are open for business between 10p.m. on a day and 5a.m. on the following day.

*staff member*, of licensed premises, includes the licensee and a person engaged by the licensee to perform a function for this section.

### **173EHA Delayed application of s 173EH to particular regulated premises**

- (1) This section applies to licensed premises if the licence for the premises becomes subject to a condition declaring the premises to be regulated premises for this part.

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- (2) Section 173EH does not apply to the licensee of the regulated premises until—
  - (a) 3 months after the day the premises become subject to the condition; or
  - (b) if the commissioner gives written approval for a period longer than 3 months after the day the premises become subject to the condition—the end of the longer period.

### **173EI Privacy**

- (1) It is a condition of a licence for regulated premises that the licensee must—
  - (a) if the licensee is not an organisation under the *Privacy Act 1988* (Cwlth)—ensure the licensee is treated as an organisation for that Act; and
  - (b) comply with that Act in relation to the protection of personal information recorded by an ID scanner operated in the regulated premises.
- (2) If licensed premises stop being regulated premises, or a licence for regulated premises ends under this Act, the licensee or person who was the licensee must not keep or disclose any personal information recorded by an ID scanner operated in the premises.  
Maximum penalty—25 penalty units.
- (3) Subsection (2) does not apply to a disclosure of information required or permitted by law.



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## **Division 3            Operation of approved ID                                  scanning systems**

### **173EJ Obligations about operation**

- (1) An approved operator for an approved ID scanning system (the *system*) must ensure the system does not record any personal information about a person other than the following—
  - (a) the person's name, address and date of birth;
  - (b) a photo of the person;
  - (c) details of a banning order in force for the person;
  - (d) details of a licensee ban imposed on the person by a linked licensee that the licensee has asked the approved operator to include in the system.

Maximum penalty—25 penalty units.

- (2) The approved operator must ensure personal information is not held in the system for more than 30 days after it is entered into the system.

Maximum penalty—25 penalty units.

- (3) Subsection (2) does not apply to information about a person subject to a banning order or licensee ban in force for the person that the approved operator is, under subsections (4) to (6), required to include in the system.

- (4) The approved operator must as soon as reasonably practicable comply with a requirement of the commissioner or the police commissioner to—
  - (a) include stated information about a banning order in the system; or

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- (b) remove stated information about a banning order from the system; or
- (c) make a stated change to correct information in the system about a banning order.

Maximum penalty—25 penalty units.

- (5) The approved operator must as soon as reasonably practicable comply with a request of a linked licensee, relating to a licensee ban imposed by the licensee, to—
  - (a) include stated information about the licensee ban in the system; or
  - (b) remove stated information about the licensee ban from the system; or
  - (c) make a stated change to correct information in the system about the licensee ban.

Maximum penalty—25 penalty units.

- (6) The approved operator must as soon as reasonably practicable include, remove or change information in the system—
  - (a) if required by a court order; or
  - (b) if asked by a person bound by a court order that requires the inclusion, removal or change to be made.

Maximum penalty—25 penalty units.

- (7) In this section—  
*linked licensee*, for an approved operator, means a licensee who uses, in the licensed premises, an approved ID scanner linked to the approved ID scanning system.

### **173EJA Obligation to notify of system failure**

If an approved operator for an approved ID scanning system becomes aware that there is a system failure

for regulated premises, the approved operator must give written notice of the system failure to the commissioner and the police commissioner within 48 hours after becoming aware of the system failure.

Maximum penalty—10 penalty units.

### **173EJB Other obligation if system failure**

- (1) This section applies if an approved operator for an approved ID scanning system becomes aware that there is a system failure for regulated premises.
- (2) The approved operator must ensure the licensee for the regulated premises has immediate access to a current list of persons who are subject to a banning order for the premises.

Maximum penalty—10 penalty units.

- (3) For subsection (2), a list of persons remains current for 7 days after it is prepared.

### **173EK Change of executive officers**

- (1) This section applies to an approved operator that is a corporation.
- (2) Immediately after there is a change to the approved operator's executive officers, the approved operator must give the commissioner a written notice of the change.

Maximum penalty—25 penalty units.

- (3) The notice must—
  - (a) be in the approved form; and
  - (b) if the change includes the addition of an executive officer—
    - (i) be accompanied by the fee prescribed by regulation; and

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- (ii) include a consent to a criminal history check of the new executive officer.

### **173EL Operation of scanning system without approval**

- (1) This section applies to an approved scanning system to which an approved ID scanner in regulated premises is linked.
- (2) A person must not operate the system unless the person is an approved operator or an officer, employee or agent of an approved operator.

Maximum penalty—25 penalty units.

### **173EM Privacy**

- (1) An approved operator must—
  - (a) if the approved operator is not an organisation under the *Privacy Act 1988* (Cwlth)—ensure the approved operator is treated as an organisation for that Act; and
  - (b) comply with that Act in relation to the protection of personal information held in the approved ID scanning system.

Maximum penalty—25 penalty units.

- (2) An approved operator must not allow an ID scanner to be linked, or continue to be linked, to the approved ID scanning system if the approved operator knows the ID scanner is used other than in regulated premises.

Maximum penalty—25 penalty units.

- (3) After ceasing to be an approved operator, a person must not keep or disclose any personal information that was held in the approved ID scanning system.

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Maximum penalty—25 penalty units.

- (4) Subsection (3) does not apply to a disclosure of information required or permitted by law.

### **173EMA Information sharing**

- (1) This section applies to an approved operator for an approved ID scanning system to which an approved ID scanner in regulated premises is linked.
- (2) To remove any doubt, it is declared that—
- (a) the approved operator may give the following persons information about each person subject to a banning order for the regulated premises, or licensee ban imposed by the licensee for the premises—
- (i) the police commissioner;
- (ii) the commissioner;
- (iii) the licensee for any regulated premises; and
- (b) a court or the police commissioner may give an approved operator details of a banning order for regulated premises that is in force for a person.

## **Division 4 Approvals**

### **173EN Approval of ID scanners and modifications**

- (1) A person may apply to the commissioner for approval of—
- (a) an ID scanner; or
- (b) a modification of an ID scanner.
- (2) The application must be—

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- (a) in the approved form; and
  - (b) accompanied by the fee prescribed by regulation.
- (3) The applicant must provide any relevant information reasonably required by the commissioner to decide the application.
- (4) If the commissioner considers it is necessary for the ID scanner, or the ID scanner as modified, to be evaluated, the commissioner may—
  - (a) carry out the evaluation; or
  - (b) direct the applicant to have the ID scanner evaluated by an approved evaluator and give the commissioner a report of the evaluation.
- (5) If the commissioner carries out the evaluation, the commissioner may charge the applicant the fee prescribed by regulation for the evaluation.
- (6) If the applicant does not pay an amount charged under subsection (5)—
  - (a) the commissioner may refuse the application; and
  - (b) the unpaid amount is recoverable as a debt.
- (7) The commissioner may grant the application if the commissioner is satisfied the ID scanner, or the ID scanner as modified, meets the requirements decided by the commissioner and published on a website of the department.
- (8) An approval may be granted on conditions.
- (9) If the commissioner decides to refuse the application, the commissioner must give the applicant an information notice for the decision.

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**173EO Approval of ID scanning systems and modifications**

- (1) A person may apply to the commissioner for approval of—
  - (a) an ID scanning system; or
  - (b) a modification of an ID scanning system.
- (2) The application must be—
  - (a) in the approved form; and
  - (b) accompanied by the fee prescribed by regulation.
- (3) The applicant must provide any relevant information reasonably required by the commissioner to decide the application.
- (4) If the commissioner considers it is necessary for the ID scanning system, or the system as modified, to be evaluated, the commissioner may—
  - (a) carry out the evaluation; or
  - (b) direct the applicant to have the system evaluated by an approved evaluator and give the commissioner a report of the evaluation.
- (5) If the commissioner carries out the evaluation, the commissioner may charge the applicant the fee prescribed by regulation for the evaluation.
- (6) If the applicant does not pay an amount charged under subsection (5)—
  - (a) the commissioner may refuse the application; and
  - (b) the unpaid amount is recoverable as a debt.
- (7) The commissioner may grant the application if the commissioner is satisfied the ID scanning system meets the requirements decided by the

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commissioner and published on a website of the department.

- (8) An approval may be granted on conditions.
- (9) If the commissioner decides to refuse the application, the commissioner must give the applicant an information notice for the decision.

### **173EOA Direction about ID scanning system**

- (1) This section applies if the commissioner is satisfied an approved ID scanning system no longer meets the requirements under section 173EO(7).
- (2) The commissioner may, by written notice given to a responsible person for the ID scanning system, direct the responsible person to alter, adjust, maintain or repair the ID scanning system so that it meets the requirements under section 173EO(7).
- (3) The responsible person for the ID scanning system must comply with the direction.  
Maximum penalty—25 penalty units.
- (4) The commissioner must give a copy of the notice to—
  - (a) if the responsible person is the person to whom the approval for the ID scanning system was given—the approved operator of the ID scanning system; and
  - (b) if the responsible person is the approved operator of the ID scanning system—the person to whom the approval for the ID scanning system was given; and
  - (c) the licensee for regulated premises who uses, in the premises, an approved ID scanner linked to the ID scanning system.



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- (5) In this section—
- responsible person*, for an ID scanning system, means—
- (a) the person to whom the approval for the ID scanning system was given; or
  - (b) the approved operator of the ID scanning system.

**173EP Suspension or revocation of approvals  
relating to ID scanners or ID scanning systems**

- (1) The commissioner may suspend or revoke an approval given under section 173EN or 173EO if the commissioner is satisfied—
  - (a) for an approval under section 173EN—the ID scanner, or the ID scanner as modified, no longer meets the requirements under section 173EN(7); or
  - (b) for an approval under section 173EO—the ID scanning system, or the ID scanning system as modified, no longer meets the requirements under section 173EO(7).
- (2) The commissioner must first give a notice (*show cause notice*) to the person to whom the approval was given stating—
  - (a) that the commissioner proposes to suspend or revoke the approval; and
  - (b) for a proposed suspension—the proposed period of the suspension; and
  - (c) the reasons for the proposed suspension or revocation; and
  - (d) that the person may, within a stated time of at least 30 days, give the commissioner a written response stating why the person

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considers the approval should not be suspended or revoked.

- (3) After considering any response from the person within the time stated in the show cause notice, the commissioner may suspend or revoke the approval.
- (4) The commissioner must give the person an information notice for the decision to suspend or revoke the approval.
- (5) The suspension or revocation takes effect on the day stated in the information notice.
- (6) The stated day must be at least 14 days after the information notice is given.
- (7) The commissioner must notify all licensees for regulated premises of the suspension or revocation and, in the case of a suspension, when the suspension ends.
- (8) If the commissioner decides not to suspend or revoke the approval, the commissioner must give the person notice of the decision.

### **173EPA Immediate suspension of approvals relating to ID scanners or ID scanning systems**

- (1) This section applies if the commissioner is satisfied—
  - (a) for an approval given under section 173EN or 173EO, a circumstance in section 173EP(1)(a) or (b) exists; and
  - (b) harm may be caused to members of the public if urgent action to suspend the approval is not taken.
- (2) The commissioner may immediately suspend the approval by written notice to the person to whom the approval was given.

- (3) The commissioner must, when giving written notice under subsection (2), give the person a notice under section 173EP(2).
- (4) If the commissioner decides to suspend or revoke the approval, section 173EP(4) to (7) applies for the suspension or revocation.
- (5) If the commissioner decides not to revoke the approval, the commissioner must give the person notice of the decision.
- (6) The approval is suspended under this section until the earlier of the following happens—
  - (a) the commissioner gives the person a notice of the commissioner's decision under subsection (5) or section 173EP(4);
  - (b) the end of 60 days after the notice under subsection (2) was given to the person.

