

Queensland



LIQUOR ACT 1992

**Reprinted as in force on 8 June 1993
(includes amendments up to Act No. 10 of 1993)**

Reprint No. 3

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Information about this reprint

This Act is reprinted as at 8 June 1993. As required by section 5 of the *Reprints Act 1992*, it—

- shows the law as amended by all amendments that commenced on or before that day; and
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

As required by section 6 of the *Reprints Act 1992*, the reprint includes, in a suitable place, a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

The opportunity has also been taken, under section 7 of the *Reprints Act 1992*, to do the following—

- use punctuation and expressions consistent with current legislative drafting practice as permitted by sections 27 and 29 of that Act;
- use conjunctives and disjunctives consistent with current legislative drafting practice as permitted by section 28 of that Act;
- use aspects of format and printing style consistent with current legislative drafting practice as permitted by section 35 of that Act;
- omit provisions that are no longer required as permitted by sections 37 and 39 of that Act;
- correct minor errors as permitted by section 44 of that Act.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the *Reprints Act 1992*. A Table of reprints is included in the Endnotes.

Also see Endnotes for—

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

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LIQUOR ACT 1992

[as amended by all amendments that commenced on or before 8 June 1993²]

An Act to regulate the sale and supply of liquor

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Liquor Act 1992*³⁻⁶.

Commencement

2. This Act commences on a day to be fixed by proclamation.

Objects of Act

3. The objects of this Act are—
 - (a) to facilitate and regulate the optimum development of the tourist, liquor and hospitality industries of the State having regard to the welfare, needs and interests of the community and the economic implications of change; and
 - (b) to provide for a Liquor Appeals Tribunal with jurisdiction to hear and determine appeals authorised by this Act; and
 - (c) to provide for a flexible, practical system for regulation of the liquor industry of the State with minimal formality, technicality or intervention consistent with the proper and efficient administration of this Act; and
 - (d) to regulate the liquor industry in a way compatible with—
 - (i) minimising harm arising from misuse of liquor; and

- (ii) the aims of the National Health Policy on Alcohol; and
- (e) to provide revenue for the State to enable the attainment of the objects of this Act and for other purposes of government.

Interpretation

4. In this Act—

“accounting records” includes—

- (a) books of account; and
- (b) such working papers and other documents as are necessary to explain the methods and calculations by which an account is made up;

“assessment period” means the period by reference to which a fee payable in respect of a licence for a licence period is to be assessed;

“boat” means a boat, ship or other vessel of any size or kind, and includes a hovercraft;

“cabaret” means—

- (a) the conduct of business for the primary purpose of providing on the premises entertainment by persons present on the premises whose function it is to present the entertainment; or
- (b) the premises on which such entertainment is provided;

“chairperson” means the chairperson of the Tribunal;

“chief executive” means the chief executive of the department;

“club” means an association of persons who meet periodically—

- (a) with an interest in promoting some object; or
- (b) for social purposes;

“community area” of a Council means the area of the State in which the Council may exercise its jurisdiction;

“Council” means—

- (a) an Aboriginal Council under the *Community Services (Aborigines) Act 1984*; and

- (b) an Island Council under the *Community Services (Torres Strait) Act 1984*; and
- (c) the Council of the Shire of Aurukun; and
- (d) the Council of the Shire of Mornington;

“deputy chairperson” means a deputy chairperson of the Tribunal;

“function” means an event or occasion—

- (a) to which persons are invited by or on behalf of its organiser; and
- (b) that happens in premises hired for the purpose by the organiser; but does not include—
 - (c) an event or occasion organised by the owner or licensee of premises in which the event or occasion happens for his or her own benefit, solely or partially; or
 - (d) an event or occasion organised by another person if the owner or licensee of the premises in which the event or occasion happens is entitled to receive benefit other than by way of charge for use of the premises and provision of catering facilities;

“investigator” means—

- (a) a person authorised under section 174(1); or
- (b) in this Act apart from Part 7—any of the following—
 - (i) a commissioned police officer;
 - (ii) a police officer acting as a commissioned police officer;
 - (iii) a police officer designated by a police officer mentioned in subparagraph (i) or (ii) to act as an investigator under this Act for a particular occasion; or
- (c) in Part 7—any police officer;

“licence” includes a licence granted, or provisionally granted, under this Act;