### **173EQ Approval of persons to operate ID scanning systems**

- (1) A person may apply to the commissioner for approval to operate an approved ID scanning system.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) include a consent to a criminal history check of the applicant or, if the applicant is a corporation, each executive officer of the applicant; and
  - (c) be accompanied by the fee prescribed by regulation.
- (3) The applicant must provide any relevant information reasonably required by the commissioner to decide the application.

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- (4) The commissioner may grant the application if the commissioner is satisfied—
  - (a) the applicant—
    - (i) is not a licensee or an associate of a licensee; and
    - (ii) is a suitable person to operate an approved ID scanning system; and
  - (b) for an applicant that is a corporation, each executive officer of the applicant—
    - (i) is not a licensee or an associate of a licensee; and
    - (ii) is a suitable person to operate an approved ID scanning system.
- (5) Without limiting the matters to which the commissioner may have regard in deciding whether an individual is a suitable person to operate an approved ID scanning system, the commissioner may obtain a report from the police commissioner about the individual's criminal history.

*Examples of matters to which the commissioner may have regard—*

  - whether the applicant has the skill, knowledge and experience required for operating an approved ID scanning system
  - whether the applicant demonstrates the ability to comply with the applicant's statutory obligations relating to privacy
- (6) An approval may be granted on conditions.
- (7) If the commissioner decides to refuse the application, the commissioner must give the applicant an information notice for the decision.
- (8) The commissioner may refuse an application, or refuse to accept an application under subsection (1), if the commissioner is satisfied the

participation of any more approved operators in the scheme conducted under this part would adversely affect the proper administration of this part.

- (9) If the commissioner refuses an application under subsection (8), the commissioner must refund to the applicant any fees paid by the applicant under this section.
- (10) In this section—

*associate*, of a licensee, means a person who the commissioner reasonably believes is associated with the ownership or management of, or has a financial interest in, the business carried on under the licence.

### **173ER Suspension or revocation of approval to operate ID scanning system**

- (1) The commissioner may suspend or revoke an approval to operate an ID scanning system if—
  - (a) the commissioner is satisfied the approved operator has contravened a provision of division 3 or a condition of the approval; or
  - (b) the commissioner is satisfied the approved operator has operated an ID scanning system to which an approved ID scanner in regulated premises is linked, and the ID scanning system has not been approved; or
  - (c) the commissioner is no longer satisfied about the matters stated in section 173EQ(4).
- (2) For deciding about a matter stated in section 173EQ(4), the commissioner may obtain a report from the police commissioner about the criminal history of the approved operator or, for an

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- approved operator that is a corporation, an executive officer of the approved operator.
- (3) Before suspending or revoking an approval, the commissioner must give the approved operator a notice (a *show cause notice*) stating—
    - (a) that the commissioner proposes to suspend or revoke the approval; and
    - (b) for a proposed suspension—the proposed period of suspension; and
    - (c) the reasons for the proposed suspension or revocation; and
    - (d) that the approved operator may, within a stated time of at least 30 days, give the commissioner a written response stating why the approved operator considers the approval should not be suspended or revoked.
  - (4) After considering any response from the approved operator within the time stated in the show cause notice, the commissioner may suspend or revoke the approval.
  - (5) The commissioner must give the approved operator an information notice for the decision to suspend or revoke the approval.
  - (6) The suspension or revocation takes effect on the day stated in the information notice.
  - (7) The stated day must be at least 14 days after the information notice is given.
  - (8) If the commissioner decides not to suspend or revoke the approval, the commissioner must give the approved operator notice of the decision.

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**173ES Immediate suspension of approval to operate ID scanning system**

- (1) This section applies if, for an approval to operate an ID scanning system—
  - (a) any of the following apply—
    - (i) the commissioner is satisfied the approved operator has contravened a provision of division 3 or a condition of the approval;
    - (ii) the commissioner is satisfied the approved operator has operated an ID scanning system to which an approved ID scanner in regulated premises is linked, and the ID scanning system has not been approved;
    - (iii) the commissioner is no longer satisfied about the matters stated in section 173EQ(4); and
  - (b) harm may be caused to members of the public if urgent action to suspend the approval is not taken.
- (2) Section 173ER(2) applies for deciding about a matter stated in section 173EQ(4).
- (3) The commissioner may immediately suspend the approval by written notice to the approved operator.
- (4) The commissioner must, when giving written notice under subsection (3), give the approved operator a notice under section 173ER(3).
- (5) If the commissioner decides to suspend or revoke the approval, section 173ER(5) to (7) applies for the suspension or revocation.
- (6) If the commissioner decides not to revoke the approval, the commissioner must give the approved operator notice of the decision.

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- (7) The approval is suspended under this section until the earlier of the following happens—
  - (a) the commissioner gives the approved operator a notice of the commissioner's decision under subsection (6) or section 173ER(5);
  - (b) the end of 60 days after the notice under subsection (3) was given to the person.

**173ET Commissioner takes over operation of approved ID scanning system in particular circumstances**

- (1) This section applies if there is no longer an approved operator for an approved ID scanning system to which an approved ID scanner in regulated premises is linked because the approved operator's approval to operate an approved ID scanning system is suspended or revoked under section 173ER or 173ES.
- (2) The commissioner may take over the operation of the approved ID scanning system, or operate another approved ID scanning system to which an approved ID scanner in the regulated premises is linked, until another person holding an approval under section 173EQ becomes an approved operator for any approved ID scanning system to which an approved ID scanner in the regulated premises is linked.

**75 Insertion of new pt 6AB**

After section 173N—

*insert—*



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## Part 6AB Safe night precincts

### Division 1 Preliminary

#### 173NA Purposes of pt 6AB

- (1) The purposes of this part are to, in an area—
  - (a) minimise harm, and the potential for harm, from the abuse and misuse of alcohol and drugs, and associated violence; and
  - (b) minimise alcohol and drug-related disturbances, or public disorder.
- (2) To achieve its purposes, this part provides for—
  - (a) areas to be prescribed as safe night precincts; and
  - (b) local boards and consultative committees to be established for safe night precincts to enable licensees, the State and local governments, the police service and community organisations to collaborate to achieve the purposes.

#### 173NB Meaning of relevant licensee

- (1) A licensee is a *relevant licensee* for a safe night precinct if—
  - (a) the licensed premises of the licensee are located in the precinct; and
  - (b) the licensee is not an exempt licensee.
- (2) An *exempt licensee* is a licensee of licensed premises located in a safe night precinct who is a member of an exempt class of licensees prescribed by regulation.

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## **Division 2      Safe night precincts and local boards**

### **173NC Safe night precincts and local boards**

- (1) A regulation may prescribe an area (a *safe night precinct*) that has a concentration of licensed premises to be a safe night precinct.
- (2) Also, a regulation may prescribe an incorporated association (the *local board*) to be the local board for a safe night precinct.
- (3) There may be 1 local board, or no local board, for each safe night precinct.
- (4) In recommending that the Governor in Council make the regulation, the Minister must be satisfied—
  - (a) the regulation is necessary to achieve the purposes of this part; and
  - (b) for prescribing an incorporated association to be the local board for a safe night precinct—the association has 1 or more members who are relevant licensees.

### **173ND Commissioner must give notice of local board**

- (1) This section applies if, immediately after a regulation prescribing a local board for a safe night precinct is made, a licensee is a relevant licensee for the precinct.
- (2) Within 14 days after the regulation is made, the commissioner must give the relevant licensee a written notice about the local board.
- (3) The notice must state that the relevant licensee is required to become a member of the local board

and to maintain the membership while the licensee continues to be a relevant licensee.

### **Division 3            Provisions that apply when a safe night precinct has a local board**

#### **173NE Application of div 3**

This division applies if there is a local board for a safe night precinct.

#### **173NF Relevant licensee must be member of local board**

- (1) A relevant licensee must be a member of the local board while the licensee continues to be a relevant licensee.

Maximum penalty—

- (a) for a licensee who holds an extended hours approval that authorises the sale of liquor after 1a.m. on a regular basis—100 penalty units; or
  - (b) otherwise—25 penalty units.
- (2) However, subsection (1) does not apply to a relevant licensee—
    - (a) for a licensee mentioned in section 173ND(1)—
      - (i) until 28 days after the commissioner gave the licensee a notice under section 173ND(2); or
      - (ii) if the commissioner has not given the licensee a notice under section 173ND(2); or

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- (b) for a licensee other than a licensee mentioned in section 173ND(1)—until 28 days after the licensee became a relevant licensee; or
- (c) if the licensee has applied, in a way that complies with the local board’s rules, for membership of the local board and the application has not been decided; or
- (d) if the licensee made all reasonable efforts to become a member of the local board and was refused membership; or
- (e) if the licensee, who was a member of the local board, made all reasonable efforts to continue to be a member and the licensee’s membership was terminated.

**173NG Commissioner may require exempt licensee to become member of local board**

- (1) This section applies if the commissioner is satisfied an exempt licensee of licensed premises located in a safe night precinct should be a member of the local board because—
  - (a) it is in the public interest; or
  - (b) it is necessary to ensure the safety of the community in, or the amenity of, the precinct.
- (2) The commissioner may, by written notice, require the exempt licensee to be a member of the local board.
- (3) The exempt licensee must be a member of the local board.  
Maximum penalty—25 penalty units.
- (4) However, subsection (3) does not apply to an exempt licensee—

- (a) until 28 days after the commissioner gave the licensee the notice under subsection (2); or
- (b) if the licensee has applied, in a way that complies with the local board's rules, for membership of the local board and the application has not been decided; or
- (c) if the licensee made all reasonable efforts to become a member of the local board and was refused membership; or
- (d) if the licensee, who was a member of the local board, made all reasonable efforts to continue to be a member and the licensee's membership was terminated; or
- (e) if the commissioner has given the licensee a written notice stating that the licensee is no longer required to be a member of the local board.

### **173NH Public safety consultative committees**

- (1) The commissioner may establish a public safety consultative committee (a ***consultative committee***) for a safe night precinct to advise and assist the local board.
- (2) A consultative committee for a safe night precinct has the membership decided by the commissioner and may include, for example, any 1 or more of the following—
  - (a) a police officer or other employee of the police service nominated by the police commissioner;
  - (b) an employee of the department nominated by the chief executive;
  - (c) an employee of the department that administers the *Transport Operations*

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- (Passenger Transport) Act 1994* nominated by the chief executive of that department;
- (d) an employee of the local government of the local government area in which the precinct is located nominated by the chief executive officer of that local government;
  - (e) a representative of a community organisation that provides relevant services in the precinct.
- (3) The commissioner, or a member of a consultative committee for a safe night precinct, must give the local board written notice of the membership of the committee as soon as practicable after either of the following happens—
- (a) the committee is established;
  - (b) there is a change in the membership of the committee.
- (4) The members of a consultative committee for a safe night precinct need not meet other than when attending a meeting of the local board or its management committee.

## **Division 4      Rules of local boards**

### **173NI Inconsistent rules of local boards of no effect**

The rules of the local board for a safe night precinct are of no effect to the extent the rules are inconsistent with this division.

### **173NJ Objectives of local boards**

The objectives of the local board for a safe night precinct must include the following—

- (a) to promote the responsible service and consumption of alcohol and minimise the risk of alcohol and drug-related harm and associated violence in the precinct, including, for example, by—
  - (i) developing and implementing local initiatives; or
  - (ii) making recommendations to the commissioner about relevant action the commissioner may take under this Act; and
- (b) to raise funds to deliver relevant initiatives in the precinct; and
- (c) to plan for, and manage, the precinct in a way that addresses the safety of the community and the precinct's amenity; and
- (d) to liaise with, and support, community organisations providing rest and recovery services in the precinct to people who have consumed alcohol or used drugs.

### **173NK Rules must limit membership of local board**

The rules of the local board for a safe night precinct must limit eligibility for membership of the local board to only the following entities—

- (a) a licensee of licensed premises located in the precinct;
- (b) the owner or operator of other businesses located in the precinct;
- (c) an association that represents the interests of businesses located in the precinct including, for example, the local chamber of commerce;

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- (d) a community organisation that provides relevant services in the precinct;
- (e) another class of person prescribed by regulation.

**173NL Relevant licensee must be admitted as member of local board**

- (1) This section applies if a relevant licensee for a safe night precinct gives the local board for the precinct a written application for membership of the local board.
- (2) The local board's management committee must admit the relevant licensee (a *licensee member*) as a member of the local board.
- (3) However, the local board's management committee may reject a relevant licensee's application for membership if—
  - (a) the relevant licensee was previously a member of the local board; and
  - (b) the licensee's previous membership was terminated by the management committee.
- (4) Before deciding to reject a membership application under subsection (3), the management committee must consider—
  - (a) the grounds on which the relevant licensee's previous membership was terminated; and
  - (b) any undertakings made by the licensee in relation to the application.
- (5) In this section, a reference to a relevant licensee for a safe night precinct includes an exempt licensee for the precinct given a notice under section 173NG(2) requiring the licensee to be a member of the board.



### **173NM No limit to other rules about membership**

Sections 173NK and 173NL do not prevent the rules of the local board for a safe night precinct providing for—

- (a) the requirements for applying for membership, including, for example, the payment of an application fee; or
- (b) membership fees.

### **173NN Local board must advise commissioner about licensee members**

At least once each quarter, or on the written request of the commissioner, the secretary of the local board for a safe night precinct must give the commissioner a list of the names of the following—

- (a) the licensee members of the board;
- (b) the applicants for membership of the board who, if admitted as members, would be licensee members of the board.

### **173NO Termination of licensee member's membership**

- (1) The membership of a licensee member of the local board for a safe night precinct may be terminated only under this section.
- (2) A local board's management committee may terminate the membership of a licensee member if the member—
  - (a) is convicted of an indictable offence; or
  - (b) has membership fees in arrears for at least 2 months; or

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- (c) acts in a way that is contrary to the interests of the board.
- (3) Before the management committee terminates a licensee member's membership, the committee must—
  - (a) give the member a written notice inviting the member to show, within a stated reasonable period, why the membership should not be terminated; and
  - (b) consider any representations made by the member.
- (4) If the management committee decides to terminate the membership of a licensee member, the secretary of the committee must give the member written notice of the decision.
- (5) This section does not prevent the rules of the local board for a safe night precinct providing for—
  - (a) a licensee member to resign from the local board; or
  - (b) a licensee member whose membership is terminated under subsection (2) to appeal to the local board against the management committee's termination decision; or
  - (c) a general meeting of the local board to decide an appeal mentioned in paragraph (b).

### **173NP Local board must invite consultative committee to meetings**

- (1) The management committee of a local board for a safe night precinct must, by written notice (a *meeting invitation*), invite the members of the consultative committee for the precinct to attend

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each meeting of the local board or management committee.

- (2) A meeting invitation must be given at least 12 days before the date of the meeting it relates to.
- (3) A member of a consultative committee attends a meeting of the local board or management committee for the purpose of providing assistance or advice relating to—
  - (a) the objectives of the local board mentioned in section 173NJ; or
  - (b) other matters related to the purposes of this part.
- (4) Each member of a consultative committee present at a meeting of the local board or management committee may act independently of the other members of the committee present at the meeting.

### **173NQ Prescribed rules**

- (1) A regulation may prescribe rules for a local board for a safe night precinct.
- (2) In recommending that the Governor in Council make the regulation, the Minister must be satisfied the rules are necessary to achieve the purposes of this part.
- (3) The rules of a local board for a safe night precinct—
  - (a) are taken to include the prescribed rules; and
  - (b) are of no effect to the extent they are inconsistent with the prescribed rules.

## **76 Omission of pts 6B and 6C**

Parts 6B and 6C—

[s 77]

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*omit.*

**77 Amendment of s 174 (Investigators)**

Section 174(5)—

*omit.*

**78 Insertion of new s 174AA**

After section 174—

*insert—*

**174AA Production or display of identity card**

- (1) In exercising a power in relation to a person in the person's presence, an investigator must—
  - (a) produce the investigator's identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the investigator must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an investigator does not exercise a power in relation to a person only because the inspector has entered a place as mentioned in section 176(2)(c) or (d)(i).
- (4) Also, subsections (1) and (2) do not apply to an investigator who, after entering a place as mentioned in section 176(2)(c) or (d)(i), exercises a power under section 178(1)(b), (d) or (e) at the place.

*Example for subsection (4)—*

An investigator may enter licensed premises while the premises are open for the conduct of business and covertly film a thing in the place.

**79 Amendment of s 178 (General powers of investigator in relation to places)**

Section 178(1)(b), after ‘examine,’—

*insert—*

record,

**79A Amendment of s 187 (Abatement of nuisance or dangerous activity)**

(1) Section 187(1)(a)—

*omit, insert—*

(a) noise coming from licensed premises, or a utility area for licensed premises, is unreasonable noise; or

(2) Section 187(2), after ‘written notice’—

*insert—*

(an *abatement notice*)

(3) Section 187(2)(a), ‘the noise stop or’—

*omit, insert—*

if subsection (1)(a) applies—

(3A) Section 187(2)(b), before ‘the premises’—

*insert—*

if subsection (1)(b) applies—

(4) Section 187(2A), ‘a written notice under subsection (2)’—

*omit, insert—*

an abatement notice

[s 79A]

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(5) Section 187—

*insert—*

- (2B) An abatement notice may state specific action that must be taken by the person to whom the notice is given.
- (2C) An abatement notice must state—
  - (a) for each action that is required to be taken—the time, of up to 3 months, within which the person to whom the notice is issued must take the action; and
  - (b) the time, of up to 3 months, that the notice has effect for.
- (2D) The commissioner may, by written notice, extend a time under subsection (2C)(a) or (b) for 1 or more periods of up to 3 months to enable the person to whom the notice is given to comply with the notice.
- (2E) The issuing of an abatement notice does not stop any other action being taken under this Act in relation to the matter that is the subject of the notice, including, for example—
  - (a) a compliance order being issued; or
  - (b) the licence or permit for the licensed premises being varied; or
  - (c) disciplinary action being taken in relation to the licence; or
  - (d) proceedings being started for an offence against this Act.

(6) Section 187(3), after ‘If the’—

*insert—*

abatement

(7) Section 187(4)—

*omit, insert—*

- (4) The person to whom the abatement notice is issued must comply with the notice.

Maximum penalty—100 penalty units.

- (8) Section 187(5), definition *unreasonable noise—*  
*omit.*

## **80 Amendment of s 235 (Regulation-making power)**

Section 235—

*insert—*

- (4) If a provision of this Act empowers a regulation to prescribe, for a particular purpose, a class of licence, licensee, licensed premises, permit, permittee or premises to which a permit relates, the regulation may prescribe a class by reference to any of the following—
- (a) a particular type of licence or permit;
  - (b) the times at which liquor may be sold on premises under this Act;
  - (c) the principal activity of a business conducted on licensed premises;
  - (d) another appropriate matter.

## **81 Insertion of new pt 12, div 16**

Part 12—

*insert—*

[s 81]

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## **Division 16      Transitional provisions for Safe Night Out Legislation Amendment Act 2014**

### **319 Definitions for div 16**

In this division—

*amending Act* means the *Safe Night Out Legislation Amendment Act 2014*.

*commencement* means the commencement of the provision in which the term is used.

### **320 Lapse of particular applications for extended trading hours approvals**

- (1) This section applies to an extended trading hours application to which section 91 applied immediately before the repeal of that section by the amending Act.
- (2) On the repeal of section 91, the application lapses.
- (3) The commissioner must refund to the applicant any fees paid to the chief executive by the applicant under this Act for the application.
- (4) The State is not liable to pay compensation, and does not incur any other liability, for the lapsing of the application under subsection (2).
- (5) Subsection (2) does not affect the making of another application under part 4, division 7.

### **321 Continuing application of repealed s 94**

Despite its repeal by the amending Act, section 94, as in force immediately before the repeal, continues to apply to the matters to which it applied immediately before the repeal.



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**321A Transitional provision for applications for subsidiary on-premises licence (entertainment)**

- (1) This section applies to an application for a subsidiary on-premises licence made before the commencement if—
  - (a) the principal activity of a business to be conducted under the licence is the provision of entertainment; and
  - (b) on the commencement, the application had not been decided or withdrawn.
- (2) The commissioner must deal with and decide, or continue to deal with and decide, the application under the unamended Act.
- (3) However, if the commissioner decides to grant the licence, the commissioner must grant the licence as a nightclub licence.
- (4) In this section—

*unamended Act* means this Act as in force from time to time before the amending Act was enacted.

**322 Transitional provision for subsidiary on-premises licence (entertainment)**

- (1) This section applies to a subsidiary on-premises licence that, immediately before the commencement, was a current licence to which section 67AA applied.
- (2) From the commencement, the licence continues in force under this Act as a nightclub licence held by the licensee on the same terms as the licensee held the licence.
- (3) If, immediately before the commencement, the licence was subject to a condition, the nightclub licence is taken to be subject to the condition.

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### **323 Transitional provision for subsidiary on-premises licence (meals)**

- (1) This section applies to an extended trading hours approval for a subsidiary on-premises licence (meals) that, immediately before the commencement, extended trading hours to include trading for a period after 1a.m.
- (2) Subject to this Act, the approval continues in force.
- (3) Subsection (4) applies if, while the approval is in force and before the commencement, the licensee applies for—
  - (a) an alternative extended trading licence; and
  - (b) an extended trading hours approval for the licence that would authorise the sale of liquor on the licensed premises after 1a.m.
- (4) From the earlier of the following days, the approval does not authorise trading for a period after 1a.m.—
  - (a) the day after the applicant is given notice of the decision made about the application;
  - (b) 1 January 2016.
- (5) Subsection (6) applies if, on the commencement, the approval is in force and the licensee has not applied for an alternative extended trading licence.
- (6) From the commencement, the approval does not authorise trading for a period after 1a.m.
- (7) In this section—

***alternative extended trading licence*** means a licence of a type—

  - (a) other than a subsidiary on-premises licence (meals); and

- (b) for which an extended trading hours approval may be granted under part 4, division 7 that would extend trading hours on a regular basis to include trading for a period after 1a.m.

### **324 Civil banning orders**

- (1) On the commencement—
  - (a) any current order ceases to have effect; and
  - (b) any current proceeding ends.
- (2) In this section—

*current order* means a civil banning order or interim civil banning order in force under repealed part 6C immediately before the repeal of that part by the amending Act.

*current proceeding* means a legal proceeding under repealed part 6C started but not finally dealt with before the repeal of that part by the amending Act.

*repealed part 6C* means part 6C as in force before the commencement of this section.

### **325 Cancellation, suspension or variation of permits**

- (1) This section applies if circumstances existed before the commencement that could have formed the basis for the commissioner to be satisfied that former section 134(1) applied.
- (2) Part 5, division 3, subdivision 2 applies as if the circumstances existed immediately after the commencement to enable the commissioner—
  - (a) to impose a new condition, amend a condition or revoke a condition because of

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circumstances mentioned in section 134(1)(a); or

(b) to cancel, suspend or vary a permit because of circumstances mentioned in former section 134(1)(b).