“licence period” means the period for which a fee is payable in respect of a licence or permit;

“licensed premises” means premises to which a licence relates, and includes premises approved under section 125 for sale of liquor;

“licensee” means the holder of a licence, and includes a person prescribed to be subject to this Act as if the person were a licensee;

“liquor” means any spirituous or fermented fluid of an intoxicating nature, and includes any beverage or substance intended for human consumption in which the level of ethyl alcohol (ethanol) is greater than 5 mL/L (0.5%) at 20°C, but does not include liquor used merely as a preservative or medium in which fruit is offered for sale to the public in sealed containers if the contents are visible;

“meal” means food that—

- (a) is eaten by a person sitting at a table, or fixed structure used as a table, with cutlery provided for the purpose of eating the food; and
- (b) is of sufficient substance as to be ordinarily accepted as a meal;

“mortgagee” includes a licensee;

“non-proprietary club” means an association of persons under whose constitution—

- (a) the income, profits and assets of the association are to be applied only in promotion of its objects; and
- (b) the payment of dividends to, or the distribution of income, profits or assets of the association among, its members is prohibited;

“permit” means a permit granted under this Act;

“permittee” means the holder of a permit, and includes a person prescribed to be subject to this Act as if the person were a permittee;

“place” includes vacant land or premises;

“premises” includes—

- (a) land; and
- (b) a building or structure on or in land; and
- (c) a vehicle, boat, aircraft, train or other means of transport;

“secretary” of a club means the principal executive officer of the club, by whatever name called, whether or not the person is a member of the club;

“sell” includes—

- (a) barter or exchange; and
- (b) offer, agree or attempt to sell; and
- (c) expose, send, forward or deliver for sale; and
- (d) cause or permit to be sold or offered for sale; and
- (e) supply or offer, agree or attempt to supply—
 - (i) in circumstances in which the supplier derives, or would be likely to derive, a direct or indirect pecuniary benefit; or
 - (ii) gratuitously, but to gain or keep custom or other commercial advantage;

“Tribunal” means the Liquor Appeals Tribunal;

“unduly intoxicated” means a state of being in which a person’s mental and physical faculties are impaired because of consumption of liquor so as to diminish the person’s ability to think and act in a way in which an ordinary prudent person in full possession of his or her faculties, and using reasonable care, would act under like circumstances;

“unlicensed person” means a person who is not the holder of a licence under this Act or a licence or permit under a law of a State or Territory that corresponds to this Act;

“unlicensed premises” means premises to which a licence or permit does not relate;

“wine” has the same meaning as in the *Wine Industry Act 1974*.

Who is a responsible adult in relation to a minor

5. For the purposes of this Act, a responsible adult in relation to a minor is—

- (a) a parent, step-parent or guardian of the minor; or
- (b) the minor’s spouse if the spouse is an adult; or
- (c) an adult who, though not legally married to the minor, ordinarily lives with the minor as spouse on a permanent, domestic basis; or
- (d) an adult who has parental rights, duties and responsibilities in relation to the minor; or

- (e) an adult who might reasonably be expected to have authority over the minor's conduct.

Acceptable evidence of age

6. For the purposes of this Act, acceptable evidence of the age of a person is a document—

- (a) that is—
 - (i) a proof of age card issued to the person by the prescribed department or by a corresponding public authority of another State or a Territory; or
 - (ii) a motor vehicle driver's or rider's licence or permit issued to the person under a law of the State or a law of another State or a Territory; or
 - (iii) an Australian or foreign passport issued to the person; and
- (b) that bears a photograph of the person; and
- (c) that indicates by reference to the person's date of birth or otherwise that the person has attained a particular age.

Presumed quantity of liquor

7. For the purposes of this Act—

- (a) 12 containers each containing at least 740 mL of liquor, or 24 containers each containing at least 370 mL of liquor, are to be taken to contain a total quantity of 9 L of liquor;
- (b) 6 containers each containing at least 740 mL of liquor, or 12 containers each containing at least 370 mL of liquor, are to be taken to contain a total quantity of 4.5 L of liquor.

Venue of sale of liquor

8. For the purposes of this Act, a sale of liquor happens on premises in which is situated the store of liquor from which liquor is appropriated to the contract of sale.

Ordinary trading hours

9.(1) The authority conferred by a licence to sell liquor on licensed premises during ordinary trading hours—

- (a) extends only to selling liquor during hours that are, under this section, the ordinary trading hours of the premises; and
- (b) if a provision of this section specifies conditions for selling liquor at specified times on specified licensed premises—extends only to selling liquor on the premises, at those times, in accordance with those conditions.

(2) If an order of the chief executive that is directed to reducing the trading hours of specified licensed premises specifies days on which, or times at which, liquor may be sold on the premises, the ordinary trading hours of those licensed premises are the trading hours specified in the order.

(3) On Anzac Day ordinary trading hours—

- (a) of all licensed premises—do not include any period before 1 p.m. except—
 - (i) for sale of liquor for consumption on the premises in association with the consumer eating a meal on the premises; or
 - (ii) as provided by paragraph (b);
- (b) of premises that are a cabaret—subject to subsection (2), include the period between 12 midnight and 3 a.m.

(4) Subject to subsections (2), (3) and (7), ordinary trading hours of licensed premises to which a producer/wholesaler licence relates are the hours during which, on the days on which, a non-exempt shop may lawfully be open for trading under the *Trading Hours Act 1990*.

(5) Subject to subsection (2), on Good Friday and Christmas Day ordinary trading hours of all licensed premises, other than a cabaret or premises to which a producer/wholesaler licence relates are—

- (a) for sale of liquor for consumption on the premises in association with the consumer eating, in a part of the premises ordinarily set apart for dining, a meal prepared and served to be eaten on the premises—between 10 a.m. and 12 midnight, or such period between 7 a.m. and 12 midnight as the chief executive approves

in a particular case;

(b) for other sale of liquor—nil.

(6) Subject to subsection (2), on Good Friday and Christmas Day ordinary trading hours of premises that are a cabaret are—

(a) for sale of liquor for consumption on the premises in association with the consumer eating, in a part of the premises ordinarily set apart for dining, a meal prepared and served to be eaten on the premises—between 10 a.m. and 12 midnight or such period between 7 a.m. and 12 midnight as the chief executive approves in a particular case;

(b) for other sale of liquor—between 12 midnight and 3 a.m.

(7) If the licensee of licensed premises to which a producer/wholesaler licence relates is a producer of liquor, then, on any day on which the premises may, under subsection (4), be lawfully open for trading, and subject to subsections (2) and (3), ordinary trading hours of the premises are—

(a) for sale of liquor produced or made on the premises, for consumption on the premises in association with the consumer eating, in a part of the premises ordinarily set apart for dining, a meal prepared and served to be eaten on the premises; or

(b) for sale of liquor produced or made on the premises to a visitor to the premises as a souvenir of the visit;

such period between 7 a.m. and 12 midnight as the chief executive approves in a particular case.

(8) Subject to subsections (2) and (3), ordinary trading hours of a boat, vehicle or aircraft used for the primary purpose of carrying passengers commercially, and to which an on-premises licence relates, are—

(a) between start and end of a journey for that primary purpose; and

(b) within 1 hour before the scheduled time of departure and 30 minutes after end of the journey.

(9) Subject to subsections (2) and (3), ordinary trading hours of licensed premises used for the primary purpose of presenting sporting, cultural, theatrical or cinematographic events and to which an on-premises licence relates—

- (a) are—
 - (i) within 1 hour before the scheduled time of start of such a presentation on the premises; and
 - (ii) during every scheduled intermission in the presentation; and
 - (iii) within 1 hour after end of the presentation; and
- (b) do not include anytime before 10 a.m. except—
 - (i) with the chief executive's prior approval, a time after 7 a.m.; and
 - (ii) a time within 1 hour after end of the presentation.

(10) Subject to subsections (2) and (3), on any day other than Good Friday or Christmas Day, ordinary trading hours of licensed premises that are a cabaret are—

- (a) for sale of liquor for consumption on the premises in association with the consumer eating, in a part of the premises ordinarily set apart for dining, a meal prepared and served to be eaten on the premises—between 10 a.m. and 8 p.m. or such period between 7 a.m. and 8 p.m. as the chief executive approves in a particular case;
- (b) for other sale of liquor—between 8 p.m. and 3 a.m. on the following day.