(3) In this section—

*former*, in relation to a provision, means the provision as in force immediately before the repeal or amendment of the provision under the amending Act.

### **326 Grounds for disciplinary action**

(1) This section applies if circumstances existed before the commencement that could have formed the basis for the commissioner to consider that former section 136(1)(h) applied.

(2) Part 5, division 3, subdivision 3 applies as if the circumstances existed immediately after the commencement to enable the commissioner to take disciplinary action because of the circumstances.

(3) In this section—

*former*, in relation to a provision, means the provision as in force immediately before the repeal or amendment of the provision under the amending Act.

### **327 Authority for post-midnight trading for particular licences**

(1) This section applies to a commercial special facility licence that—

(a) is in force on the commencement; and

- (b) is not endorsed with an extended trading hours approval granted under part 4, division 7; and
  - (c) purportedly authorises the sale of liquor on the licensed premises, on a day other than Anzac Day, Good Friday or Christmas Day, during a time starting at or after 12a.m. and ending at or before 5a.m. (the *authorised post-midnight trading hours*).
- (2) The licence is taken to be endorsed with an extended trading hours approval (the *deemed approval*) for trading during the authorised post-midnight trading hours.
  - (3) To remove any doubt, it is declared that this Act, including a provision about the payment of licence fees, applies as if the deemed approval had been granted under part 4, division 7.
  - (4) Despite subsection (2), an application for an extended trading hours approval, for trading during all or part of the authorised post-midnight trading hours, may be made and granted under part 4, division 7.
  - (5) The deemed approval continues in force until—
    - (a) an extended trading hours approval for trading during all or part of the authorised post-midnight trading hours is granted under part 4, division 7; or
    - (b) the deemed approval is cancelled or otherwise ends under this Act.

### **328 Declaration and validation relating to particular licences**

- (1) This section applies to a commercial special facility licence in relation to the period (the *relevant period*)—

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- (a) starting on or after 1 January 2009 and ending on or before the commencement; and
  - (b) during which the licence—
    - (i) was not endorsed with an extended trading hours approval granted under part 4, division 7; and
    - (ii) purportedly authorised the sale of liquor on the licensed premises, on a day other than Anzac Day, Good Friday or Christmas Day, during a time starting at or after 12a.m. and ending at or before 5a.m. (the *authorised post-midnight trading hours*).
- (2) During the relevant period—
- (a) section 64, as amended by the amending Act, is taken to have applied to the licence; and
  - (b) the licence is taken to have been endorsed with an extended trading hours approval for trading during the authorised post-midnight trading hours for the licence.
- (3) Without limiting subsection (2)—
- (a) licence fees for the licence relating to any part of the relevant period are payable, and are taken to have been payable during the relevant period, as if an extended trading hours approval granted under part 4, division 7 were in force for the authorised post-midnight trading hours; and
  - (b) anything done during or after the relevant period in relation to a licence fee is, and is taken to have been during the relevant period, as valid as it would have been if an extended trading hours approval granted under part 4, division 7 were in force for the authorised post-midnight trading hours.

*Examples of things that may be done in relation to a licence fee—*

- assessment of a licence fee payable
- demand for payment of a licence fee
- payment of a licence fee

(4) Subsections (2) and (3)—

(a) do not apply for the purpose of a legal proceeding decided before the commencement; but

(b) otherwise apply for all purposes, including—

(i) a legal proceeding started, but not decided, before the commencement; and

(ii) a legal proceeding started after the commencement.

(5) Subsection (2)(a) does not apply in relation to trading on Anzac Day, Good Friday or Christmas Day during the relevant period.

(6) No compensation is payable by the State to any person because of the operation of this section.

### **329 Eligible entity for sale of liquor at a fundraising event**

(1) This section applies—

(a) if an entity, or an executive officer of the entity, is a licensee or permittee; and

(b) for the purpose of determining, after the repeal of section 148A, whether the entity is an eligible entity for the sale of liquor at a fundraising event under section 13(3).

(2) The entity is not an eligible entity for the sale of liquor at the event if the entity or executive officer has been convicted of an offence under

[s 82]

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repealed section 148A(2) or (4) within the 5 years immediately before the event.

## **Part 8**                      **Amendment of Penalties and Sentences Act 1992**

### **82**      **Act amended**

This part amends the *Penalties and Sentences Act 1992*.

### **83**      **Amendment of s 4 (Definitions)**

(1) Section 4, definition *public place*—

*omit.*

(2) Section 4—

*insert—*

*prescribed offence*, for part 5, division 2, subdivision 2, see section 108A.

*public place*—

(a) for part 3B, see section 43G; or

(b) for part 5, division 2, subdivision 2, see section 108A.

### **84**      **Amendment of s 9 (Sentencing guidelines)**

Section 9—

*insert—*

(9A) Voluntary intoxication of an offender by alcohol or drugs is not a mitigating factor for a court to have regard to in sentencing the offender.



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**85 Amendment of s 43G (Definitions for pt 3B)**

Section 43G—

*insert—*

*police banning notice* see the *Police Powers and Responsibilities Act 2000*, section 602B.

**86 Amendment of s 43I (What is a *banning order*)**

(1) Section 43I(1), ‘until a stated date’—

*omit, insert—*

for a stated period

(2) Section 43I(1)(b), examples, third dot point, ‘drink safe precinct’—

*omit, insert—*

safe night precinct

(3) Section 43I(2)—

*omit.*

**87 Amendment of s 43J (Making a *banning order*)**

(1) Section 43J(3)(b)—

*omit, insert—*

(b) whether the offender is, or has been, subject to—

(i) a special condition mentioned in the *Bail Act 1980*, section 11(3); or

(ii) a police banning notice;

(2) Section 43J(4)—

*omit, insert—*

(4) The court may impose any conditions it considers necessary on a banning order, including a condition that the offender report to a police

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station within 48 hours after the banning order is made to be photographed for an image to distribute to relevant persons under the *Police Powers and Responsibilities Act 2000*, chapter 19, part 5B.

- (4A) Subsection (4B) applies if—
  - (a) the court has regard to a police banning notice when considering whether to make the order; and
  - (b) the notice is in effect when the court considers making the order.
- (4B) The court must decide whether the police banning notice should be—
  - (a) cancelled; or
  - (b) amended and how it should be amended.
- (4C) The banning order must state the court’s decision under subsection (4B).

**88 Amendment of s 43N (Commissioner may give copy of banning order to licensee)**

- (1) Section 43N, heading, ‘licensee’—  
*omit, insert—*  
particular persons
- (2) Section 43N(1)—  
*insert—*
  - (e) the Commissioner for Liquor and Gaming under the *Gaming Machine Act 1991*; or
  - (f) an approved operator for an approved ID scanning system.
- (3) Section 43N(2)—  
*insert—*

*approved operator* see the *Liquor Act 1992*, section 173EE.

*approved ID scanning system* see the *Liquor Act 1992*, section 173EE.

**89 Insertion of new pt 5, div 2, sdiv 1, hdg**

Part 5, after division 2 heading—

*insert—*

**Subdivision 1 General**

**90 Amendment of s 106 (Offender to agree to making or amending of order)**

Section 106—

*insert—*

- (2) Subsection (1) does not apply to a community service order required under section 108B.

**91 Amendment of s 107 (Multiple offences)**

Section 107—

*insert—*

- (6) This section applies subject to section 108C.

**91A Amendment of s 108 (Termination of community service order)**

Section 108(c), after ‘section 120(1)’—

*insert—*

or 120A

**92 Insertion of new pt 5, div 2, sdiv 2**

After section 108—

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*insert—*

## **Subdivision 2 Community service orders mandatory for particular offences**

### **108A Definitions for sdiv 2**

In this subdivision—

*prescribed offence* means an offence against—

- (a) any of the following provisions of the Criminal Code—
  - (i) section 72;
  - (ii) section 320;
  - (iii) section 323;
  - (iv) section 335;
  - (v) section 339;
  - (vi) section 340(1)(b) or (2AA); or
- (b) the *Police Powers and Responsibilities Act 2000*, section 790.

*public place* means—

- (a) a place, or part of a place, that the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or
- (b) a place, or part of a place, the occupier of which allows, whether or not on payment of money, members of the public to enter.

### **108B When community service order must be made**

- (1) It is a circumstance of aggravation for a prescribed offence that the offender committed the offence in a public place while the offender

was adversely affected by an intoxicating substance.

- (2) If a court convicts an offender of a prescribed offence with the circumstance of aggravation mentioned in subsection (1), the court must make a community service order for the offender whether or not the court also makes another order under this or another Act.
- (2A) However, subsection (2) does not apply if the court is satisfied that, because of any physical, intellectual or psychiatric disability of the offender, the offender is not capable of complying with a community service order.
- (3) Subsection (2) is subject to sections 121(4), 125(8) and 126(6B).

### **108C Effect if offender is also subject to other orders**

- (1) This section applies if—
  - (a) under section 108B, a court makes a community service order (the *new order*) for an offender; and
  - (b) the offender is also subject to 1 or more other community service orders or graffiti removal orders (the *existing orders*); and
  - (c) the total number of hours of unperformed unpaid service under the new order and the existing orders is more than 240.
- (2) For subsection (3), the *excess amount* is the amount by which the total number of hours of unperformed unpaid service under the new order and the existing orders is more than 240.
- (3) Of the hours of service ordered to be performed under the new order, a number of hours equal to the excess amount must be performed

[s 92A]

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concurrently with the unperformed community service under the existing orders.

*Example—*

Under section 108B, a court makes a community service order (the *new order*) requiring an offender to perform 50 hours of service. The offender is also subject to other community service orders for which there are 220 hours of unperformed unpaid service. Of the hours of service to be performed under the new order, 30 hours are to be served concurrently with the hours of unperformed unpaid service under the existing orders.

### **108D Effect if offender is detained on remand or imprisoned**

- (1) This section applies if—
  - (a) under section 108B, a court makes a community service order for an offender; and
  - (b) during the period mentioned in section 103(2)(b) (the *period for performance*), the offender is detained in custody on remand or is serving a term of imprisonment in a corrective services facility.
- (2) The community service order is suspended for the period the offender is detained or imprisoned.
- (3) The period for performance is extended by the period the offender is detained or imprisoned.

### **92A Amendment of s 110A (Making of an order)**

Section 110A(2) and (3)—

*omit, insert—*

- (2) The court must make a graffiti removal order for the offender whether or not it records a conviction and whether or not it also makes another order under this or another Act.

- (3) However, subsection (2) does not apply if the court is satisfied that, because of any physical, intellectual or psychiatric disability of the offender, the offender is not capable of complying with a graffiti removal order.

**93 Amendment of s 120 (Amendment and revocation of community based order other than graffiti removal order)**

- (1) Section 120, heading—

*omit, insert—*

**120 Amendment and revocation of community based orders generally**

- (2) Section 120(1), ‘a graffiti removal order’—

*omit, insert—*

an order to which section 120A applies

**94 Replacement of s 120A (Amendment and revocation of graffiti removal order)**

Section 120A—

*omit, insert—*

**120A Amendment and revocation of s 108B community service order or graffiti removal order**

- (1) This section applies to—
- (a) a community service order made under section 108B; or
  - (b) a graffiti removal order.
- (2) The court that made the order may, on application under this division, amend or revoke the order if the court is satisfied that, because of any physical, intellectual or psychiatric disability of the offender, the offender is not capable of complying with the order.

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- (3) If a court other than the court that imposed the order amends or revokes the order, the first court must notify the original court of the amendment or revocation.

**95 Amendment of s 121 (Offender may be re-sentenced on revocation of order)**

Section 121—

*insert—*

- (4) If the community based order mentioned in subsection (1) is a community service order made under section 108B, the court need not, but may, when re-sentencing the offender for the offence for which the order was made, make another community service order.