(11) Subject to subsections (2) and (3), on any day other than Good Friday or Christmas Day, ordinary trading hours of licensed premises other than—

- (a) premises to which a producer/wholesaler licence relates; or
- (b) a boat, vehicle or aircraft to which an on-premises licence relates; or
- (c) premises that are a cabaret;

are between 10 a.m. and 12 midnight or such period between 7 a.m. and 12 midnight as the chief executive approves in a particular case.

(12) In respect of licensed premises to which a general licence relates, the chief executive may approve, as ordinary trading hours, different hours for different parts of the licensed premises.

When supply of liquor is in association with eating a meal

10. For the purpose of this Act, a sale or supply of liquor may be taken as being in association with the consumer eating a meal if the liquor is supplied on premises—

- (a) to a consumer who has indicated a genuine intention of eating a meal on the premises, within 1 hour before the consumer orders the meal; or
- (b) while the consumer is eating the meal; or
- (c) within 1 hour after the consumer has finished eating the meal;

and at no other times.

Public place

11.(1) For the purposes of this Act, a public place includes—

- (a) any premises to which the public has access as of right, or with the express or tacit consent, or permission, of the owner or occupier of the premises at the time material to the application of this Act in respect of the premises; and
- (b) any doorway, entrance or vestibule that gives access to premises from a public place under paragraph (a).

(2) Premises may be a public place under subsection (1) even if, at the material time—

- (a) access to the premises depends on payment of a price for admittance or fulfilment of some other condition; or
- (b) no person is on, or seeking access to or from, the premises.

Exemptions

12.(1) A provision of this Act that prohibits—

- (a) taking liquor into premises to which a licence or permit relates; or
- (b) removing liquor from premises to which a licence or permit relates; or
- (c) carrying liquor for sale;

whether absolutely or at a particular time, does not apply to a carrier, delivery person or other person engaged in delivering liquor to, or collecting liquor from, any such premises or carrying liquor in the ordinary course of lawful business.

(2) This Act does not apply to the sale or supply of liquor in such cases as are prescribed by regulation.

Act binds the Crown

13. This Act binds the Crown.

PART 2—LIQUOR APPEALS TRIBUNAL

Division 1—The Tribunal

The Tribunal and its members

14.(1) There is a tribunal called the Liquor Appeals Tribunal.

(2) The Governor in Council may, by Gazette notice, appoint members of the Tribunal.

(3) One member of the Tribunal is to be appointed as chairperson of the Tribunal, and another is, or others are, to be appointed as deputy chairperson of the Tribunal.

Qualification for appointment

15. At least 1 member must be a person who—

- (a) has held office as a Judge of the Supreme Court or as a Judge of District Courts and who no longer holds such office; or
- (b) has engaged in legal practice for at least 5 years.

Appointment on part-time basis

16. A member of the Tribunal is to be appointed on a part-time basis.

Term of appointment

17.(1) Appointment as a member of the Tribunal is for a specified period not longer than 3 years.

(2) A member of the Tribunal is eligible for reappointment.

Resignation and removal from office

18.(1) A member of the Tribunal may resign by signed notice given to the Minister.

(2) The Governor in Council may revoke the appointment of a member of the Tribunal by notice signed by the Minister and given to the member.

(3) The Governor in Council must revoke the appointment of a member of the Tribunal if the member is convicted—

- (a)** in the State, of an indictable offence; or
- (b)** elsewhere, of an offence consisting of an act or omission that, had it happened in the State, would be an indictable offence;

that reflects on the member's fitness to continue as a member.

(4) A resignation or revocation of an appointment may be expressed to take effect on a specified future date, in which case, it takes effect on that date, but if it is not so expressed it takes effect immediately.

(5) On a resignation or revocation of an appointment taking effect the member concerned ceases to hold office as a member of the Tribunal.

(6) If the chairperson or deputy chairperson of the Tribunal ceases to hold office as a member, the Governor in Council may appoint any person, whether or not a member of the Tribunal, to the office if the person is qualified for appointment.

Leave of absence

19. The Minister may grant leave of absence to a member of the Tribunal on conditions determined by the Minister.

Remuneration

20. A member of the Tribunal is entitled to such remuneration by way of allowances as the Governor in Council determines.