**96 Amendment of s 125 (Powers of Magistrates Court that convicts offender of offence against s 123(1))**

Section 125—

*insert—*

- (8) If the offence mentioned in subsection (1) relates to a community service order made under section 108B, the court, in taking action under subsection (4)(a), need not, but may, make another community service order.

**97 Amendment of s 126 (Powers of Supreme Court or District Court to deal with offender)**

Section 126—

*insert—*

- (6B) If the community based order mentioned in subsection (1) is a community service order made under section 108B, the court, in taking action



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under subsection (4), need not, but may, make another community service order.

**98 Amendment of s 160A (Application of ss 160B–160D)**

Section 160A (4), examples, first dot point—

*omit, insert—*

- Criminal Code, sections 305(2) and (4) and 314A(5) and (6)

**99 Amendment of s 171 (Review—periodic)**

Section 171(2)(c)—

*omit, insert—*

- (c) if the offender’s nominal sentence is a term of imprisonment other than life for an offence against the Criminal Code, section 314A—the lesser of the following—
  - (i) 80% of the offender’s nominal sentence;
  - (ii) 15 years; or
- (d) otherwise—50% of the offender’s nominal sentence.

**100 Insertion of new pt 14, div 11**

Part 14—

*insert—*

[s 101]

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## **Division 11      Transitional provisions for Safe Night Out Legislation Amendment Act 2014**

### **236 Sentencing guidelines**

Section 9(9A) applies to the sentencing of an offender if the offender is convicted of the offence after the commencement of this section, even if the offence was committed, or the offender was charged with the offence, before the commencement of this section.

### **237 Banning orders**

A court may make a banning order under section 43I, as amended by the *Safe Night Out Legislation Amendment Act 2014*, if the offender is convicted of the offence after the commencement of this section, even if the offence was committed, or the offender was charged with the offence, before the commencement of this section.

### **238 Community service orders required under s 108B**

Section 108B does not apply to an offence committed before the commencement of that section.

## **101 Amendment of sch 2 (Qualifying offences)**

Schedule 2, entry for the Criminal Code—

*insert—*

**314A                      Unlawful striking causing death**

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## Part 9 **Amendment of Police Powers and Responsibilities Act 2000**

### 102 **Act amended**

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

### 103 **Amendment of s 34 (Definitions for pt 3)**

Section 34, definition *licensed premises*—  
*omit*.

### 104 **Amendment of s 41 (Prescribed circumstances for requiring name and address)**

Section 41—  
*insert*—

- (m) a police officer is detaining a person for transport or admission to a sober safe centre, or a person has been admitted to, and is in custody at, a sober safe centre under chapter 14, part 5, division 2;
- (n) a police officer is about to give or is giving a person a police banning notice under chapter 19, part 5A.

### 105 **Amendment of s 42 (Power for age-related offences and for particular motor vehicle related purposes)**

Section 42(1)(c)—  
*insert*—

- (vii) detaining a person for transport or admission to a sober safe centre under chapter 14, part 5, division 2;

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(viii)giving a person a police banning notice under chapter 19, part 5A.

**106 Amendment of s 44 (Application of pt 5)**

Section 44(a), after ‘places’—

*insert—*

, including a public place in a safe night precinct

**107 Amendment of s 46 (When power applies to behaviour)**

(1) Section 46(2), ‘place, subsection (1)’—

*omit, insert—*

place, other than a public place in a safe night precinct, subsection (1)

(2) Section 46—

*insert—*

(2A) If the regulated place is a public place in a safe night precinct, subsection (1) applies in relation to a person at or near the public place only if the person’s behaviour has or had the effect mentioned in subsection (1)(a), (b), (c) or (d) in any public place located in the safe night precinct.

**108 Amendment of s 47 (When power applies to a person’s presence)**

(1) Section 47(2), ‘place, subsection (1)’—

*omit, insert—*

place, other than a public place in a safe night precinct, subsection (1)

(2) Section 47—

*insert—*

- (2A) If the regulated place is a public place in a safe night precinct, subsection (1) applies in relation to a person at or near the place only if the person's presence has or had the effect mentioned in subsection (1)(a), (b) or (c) in any public place located in the safe night precinct.

**109 Amendment of s 53BC (What is *out-of-control conduct*)**

Section 53BC(1), 'drunk'—

*omit, insert—*

intoxicated

**110 Amendment of s 378 (Additional case when arrest for being drunk in a public place may be discontinued)**

- (1) Section 378, 'drunk'—

*omit, insert—*

intoxicated

- (2) Section 378(3)—

*insert—*

- (c) section 390E applies in relation to the circumstances of the person's arrest and the person should be detained and transported to a sober safe centre under chapter 14, part 5, division 2.

**111 Insertion of new s 378A**

After section 378—

*insert—*

**378A Additional case when arrest may be discontinued to take person to sober safe centre**

- (1) This section applies if—

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- (a) a person is arrested for—
    - (i) being intoxicated in a public place; or
    - (ii) a nuisance offence; and
  - (b) a police officer is satisfied—
    - (i) section 390E applies in relation to the circumstances of the person's arrest; and
    - (ii) it is more appropriate for the person to be detained and transported to a sober safe centre under chapter 14, part 5, division 2.
- (2) The police officer may discontinue the arrest to transport the person to a sober safe centre under the division.

**112 Insertion of new ch 14, pt 5, div 1 hdg**

Chapter 14, part 5, before section 382—

*insert—*

**Division 1            General provisions**

**113 Insertion of new ch 14, pt 5, div 2**

Chapter 14, part 5—

*insert—*

**Division 2            Sober Safe Centre Trial**

**Subdivision 1    Preliminary**

**390A Definitions for div 2**

In this division—

*centre officer*, in relation to a sober safe centre,  
means a watch-house officer or police officer,

including a manager, performing duties at the centre.

***health care professional*** means a person who—

- (a) is a nurse; or
- (b) has a qualification prescribed by regulation.

***manager***, of a sober safe centre, means a police officer for the time being in charge of the centre.

***prescribed safe night precinct***, for a sober safe centre, means a safe night precinct prescribed by regulation for the centre.

***responsible person*** means a person who is capable of taking care of a person admitted to a sober safe centre under this division, including—

- (a) an adult relative or friend of the person; or
- (b) an employee of an entity that has provided or can provide welfare, or drug or alcohol rehabilitation, services to the person.

### **390B Additional powers**

The powers of a police officer or watch-house officer under this division are additional to, and are not limited by, the powers the officer otherwise has under this Act or another Act.

### **390C Application of particular watch-house provisions to sober safe centres**

- (1) Chapter 21, part 1, other than sections 650, 651 and 659, applies to the administration of a sober safe centre to the extent necessary to enable a centre officer who is a watch-house officer at the centre to—
  - (a) administer the centre; and

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- (b) perform a function, or exercise a power, of the officer under this division.

*Note—*

Chapter 21, part 1 deals with the administration of watch-houses.

- (2) For subsection (1), a reference in an applied provision of chapter 21, part 1 to—
  - (a) a watch-house is taken to be a reference to a sober safe centre; and
  - (b) a person in custody at a watch-house is taken to be a reference to a person admitted to, and in custody at, a sober safe centre; and
  - (c) the watch-house manager for a watch-house is taken to be a reference to the centre manager for a sober safe centre; and
  - (d) that part is taken to be a reference to this division.

### **390D Application of division**

This division applies only to an adult person.

## **Subdivision 2 Power to take intoxicated person to sober safe centre**

### **390E Power to detain and transport intoxicated person**

- (1) This section applies if—
  - (a) a police officer reasonably suspects a person is intoxicated; and
  - (b) the person is behaving in a way the police officer reasonably suspects—
    - (i) constitutes a nuisance offence; or



- (ii) poses a risk of physical harm to the person, or another person; and
  - (c) the behaviour mentioned in paragraph (b) is in a public place located in a prescribed safe night precinct for a sober safe centre.
- (2) The police officer may detain and transport the person to the sober safe centre.
- (3) However, this section does not apply if a police officer reasonably suspects the behaviour of the person constitutes an offence other than—
  - (a) a nuisance offence; or
  - (b) an offence under the *Summary Offences Act 2005*, section 10 for being intoxicated in a public place.

### **Subdivision 3 Procedures for transporting and admitting person to sober safe centre**

#### **390F Information to be given to person**

As soon as reasonably practicable after a person is detained under section 390E, and before the person is admitted to the sober safe centre, a police officer must tell the person the following—

- (a) the person is being detained and transported to the centre;
- (b) the person must be assessed by a health care professional before being admitted to the centre;
- (c) if admitted to the centre—
  - (i) the person may be detained for a maximum of 8 hours; and

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- (ii) the person and the person's belongings may be searched; and
- (iii) the person's belongings may be seized and kept in safe custody while the person is detained; and
- (iv) the person must pay a cost recovery charge for being detained in the centre; and
- (v) the rates of the cost recovery charge;

*Note—*

Chapter 16 deals with search powers for persons in custody.

- (d) the person may be released if—
  - (i) 8 hours has elapsed since the person was admitted; or
  - (ii) the manager of the centre decides—
    - (A) the person is no longer intoxicated, after considering an assessment of the person made by a health care professional at least 4 hours after the person is admitted to the centre; or
    - (B) to release the person to a responsible person to take the person to a place of safety.

### **390G Assessment by health care professional before admission**

- (1) When the person arrives at the sober safe centre, a health care professional must assess the person and give a recommendation to the manager of the centre about whether, in the reasonable opinion of the professional—
  - (a) the person is intoxicated; and

- (b) there are any health reasons why the person should not be admitted to the centre.
- (2) Without limiting subsection (1)(b), the health care professional may recommend that there are health reasons why the person should not be admitted to the sober safe centre because the person should receive urgent medical treatment at an appropriate medical facility.
- (3) The manager must consider the recommendation and decide whether or not to admit the person to the sober safe centre.
- (4) The manager must not admit the person if the manager reasonably suspects the person is not intoxicated.

#### **Subdivision 4 Custody at a sober safe centre**

##### **390H Admission to, and custody at, sober safe centre**

- (1) A person admitted to a sober safe centre is in the custody of the manager of the centre from when the person is admitted until the person is released from custody under this subdivision.
- (2) The manager must give the person a reasonable opportunity to contact a responsible person as soon as reasonably practicable after the person is admitted to the centre.

##### **390I Assessment by health care professional after 4 hours**

- (1) As soon as reasonably practicable after a person has been in custody at a sober safe centre for 4 hours, the manager of the centre must arrange for

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the person to be assessed by a health care professional.

- (2) The health care professional must assess the person and give a recommendation to the manager of the sober safe centre about whether the person, in the reasonable opinion of the professional—
  - (a) continues to be intoxicated; and
  - (b) may be released, either independently or into the care of a responsible person.
- (3) The manager must consider the recommendation and decide whether or not to release the person from custody, either—
  - (a) independently; or
  - (b) into the care of a responsible person to take the person being released to a place of safety.

### **390J Maximum custody of 8 hours**

A person must not be held in custody at a sober safe centre for longer than 8 hours.

### **390K Monitoring while at sober safe centre**

- (1) The manager of a sober safe centre must ensure the health and wellbeing of each person in custody at the centre is regularly monitored.
- (2) If, at any time while a person is in custody at the sober safe centre, a health care professional or centre officer at the centre reasonably believes the person requires urgent medical treatment, the professional or officer must arrange for the person to be transported to an appropriate medical facility for the treatment.