Division 2—Jurisdiction, powers and procedures of Tribunal

Jurisdiction and powers of Tribunal

21.(1) The Tribunal has jurisdiction to hear and determine appeals made to it against decisions of the chief executive in relation to—

- (a) the grant or refusal of a licence or permit or the renewal of a restricted club licence; or
- (b) the specification of conditions in a licence or permit; or
- (c) the cancellation or suspension or surrender of a licence or permit; or
- (d) the grant or refusal of an authorisation under this Act; or
- (e) an order directed to a licensee or permittee or a person holding an authorisation under this Act; or
- (f) assessment, reassessment or imposition of a fee payable in respect of a licence; or
- (g) allotment or apportionment of liability for payment, or entitlement to refund, of a fee in respect of a licence or permit;

and to hear and determine other appeals that may be made to it under this Act.

(2) In exercise of its jurisdiction, the Tribunal—

- (a) has—
 - (i) the powers and discretions of the chief executive in respect of the matter under appeal; and

- (ii) the powers otherwise conferred on it by this Act; and
- (b) has the duties imposed by this Act on the chief executive in respect of the matter under appeal; and
- (c) is subject to the limitations imposed by this Act on the chief executive in respect of the matter under appeal.

Constitution of Tribunal

22. For the purpose of exercising its jurisdiction, the Tribunal is properly constituted by 3 of its members of whom 1 must be qualified as mentioned in section 15.

Way of exercising jurisdiction

23. The Tribunal's jurisdiction is exercised in a proceeding by the unanimous or majority decision of its members constituting the Tribunal in the proceeding.

Extent of supervision of Tribunal's exercise of jurisdiction

24.(1) A participant in a proceeding before the Tribunal, who is aggrieved by the Tribunal's determination in the proceeding, may appeal to the Supreme Court against the determination on a ground of error of law.

(2) The Tribunal may—

- (a) of its own motion; or
- (b) on application made to it by a participant in a proceeding before it;

state a case for the opinion of the Supreme Court on a question of law that has arisen in the proceeding.

(3) If the Supreme Court finds that a determination of the Tribunal is affected by error of law, it may set aside the determination and remit the matter to the Tribunal for determination in accordance with law.

Procedures of Tribunal

25. In exercise of its jurisdiction the Tribunal—

- (a) must observe natural justice; and
- (b) must proceed expeditiously with as little formality and technicality as is consistent with a fair and proper consideration of the matter before it; and
- (c) is not bound by rules or practice as to evidence and may inform itself on any matter as it considers appropriate; and
- (d) subject to this Act, may regulate its procedures as it considers appropriate.

Powers of Tribunal in proceedings

26.(1) In a proceeding, the Tribunal may—

- (a) proceed in the absence of a person who has been given reasonable notice of the proceeding; and
- (b) receive evidence on oath or a statutory declaration; and
- (c) adjourn the proceeding; and
- (d) permit amendment of any document; and
- (e) disregard a defect, error, omission or insufficiency in—
 - (i) a document; or
 - (ii) giving, advertising or displaying a document.

(2) Any of the members constituting the Tribunal in a proceeding, and any person authorised by any of the members to do so, may administer an oath to a person appearing as a witness in the proceeding.

Summons to witnesses

27.(1) The registrar of the Tribunal may, on direction by the Tribunal as constituted in a proceeding or on application by a party to a proceeding, by written notice given to a person require the person to attend at a proceeding before the Tribunal at a time and place specified in the notice for the purpose of giving evidence or producing a document specified in the notice.

(2) A person to whom a notice under subsection (1) is given must not, without reasonable excuse, fail to attend—

- (a) as required by the notice; and
- (b) continue to attend as required by the Tribunal until excused from further attendance.

Maximum penalty—35 penalty units.

Duty of witness in proceedings

28.(1) A person who appears, voluntarily or in response to a notice under section 27(1), as a witness before the Tribunal must not—

- (a) fail to take an oath or make an affirmation when required to do so for the purpose of the proceeding; or
- (b) fail, without reasonable excuse, to answer a question when required by the Tribunal to do so; or
- (c) fail, without reasonable excuse, to produce a document that the person is required by a notice under section 27(1) to produce.

Maximum penalty—35 penalty units.

(2) For the purposes of this Act—

- (a) it is a reasonable excuse for a person to fail to answer a question if answering the question might tend to incriminate the person; and
- (b) it is a reasonable excuse for a person to fail to produce a document if producing the document might tend to incriminate the person.