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### **390L Release from sober safe centre**

- (1) A manager of a sober safe centre may release a person from custody at the centre—
  - (a) if the manager reasonably suspects, taking into account the recommendation of a health care professional given under section 390I, the person is no longer intoxicated—independently; or
  - (b) if the manager has arranged for a responsible person to take the person to a place of safety—into the care of the responsible person; or
  - (c) if a police officer requires the person for a lawful purpose—to the custody of the police officer; or
  - (d) otherwise—if the person has been held in custody at the centre for 8 hours.
- (2) A health care professional or centre officer acting under section 390K(2) may release a person from the sober safe centre without the approval of the manager.

## **Subdivision 5 Cost recovery charge**

### **390M Charge for custody at sober safe centre**

- (1) A person who is admitted to a sober safe centre is liable to pay the commissioner the following amount (a *cost recovery charge*)—
  - (a) if it is the first time the person has been admitted to a sober safe centre—an amount equal to 2 penalty units;
  - (b) otherwise, the total of—
    - (i) an amount equal to 2 penalty units; and

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- (ii) an amount equal to 1 penalty unit multiplied by the number of times the person has previously been admitted to a sober safe centre, up to a maximum of 6 times.

*Example—*

If a person is admitted to a sober safe centre for a third time, the person is liable to pay a cost recovery charge of 4 penalty units.

- (2) Subsection (1) applies regardless of the period of time the person has been held in custody at the sober safe centre.
- (3) However, the person is liable to pay the cost recovery charge only if the manager of the centre gives the person a notice for the charge, in the approved form, before the person is released from the centre.
- (4) The notice must state—
  - (a) the amount of the cost recovery charge; and
  - (b) the cost recovery charge must be paid within 28 days after the day the person was admitted to the sober safe centre.
- (5) The manager of the centre may decide not to give the person a notice for the charge if the manager reasonably suspects the commissioner will not reasonably be able to recover the charge from the person.

*Example—*

A tourist from another country is admitted to a sober safe centre but proposes to leave Australia the next day.

### **390MA Waiver of charge**

- (1) A person who has been given a notice for a cost recovery charge under section 390M(3) may apply to the commissioner to waive the charge on

the ground that payment of the charge would cause the person financial hardship.

- (2) The application must—
  - (a) be in the approved form; and
  - (b) attach sufficient information to enable the commissioner to decide the application; and
  - (c) be made within 14 days after the person receives the notice.
- (3) The commissioner must—
  - (a) decide whether or not to waive the cost recovery charge within 7 days after receiving the application; and
  - (b) as soon as practicable after making the decision, give the applicant a written notice about the commissioner's decision for the application.

### **390N Recovery of charge**

- (1) This section applies if a person who is given a notice under section 390M(3) does not pay the cost recovery charge stated in the notice to the commissioner within the period mentioned in the notice.
- (2) The commissioner may give particulars of the unpaid amount of the cost recovery charge to the registrar under the *State Penalties Enforcement Act 1999* for registration under that Act as if—
  - (a) the commissioner were the registrar of a court; and
  - (b) the particulars were particulars of a fine imposed by a court and the amount of the fine was unpaid after the time allowed by the court for payment.

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- (3) The registrar must register the particulars under the *State Penalties Enforcement Act 1999*, section 34.
- (4) Despite subsections (2) and (3) and the *State Penalties Enforcement Act 1999*, section 119, the registrar must not issue an arrest and imprisonment warrant for a person for an unpaid amount of a cost recovery charge.

## **Subdivision 6 Miscellaneous**

### **390O Power for health care professional to use reasonable force**

When performing, or attempting to perform, a function under this division in relation to a person, a health care professional—

- (a) is not required to seek the consent of the person; and
- (b) may use reasonably necessary force against the person.

*Note—*

See also section 390C applying particular provisions of chapter 21, part 1 to this division. Section 652 deals with the power of a watch-house officer to use force.

### **390P Protection from liability for acts or omissions of health care professional**

- (1) A health care professional is not civilly liable for an act done, or omission made, honestly and without negligence under this division.
- (2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.



- (3) This section does not prevent the State or the health care professional from relying on another provision of an Act to limit civil liability.

**114 Amendment of s 394 (Duty of police officer receiving custody of person arrested for offence)**

Section 394(2)(c), 'drunk'—

*omit, insert—*

intoxicated

**115 Amendment of s 415 (When does this part apply to a person)**

Section 415—

*insert—*

- (3) Also, nothing in this part prevents a police officer exercising a power under chapter 18A, including under the Road Use Management Act, section 80, as it applies under the chapter.

*Note—*

Chapter 18A applies the Road Use Management Act, section 80 for breath, saliva, blood and urine testing of persons suspected of committing particular assault offences.

**116 Amendment of s 442 (Application of ch 16)**

Section 442—

*insert—*

- (ca) is detained for transport to, or is admitted to, a sober safe centre under chapter 14, part 5, division 2; or
- (cb) is detained for the purposes of testing under chapter 18A; or

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---

**117 Insertion of new ch 18A**

After section 548—

*insert—*

**Chapter 18A Breath, saliva, blood  
and urine testing of  
persons suspected  
of committing  
particular assault  
offences**

**Part 1 Preliminary**

**548A Purposes of ch 18A**

The purposes of this chapter are to allow for the following things to happen, by applying the Road Use Management Act, section 80 to the extent provided for in this chapter—

- (a) the taking of specimens of breath, saliva, blood and urine from persons suspected of committing a relevant assault offence;
- (b) the testing of the specimens;
- (c) the production of certificates for use as evidence in proceedings for relevant assault offences.

*Note—*

The Criminal Code, chapter 35A and the *Penalties and Sentences Act 1992*, part 5, division 2, subdivision 2, apply to the sentencing of offenders convicted of relevant assault offences committed in a public place while the offender was adversely affected by an intoxicating substance.

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### **548B Interpretation provision for ch 18A**

- (1) In this chapter—  
*relevant assault offence* means any of the following offences under the Criminal Code—
  - (a) grievous bodily harm under section 320;
  - (b) wounding under section 323;
  - (c) serious assault of a police officer under section 340(1)(b), with the circumstance of aggravation mentioned in section 340(1), penalty, paragraph (a);
  - (d) serious assault of a public officer under section 340(2AA), with the circumstance of aggravation mentioned in section 340(2AA), penalty, paragraph (a).
- (2) A reference in this chapter to section 80, or a subsection of section 80, is a reference to the Road Use Management Act, section 80, or a subsection of the section.
- (3) Words and expressions used in this chapter, to the extent the context permits, have the same meaning as they have for section 80.

## **Part 2                      Application of section 80**

### **548C Person suspected of committing relevant assault offence**

- (1) This section applies if a police officer—
  - (a) finds a person the officer reasonably suspects is committing, or has within the preceding 3 hours committed, a relevant assault offence; and
  - (b) reasonably suspects—

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---

- (i) the person is intoxicated; and
  - (ii) the relevant assault offence is being committed, or was committed, in a public place.
- (2) A police officer may make a requirement under section 80(2) in relation to the person as if they were a person to whom section 80(2) applies.

#### **548D Person arrested for relevant assault offence**

- (1) This section applies if a police officer—
  - (a) has arrested a person for committing a relevant assault offence; and
  - (b) reasonably suspects—
    - (i) the person is intoxicated; and
    - (ii) the relevant assault offence was committed in a public place.
- (2) A police officer may make a requirement under section 80(8) in relation to the person as if they were a person to whom section 80(8) applies.

#### **548E Application of s 80**

- (1) For sections 548C and 548D, section 80, other than subsections (2A), (11), (11A), (22) to (22D), (24) and (24A), applies in relation to the person.
- (2) For applying section 80, the following apply—
  - (a) a matter or thing prescribed by regulation for section 80 is taken to also be prescribed by the regulation for the purposes of section 80 as applied under this chapter;
  - (b) a reference in section 80(6)(aa) to a person to whom section 79(2A), (2B), (2D), (2J), (2K) or (2L) refers is taken to be a reference to a person mentioned in section 548C;

- (c) a reference to an offence mentioned in section 80(8) is taken to be a reference to a relevant assault offence;
- (d) a reference to an offence against section 79 in section 80(16L) and (30) is taken to be a reference to a relevant assault offence;
- (e) a requirement under section 80(10C) for a health care professional to give a specimen to a person as soon as practicable is taken to be a requirement for the health care professional to give the specimen to a police officer, and for the officer to give the specimen to the person, as soon as practicable;
- (f) a requirement under section 80(20A) for a health care professional to give a specimen to a person is taken to be a requirement for the health care professional to give the specimen to a police officer, and for the officer to give the specimen to the person, as soon as practicable;
- (g) a reference in section 80 to—
  - (i) a subsection of the section is taken to be a reference to the subsection as applied by this section; and
  - (ii) a requirement made by a police officer under—
    - (A) subsection (2) is taken to be a reference to a requirement made by a police officer under the subsection as applied by section 548C; or
    - (B) subsection (8) is taken to be a reference to a requirement made by a police officer under the

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subsection as applied by section 548D.

## **Part 3                      Miscellaneous**

### **548F Relationship with other provisions and Acts**

The powers of a police officer under section 80, as applied under this chapter, are additional to, and are not limited by, the powers the officer otherwise has under this Act or another Act.

## **118      Insertion of new ch 19, pts 5A and 5B**

Chapter 19—

*insert—*

### **Part 5A                      Police banning notices**

#### **Division 1                  Preliminary**

### **602A Definitions for pt 5A**

In this part—

*ending time*, for an initial police banning notice, means the day and time the notice stops having effect under section 602D.

*extended police banning notice* see section 602F(2).

*initial police banning notice* see section 602C(1).

*police banning notice* see section 602B.

*relevant public place* means each of the following—

- (a) licensed premises;

- (b) a public place in a safe night precinct;
- (c) a public place at which an event is being held and liquor is being sold for consumption.

***respondent***, for a police banning notice, means the person named in the notice.

***starting time***, for an initial police banning notice, see section 602D(a).

### **602B What is a *police banning notice***

- (1) A ***police banning notice*** is a written notice that prohibits a stated person from doing, or attempting to do, any of the following—
  - (a) entering or remaining in stated licensed premises or a stated class of licensed premises;
  - (b) entering or remaining in a public place located in a safe night precinct;
  - (c) attending or remaining at a stated event, being held in a public place, at which liquor will be sold for consumption;
  - (d) entering or remaining in a stated area that is designated by its reasonable distance from, or location in relation to—
    - (i) premises mentioned in paragraph (a); or
    - (ii) a public place mentioned in paragraph (b); or
    - (iii) an event mentioned in paragraph (c).
- (2) A police banning notice may prohibit a person from doing a thing mentioned in subsection (1) during stated days or at stated times.

## **Division 2      Initial police banning notice**

### **602C Police officer may give initial notice**

- (1) A police officer may give a police banning notice (an *initial police banning notice*) to an adult.
- (2) Before giving the initial police banning notice, the police officer must obtain the approval of a police officer of at least the rank of sergeant, unless the police officer giving the notice has that rank.
- (3) The police officer giving the initial police banning notice or, if an approval is required under subsection (2), the approval, must be reasonably satisfied that giving the notice is necessary because—
  - (a) the respondent has behaved in a disorderly, offensive, threatening or violent way; and
  - (b) the respondent's behaviour was at, or in the vicinity of, a relevant public place; and
  - (c) the person's ongoing presence, or presence in the immediate future, at the relevant public place and any other place stated in the notice, poses an unacceptable risk of—
    - (i) causing violence at the places; or
    - (ii) impacting on the safety of other persons attending the places; or
    - (iii) disrupting or interfering with the peaceful passage, or reasonable enjoyment of other persons, at the places.
- (4) The approval mentioned in subsection (2) may be sought and given verbally, including, for



example, in person or by telephone, radio, internet or other similar facility.