Contempt of Tribunal

29. A person must not—

- (a) insult any of the members constituting the Tribunal in a proceeding; or
- (b) deliberately interrupt a proceeding before the Tribunal; or
- (c) create or continue, or join in creating or continuing, a disturbance in or near a place where the Tribunal is conducting a proceeding; or
- (d) do anything that would constitute a contempt of court if the

Tribunal were a court of record.
Maximum penalty—50 penalty units.

Division 3—Appeals to Tribunal

Persons entitled to appeal

30. An appeal against the chief executive's decision may be made only by a person who—

- (a) made an application, submission or objection in the proceeding in which the decision was made; and
- (b) is aggrieved by the decision.

Start of appeal

31.(1) A person who wishes to appeal against the chief executive's decision must start the appeal in accordance with this section.

(2) An appeal is started by—

- (a) filing a notice of appeal with the registrar of the Tribunal within 28 days after the day on which the person received notice of the decision; and
- (b) giving a copy of the notice to the chief executive within 7 days after the notice is filed with the registrar.

(3) If the chief executive fails to notify an applicant of the grant or refusal of an application within 30 days after the end of the time within which all steps required or permitted by this Act to be taken in respect of the application must be taken, then, for the purposes of an appeal, the chief executive is taken to have given to the applicant notice of a decision to refuse the application at the end of the period of 30 days.

Notice of appeal

32. A notice of appeal must—

- (a) be in a form approved by the registrar; and

- (b) specify fully the grounds of appeal.

Notification to interested persons

33.(1) As soon as practicable after receiving a notice of appeal, the chief executive must give to the registrar of the Tribunal written notice of the names and addresses (as last known to the chief executive) of all persons who made an application, submission or objection in the proceeding relevant to the appeal.

(2) The registrar of the Tribunal must give to each person whose name and address have been notified to the registrar under subsection (1), other than the appellant, written notice that an appeal has been started.

Arranging the hearing of appeal

34.(1) An appeal to the Tribunal is by way of a rehearing of the matter.

(2) An appeal to the Tribunal must be set down for hearing on a day within 28 days after notice of appeal is filed with the registrar of the Tribunal.

(3) The registrar of the Tribunal must give written notice of the time and place for hearing of an appeal to—

- (a) the appellant; and
- (b) the chief executive; and
- (c) each person whose name and address have been given to the registrar under section 33, so far as is practicable;

at least 3 days before the day on which the hearing is to start.

(4) Each person entitled to be given notice under subsection (3) is entitled to be heard on the appeal, personally or by counsel or solicitor or agent authorised in writing.

(5) An appeal that has been properly started cannot be withdrawn or abandoned without the Tribunal's leave.

Operation of decision subject to appeal pending determination of appeal

35.(1) On application of an appellant filed with the registrar of the Tribunal, an order may be made that a decision subject to the appeal—

- (a) be stayed; or
- (b) be given effect only to a specified extent.

(2) An order under subsection (1) may be made—

- (a) if application for the order is made before the hearing of the appeal starts—by the member of the Tribunal who is to preside at the hearing; or
- (b) if application for the order is made after the hearing of the appeal starts—by the Tribunal constituted for the appeal.

(3) An order under subsection (1) may impose conditions on which it is to be effective.

(4) An order that imposes conditions has effect only while all the conditions are complied with.

(5) Subject to subsection (4), an order under subsection (1) has effect until—

- (a) the appeal is determined or properly withdrawn; or
- (b) the Tribunal otherwise orders on the chief executive's application.

(6) Unless an order under subsection (1)(a) has effect, a decision subject to appeal to the Tribunal remains in force and is to be given effect by all persons concerned.

Determination of appeal

36.(1) On determining an appeal, the Tribunal may, by its order—

- (a) dismiss the appeal and confirm the chief executive's decision; or
- (b) allow the appeal and set aside the chief executive's decision, wholly or partially.

(2) If the Tribunal sets aside the chief executive's decision (wholly or partially), it may substitute its determination for the decision or the part set

aside, and make all necessary orders to give effect to its determination.

(3) The Tribunal may determine an appeal with a view to remedying an injustice or adverse effect perceived by it as caused to the appellant by a decision of the chief executive, despite an omission by any person to take, or properly take, a step required by this Act to be taken in respect of—

- (a) the application on which the decision was, or is taken to have been, made; or
- (b) the appeal.