### **602D Duration of initial notice**

An initial police banning notice has effect—

- (a) from the day and time (the *starting time*) the notice is personally served on the respondent by a police officer; and
- (b) until—
  - (i) if the notice applies to a stated event—the day and time the event ends; or
  - (ii) otherwise—the day and time that is 10 days after the starting time.

### **602E Notice to be explained**

Before giving an initial police banning notice, the police officer giving the notice must explain, or cause to be explained, to the respondent—

- (a) the duration and effect of the notice; and
- (b) the consequences of contravening the notice; and
- (c) an extended police banning notice may be given, or the initial police banning notice may be cancelled, under division 3; and
- (d) the respondent may apply to the commissioner to amend or cancel the notice under division 5.

### **Division 3            Extension or cancellation of initial police banning notice by police officer**

#### **602F Extended police banning notice**

- (1) This section applies if an initial police banning notice has been given to the respondent for the notice.
- (2) A police officer of at least the rank of senior sergeant may decide, on the officer's own initiative, to make 1 or more of the changes mentioned in subsection (3) to the initial police banning notice by giving the respondent a new police banning notice (an *extended police banning notice*).
- (3) For subsection (2), the changes are the following—
  - (a) extend the duration of the initial police banning notice to a day and time no later than 3 months after the starting time of the initial police banning notice;
  - (b) state additional relevant public places;
  - (c) state additional days or times for the purposes of section 602B(2).
- (4) Before making a decision under subsection (2), the police officer must be reasonably satisfied giving the extended police banning notice is necessary after considering the following matters—
  - (a) the respondent's behaviour (the *relevant behaviour*) that led to the respondent being given the initial police banning notice;
  - (b) whether the respondent has been charged with an offence, a proceeding has been

commenced, or an infringement notice has been issued, in relation to—

- (i) the relevant behaviour; or
  - (ii) other behaviour of the respondent that the officer reasonably considers is similar to the relevant behaviour or involves violence to a person or property;
- (c) whether the respondent is, or previously has been, subject to—
- (i) a court banning order made under the *Penalties and Sentences Act 1992*, part 3B; or
  - (ii) a special condition mentioned in the *Bail Act 1980*, section 11(3);
- (d) whether the respondent has previously received a police banning notice, other than a notice that has been cancelled;
- (e) whether the respondent has previously been detained in a sober safe centre;
- (f) whether the respondent has been found guilty of an offence, if the officer reasonably considers the circumstances in which the offence was committed are similar to the relevant behaviour or involved violence to a person or property;
- (g) the respondent's personal circumstances and the likely effect of giving the extended police banning notice on those circumstances;
- (h) other matters the officer reasonably considers are related to the relevant behaviour.
- (5) However, the police officer may decide to give an extended police banning notice only if the

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decision is made at least 3 days before the ending time for the initial police banning notice.

- (6) The police officer must, when giving the respondent the extended police banning notice, also give written notice of the officer's reasons for the decision.

### **602G Cancellation of initial police banning notice**

- (1) A police officer of at least the rank of senior sergeant may decide, at any time and on the officer's own initiative, to cancel an initial police banning notice.
- (2) Before making a decision under subsection (1), the police officer must be reasonably satisfied, having regard to the circumstances in which the initial police banning notice was given that—
  - (a) the notice should not have been given to the respondent; or
  - (b) the notice is causing, or will cause, undue hardship to the respondent or a member of the respondent's family.

## **Division 4            General provisions about notices**

### **602H Form of notice**

A police banning notice must be in the approved form and state the following—

- (a) the name and date of birth of the respondent for the notice;
- (b) the day and time the notice starts;
- (c) the day and time the notice ends;

- (d) the acts that are prohibited by the notice;
- (e) that an extended police banning notice may be given, or an initial police banning notice may be cancelled by a police officer, under division 3;
- (f) that a respondent may apply to the commissioner to amend or cancel the notice and the process for seeking amendment or cancellation;
- (g) that it is an offence to contravene the notice;
- (h) that a police officer may detain and photograph the respondent;
- (i) that an image of the respondent may be attached to the notice and distributed under chapter 19, part 5B.

### **602I Written record for notices**

- (1) This section applies to a police officer who—
  - (a) approves the giving of an initial police banning notice; or
  - (b) gives an extended police banning notice.
- (2) The police officer must make a written record of the following—
  - (a) the officer's decision to approve or give the police banning notice;
  - (b) the reason for the officer's decision;
  - (c) the date and time of the decision;
  - (d) the officer's name, rank, registered number and station.
- (3) However, a police banning notice is not invalid merely because the approval is not in writing, if the police officer makes the written record as

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required under subsection (2) at the first reasonable opportunity after the notice is given.

### **602J Actions not prohibited by notice**

Despite section 602B, a police banning notice does not prohibit the respondent for the notice from entering or remaining in the respondent's residence, place of employment or place of education.

### **602K Amendment or cancellation if court banning order made**

- (1) This section applies if the commissioner receives a court banning order—
  - (a) for a person who is the respondent named in a police banning notice; and
  - (b) that states the court's decision about the cancellation or amendment of the notice.

*Note—*

A proper officer of a court must give a copy of a banning order to the commissioner under the *Penalties and Sentences Act 1992*, section 43M.

- (2) The commissioner must ensure that, as soon as practicable, but not more than 2 business days after receiving the banning order, the police banning notice is—
  - (a) cancelled; or
  - (b) amended in the way decided by the court.
- (3) The commissioner must give the respondent a written notice stating the police banning notice has been amended or cancelled.
- (4) In this section—

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*court banning order* means a banning order made under the *Penalties and Sentences Act 1992*, part 3B, for a person by a court.

### **602L Procedure if police banning notice amended or cancelled**

- (1) This section applies if the commissioner (the *decision-maker*) decides to amend or cancel, or a police officer (also the *decision-maker*) decides to cancel, a police banning notice under this part.

*Note—*

For cancellation of a police banning notice by a police officer, see division 3. For amendment or cancellation of a police banning notice on application by the respondent, see division 5.

- (2) The decision-maker must, as soon as reasonably practicable, give the respondent named in the police banning notice—
  - (a) if the decision-maker decides to amend the notice—a new police banning notice that includes the changes decided by the decision-maker; and
  - (b) if the decision-maker decides to cancel the notice—a written statement stating the notice has been cancelled and the day and time of the cancellation.
- (3) Subsection (4) applies if an amended or cancelled police banning notice has, before the amendment or cancellation, been distributed to a person by a police officer under section 602U.
- (4) The decision-maker must ensure the person is notified of the cancellation or amendment of the police banning notice.

*Note—*

Section 602W requires the person to destroy a police banning notice in particular circumstances.

### **602M Effect of cancellation of notice**

A police banning notice cancelled by the commissioner or a police officer has no effect immediately after it is cancelled.

## **Division 5      Review of notices**

### **602N Internal review for police banning notices**

- (1) A respondent for a police banning notice may apply, in the approved form, to the commissioner to amend or cancel the notice—
  - (a) if the application relates to an initial police banning notice—within 5 days after the starting time of the notice; or
  - (b) otherwise—at any time.
- (2) Without limiting subsection (1), the respondent may apply to the commissioner on the ground that the police banning notice—
  - (a) prevents the respondent from entering, remaining in, or using a mode of transport to travel to, the respondent's residence, place of employment or place of education; or
  - (b) is causing, or will cause, undue hardship to the respondent or a member of the respondent's family.
- (3) The respondent must give the commissioner sufficient information with the application to enable the commissioner to decide the application.

### **602O Commissioner's decision about notices**

- (1) The commissioner must decide an application made under section 602N—



- (a) as soon as reasonably practicable; and
  - (b) if the application relates to an extended police banning notice—no later than 5 business days after receiving the application.
- (2) If the application relates to an extended police banning notice, the commissioner must give the respondent for the notice a QCAT information notice for the commissioner’s decision on the application.
- (3) In this section—
- QCAT information notice*** means a notice complying with the QCAT Act, section 157(2).

### **602P Review by QCAT**

A person given, or entitled to be given, a QCAT information notice under section 602O(2) for a police banning notice may apply, as provided under the QCAT Act, to QCAT for review of the commissioner’s decision.

*Note—*

The QCAT Act, section 22(3) provides that QCAT may stay the operation of a reviewable decision, either on application by a person or on its own initiative.

## **Division 6      Offence**

### **602Q Offence to contravene notice**

A person named in a police banning notice must not, without reasonable excuse, contravene the notice.

Maximum penalty—60 penalty units.

## **Part 5B                      Photographing persons and distributing orders and images**

### **Division 1                  Preliminary**

#### **602R Definitions for pt 5B**

In this part—

*approved ID scanning system* see the *Liquor Act 1992*, section 173EE.

*approved operator* see the *Liquor Act 1992*, section 173EE.

*banning order* means—

- (a) a police banning notice; or
- (b) a document recording a special condition to which a person's bail is subject under the *Bail Act 1980*, section 11(3); or
- (c) a banning order made under the *Penalties and Sentences Act 1992*, part 3B.

*destroy*, an image, includes—

- (a) deleting an electronic copy of the image; and
- (b) ending the way in which the image may be accessed electronically.

*distribute*, an imaged order, means giving the order to a person, whether the order is given in hard copy, electronically or by allowing the person electronic access to a database.

*image*, of a person, means an image, including a digital image, taken by a police officer photographing the person under this part.

*imaged order* see section 602T(2).

*photograph* does not include videotaping.

## **Division 2      Power to photograph persons and distribute orders and images**

### **602S Power to detain and photograph**

- (1) A police officer may detain and photograph the following persons at a police vehicle, watch-house or police station—
  - (a) a respondent for a police banning notice;
  - (b) a person whose bail is subject to a special condition mentioned in the *Bail Act 1980*, section 11(3), if—
    - (i) the person was granted bail by a police officer at a place mentioned in section 11(4AA)(a) of that Act; or
    - (ii) a condition was imposed on the person by the court under section 11(4AA)(b) of that Act;
  - (c) a person who has been ordered by a court to attend a police station under the *Penalties and Sentences Act 1992*, section 43J(4).
- (2) The police officer may—
  - (a) detain the person under this section only for the time reasonably necessary to photograph the person; and
  - (b) photograph the person's face, neck and hair.

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### **602T Attaching image to a banning order**

- (1) A police officer may attach an image of a person taken under this part to a banning order for the person.
- (2) An *imaged order* is a banning order to which an image has been attached.
- (3) To remove doubt, it is declared that an image of a person taken for a particular banning order may be attached to a different banning order for the person.

*Example for subsection (3)—*

An image of a person taken for a police banning notice may be later attached to a banning order made under the *Penalties and Sentences Act 1992*, part 3B for the person.

### **602U Distribution of imaged order or police banning notice**

- (1) A police officer may distribute an imaged order for a person to the Commissioner for Liquor and Gaming, or an approved operator for an approved ID scanning system, for recording on the approved ID scanning system.
- (2) A police officer may also distribute an imaged order to any 1 or more of the following persons for the purposes of preventing the entry of the person named in the order to the places stated in the order—
  - (a) the licensee of any licensed premises stated in the order;
  - (b) the licensee of any licensed premises included in a class of licensed premises stated in the order;
  - (c) an approved manager working at the licensed premises mentioned in paragraph

- (a) or (b) or at an event to which the order applies;
  - (d) if there is no approved manager working at an event stated in the order—the person responsible for the sale of liquor at the event.
- (3) The distribution of the imaged order may be subject to reasonable conditions decided by the commissioner.
- (3A) Also, a police officer may distribute a police banning notice that does not have an image attached to it in the same way as an imaged order may be distributed under this section.

*Notes—*

- 1 The *Bail Act 1980*, section 34F provides for the distribution of information about a special condition made under section 11(3) of that Act in circumstances where the condition does not have an image attached to it.
  - 2 The *Penalties and Sentences Act 1992*, section 43N provides for the distribution of a banning order made under that Act in circumstances where the order does not have an image attached to it.
- (4) In this section—
- approved manager*** means a person holding an approval as an approved manager under the *Liquor Act 1992*.
- Commissioner for Liquor and Gaming*** means the Commissioner for Liquor and Gaming under the *Gaming Machine Act 1991*.

## **Division 3      Destruction of images**

### **602V Commissioner to destroy image**

- (1) The commissioner must take reasonable steps to ensure that an image of a person taken for a banning order is destroyed as soon as reasonably practicable after the day the banning order no longer has effect.
- (2) However, if a relevant proceeding has started in relation to the person, the image must be destroyed as soon as reasonably practicable after the end of the period for appeal of a decision from the proceeding.
- (3) Subsection (1) does not prevent an image being attached to another banning order, if the image has not been destroyed under this section.
- (4) In this section—  
*relevant proceeding*, in relation to a person named in a banning order, means—
  - (a) a proceeding for an offence committed, or alleged to have been committed, by the person arising from the circumstances that led to the giving of the order; or
  - (b) a proceeding for an offence under section 602W relating to the banning order.

### **602W Other persons who must destroy imaged order or police banning notice**

- (1) This section applies to a person to whom an imaged order has been distributed under section 602U, other than a person operating an approved ID scanning system or using an approved ID scanner under the *Liquor Act 1992*.

*Note—*

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Part 6AA of the *Liquor Act 1992* deals with the use of banning orders held in an approved ID scanning system.

- (2) The person must destroy the imaged order as soon as practicable, and not later than 7 days, after the day the banning order no longer has effect, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (3) The person must not, without reasonable excuse—

- (a) use the imaged order in any way other than in a way that is reasonable for the purpose of preventing the entry of the person named in the order to a place stated in the order; or

*Example of a reasonable way of using an order for paragraph (a)—*

A person keeps an imaged order in a secure area of licensed premises and only gives the order to staff who are working at the front door of the premises.

*Example of an unreasonable way of using an order for paragraph (a)—*

A person puts an imaged order in a place at licensed premises that is visible to the public.

- (b) contravene a condition decided for the imaged order under section 602U(3).

Maximum penalty—40 penalty units.

- (4) In this section—

*imaged order* includes a police banning notice that does not have an image attached to it.

## 119 Amendment of s 686 (Application of pt 3)

Section 686(2)(e), ‘under’—

*omit, insert—*

under chapter 18A or

[s 120]

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**120 Amendment of s 790 (Offence to assault or obstruct police officer)**

(1) Section 790(1), penalty—

*omit, insert—*

Maximum penalty—

- (a) if the assault or obstruction happens within licensed premises, or in the vicinity of licensed premises—60 penalty units or 12 months imprisonment; or
- (b) otherwise—40 penalty units or 6 months imprisonment.

(2) Section 790—

*insert—*

- (2A) The *Penalties and Sentences Act 1992*, section 108B also states a circumstance of aggravation for an offence against this section.

**121 Amendment of s 791 (Offence to contravene direction or requirement of police officer)**

Section 791(2), penalty—

*omit, insert—*

Maximum penalty—

- (a) for contravening a direction given under section 48—
  - (i) within licensed premises, or in a regulated place located in the vicinity of licensed premises; or
  - (ii) in a public place located in a safe night precinct—60 penalty units; or
- (b) for contravening another requirement or direction relating to a relevant law for which the penalty for a contravention of a similar



requirement or direction made by a public official under the relevant law is more than 40 penalty units—the maximum penalty under the relevant law for the offence; or

(c) otherwise—40 penalty units.

## 122 Amendment of sch 6 (Dictionary)

(1) Schedule 6, definitions *licensed premises* and *photograph*—  
*omit.*

(2) Schedule 6—  
*insert—*

*approved ID scanning system*, for chapter 19, part 5B, see section 602R.

*approved operator*, for chapter 19, part 5B, see section 602R.

*banning order*, for chapter 19, part 5B, see section 602R.

*centre officer*, in relation to a sober safe centre, for chapter 14, part 5, division 2, see section 390A.

*destroy*, an image, for chapter 19, part 5B, see section 602R.

*distribute*, an imaged order, for chapter 19, part 5B, see section 602R.

*ending time*, for an initial police banning notice, for chapter 19, part 5A, see section 602A.

*extended police banning notice*, for chapter 19, part 5A, see section 602F(2).

*health care professional*, for chapter 14, part 5, division 2, see section 390A.

*image*, of a person, for chapter 19, part 5B, see section 602R.

[s 122]

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***imaged order***, for chapter 19, part 5B, see section 602T(2).

***initial police banning notice***, for chapter 19, part 5A, see section 602C(1).

***intoxicated***, in relation to a person, means the person is adversely affected by an intoxicating substance.

***licensed premises***—

- (a) means licensed premises within the meaning of the *Liquor Act 1992*; and
- (b) includes a place to which a permit under that Act relates.

***manager***, of a sober safe centre, for chapter 14, part 5, division 2, see section 390A.

***nuisance offence*** means an offence for any of the following—

- (a) contravening a direction of a police officer under section 791 if the direction is given by the officer exercising a power under chapter 2, part 5;
- (b) public nuisance under the *Summary Offences Act 2005*, section 6;
- (c) urinating in a public place under the *Summary Offences Act 2005*, section 7.

*Note*—

Chapter 2, part 5 deals with directions to move on.

***photograph***, when used as a verb—

- (a) generally, includes photocopy, videotape, and record an image, whether digitally or in another way; but
- (b) for chapter 19, part 5B, does not include videotaping an image.

***police banning notice*** see section 602B.

*prescribed safe night precinct*, for a sober safe centre, for chapter 14, part 5, division 2, see section 390A.

*relevant assault offence*, for chapter 18A, see section 548B.

*relevant public place*, for chapter 19, part 5A, see section 602A.

*respondent*, for a police banning notice, see section 602A.

*responsible person*, for chapter 14, part 5, division 2, see section 390A.

*safe night precinct* see the *Liquor Act 1992*, section 173NC(1).

*sober safe centre* means a place prescribed by regulation as a place to be used for the temporary detention and care of intoxicated persons under chapter 14, part 5, division 2.

*starting time*, for an initial banning notice, for chapter 19, part 5A, see section 602D(a).

## Part 9A

## Amendment of Security Providers Act 1993

### 122A Act amended

This part amends the *Security Providers Act 1993*.

### 122B Amendment of sch 1 (Disqualifying offence provisions under the Criminal Code)

Schedule 1, part 1—

*insert—*

[s 122C]

5A chapter 28A (Unlawful striking causing death)

**Part 9B Amendment of State Penalties Enforcement Regulation 2014**

**122C Regulation amended**

This part amends the *State Penalties Enforcement Regulation 2014*.

**122D Amendment of sch 1 (Infringement notice offences and fines for nominated laws)**

(1) Schedule 1, entry for the *Liquor Act 1992*, entries for sections 165(2), 165(4) and 165A(2), column 3, ‘4’—

*omit, insert—*

5

(2) Schedule 1, entry for the *Liquor Act 1992*—

*insert—*

s 165A(4) (other than an offence that constitutes an assault on an authorised person) ..... 5

(3) Schedule 1, entry for the *Police Powers and Responsibilities Act 2000*, entries for sections 790(1) and 791(2)—

*omit, insert—*

s 790(1) in the circumstances in paragraph (a) of the penalty (other than an offence that constitutes an assault on a police officer) ..... 6

s 790(1) in the circumstances in paragraph (b) of the penalty (other than an offence that constitutes an assault on a police officer)	3
s 791(2) in the circumstances in paragraph (a) of the penalty . . . . .	6
s 791(2) for contravention of a requirement under section 40(1) to state the alleged offender’s name or address as required. .	1
s 791(2) for contravention of a requirement under section 58(2) to produce a driver licence for inspection. . . . .	2
s 791(2) in other circumstances in paragraph (b) of the penalty. . . . .	4
s 791(2) in the circumstances in paragraph (c) of the penalty . . . . .	4

(4) Schedule 1, entry for the *Summary Offences Act 2005*, entries for sections 6(1) and 7(1)—

*omit, insert—*

s 6(1) for abusive, indecent, obscene or offensive language—	
(a) within licensed premises, or in the vicinity of licensed premises	3
(b) in other circumstances	1
s 6(1) for disorderly, offensive, threatening or violent behaviour (other than an offence that constitutes an assault)—	
(a) within licensed premises, or in the vicinity of licensed premises	6
(b) in other circumstances	3

[s 123]

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s 7(1)	for urinating in a public place—	
	(a) within licensed premises, or in the vicinity of licensed premises	2
	(b) in other circumstances	1

## **Part 10**                      **Amendment of Summary Offences Act 2005**

### **123 Act amended**

This part amends the *Summary Offences Act 2005*.

### **124 Amendment of s 6 (Public nuisance)**

Section 6(1), penalty—

*omit, insert—*

Maximum penalty—

- (a) if the person commits a public nuisance offence within licensed premises, or in the vicinity of licensed premises—25 penalty units or 6 months imprisonment; or
- (b) otherwise—10 penalty units or 6 months imprisonment.

### **125 Amendment of s 7 (Urinating in a public place)**

Section 7(1), penalty—

*omit, insert—*

Maximum penalty—

- (a) if the person urinates within licensed premises, or in the vicinity of licensed premises—4 penalty units; or

(b) otherwise—2 penalty units.

**126 Replacement of s 10 (Being drunk in a public place)**

Section 10—

*omit, insert—*

**10 Being intoxicated in a public place**

(1) A person must not be intoxicated in a public place.

Maximum penalty—2 penalty units.

(2) In this section—

*intoxicated* means drunk or otherwise adversely affected by drugs or another intoxicating substance.

**Part 10A Amendment of Transport Operations (Passenger Transport) Act 1994**

**126A Act amended**

This part amends the *Transport Operations (Passenger Transport) Act 1994*.

**126B Amendment of sch 1 (Disqualifying offences—provisions of the Criminal Code)**

Schedule 1, part 1—

*insert—*

7A chapter 28A (Unlawful striking causing death)

[s 126C]

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**126C Amendment of sch 1A (Driver disqualification offences)**

Schedule 1A, part 3, division 1—

*insert—*

7A chapter 28A (Unlawful striking causing death)

**Part 11 Amendment of Vicious Lawless Association Disestablishment Act 2013**

**127 Act amended**

This part amends the *Vicious Lawless Disestablishment Act 2013*.

**128 Amendment of sch 1 (Declared offences)**

Schedule 1, entries for the Criminal Code—

*insert—*

- section 314A (Unlawful striking causing death)

**Part 12 Amendment of Victim of Crime Assistance Act 2009**

**129 Act amended**

This part amends the *Victim of Crime Assistance Act 2009*.



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**130 Amendment of sch 3 (Dictionary)**

Schedule 3, definition *more serious act of violence*, paragraph (a), after ‘murder,’—

*insert—*

unlawful striking causing death,

**Part 13 Amendment of Wine Industry Act 1994**

**131 Act amended**

This part amends the *Wine Industry Act 1994*.

**132 Amendment of s 36 (Wine prohibited to certain persons)**

Section 36—

*insert—*

- (2) For subsection (1), a person may be taken to be unduly intoxicated if—
- (a) the person’s speech, balance, co-ordination or behaviour is noticeably affected; and
  - (b) there are reasonable grounds for believing the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor, drugs or another intoxicating substance.

**133 Amendment of sch 2 (Dictionary)**

Schedule 2, definition *unduly intoxicated*—

*omit.*

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