Compliance with orders

37. Every order made—

- (a) by the Tribunal, in exercise of its jurisdiction or of a power had by the Tribunal for the purpose of exercising its jurisdiction; or
- (b) by a member of the Tribunal, under section 35(2)(a);

must be complied with by the appellant, the chief executive and all other persons affected by the order.

Maximum penalty—350 penalty units.

Costs on appeal

38.(1) Subject to subsection (2), each of the persons entitled to be heard on an appeal must bear the person's own costs.

(2) On application made to it, the Tribunal may make such order as to costs (including expenses of witnesses attending for the purpose of giving evidence before it) as it considers just if—

- (a) it considers the appeal to be frivolous or vexatious; or
- (b) a person concerned in the appeal has not given reasonable prior notice of intention to seek an adjournment of a hearing; or
- (c) a person concerned in the appeal has incurred costs because another person concerned in the appeal has defaulted in complying with procedural requirements; or
- (d) the chief executive has not attempted to support the decision, or failure to make a decision, subject to the appeal.

(3) A document purporting to be certified by the registrar of the Tribunal to be a true copy of an order for costs may be filed in the registry of the District Court, and enforced as an order of that court.

(4) If the Tribunal makes an order for costs but the order does not specify the amount of the costs, the amount is to be ascertained in accordance with the table for taxation of costs in the District Court, as determined, if necessary, by the taxing officer of the Supreme Court at Brisbane.

Summary determination of appeal

39. If all parties to an appeal consent, the Tribunal may proceed to determine an appeal on such evidence as it has before it without holding a hearing.

Striking out appeal

40. If an appellant—

- (a) fails to appear, in person or by an agent, at the time and place appointed for the start of hearing an appeal, or any adjournment, of which the appellant has been given reasonable notice; and
- (b) has not informed the Tribunal of a reasonable excuse for the failure;

the Tribunal may strike out the appeal without proceeding to a determination.

Tribunal's determination to be written and reasoned

41.(1) The Tribunal must make its determination of an appeal in writing.

(2) The determination must specify the Tribunal's reasons for the determination.

(3) A copy of a determination of an appeal must be given to each party to the appeal.

PART 3—ADMINISTRATION

Division 1—Administrative procedures

Power of delegation

42.(1) The chief executive may delegate the chief executive's powers under this Act to an officer of the department or a police officer.

(2) An officer to whom a power has been delegated under subsection (1) may delegate the power to an officer of the department or a police officer.

Register of licences and permits

43.(1) The chief executive must keep a Register of Licences and Permits.

(2) The Register of Licences and Permits is to contain such particulars as the chief executive considers necessary or desirable for the effective administration of this Act.

Register open to inspection

44. The Register of Licences and Permits must be available in the department at Brisbane for inspection—

- (a) by an investigator or a police officer while performing duty for the purposes of this Act, free of charge; and
- (b) by any other person, on payment of the fee prescribed.

Court officials to furnish particulars for Register

45. The court official who has custody of records of convictions recorded, and penalties ordered, by a court must give to the chief executive particulars of—

- (a) all convictions by the court of licensees, permittees and nominees; and
- (b) all penalties ordered by the court on the convictions.

Orders in respect of licensed premises

46.(1) The chief executive may issue an order to a licensee, nominee, owner or other person shown in the Register of Licences and Permits to have an interest in licensed premises with respect to—

- (a) alteration of licensed premises with a view to making the premises suitable for conduct of business under authority of the licence; or
- (b) increasing or decreasing the area of licensed premises; or
- (c) noise coming from the licensed premises due to entertainment presented in the premises with a view to compliance with provisions of law relating to noise emissions; or
- (d) fire safety of the premises and hygienic practice in the conduct of business under authority of the licence, with a view to compliance with provisions of law relating to such matters; or
- (e) compliance with this Act.

(2) An order under subsection (1) may—

- (a) specify a time within which it is to be complied with; and
- (b) indicate specific steps to be taken with a view to complying with it.

(3) A person must not contravene an order under subsection (1).

Maximum penalty—25 penalty units.

Assistance to public authorities

47. The chief executive may disclose to—

- (a) any authority charged with administering a law of another State or a Territory relating to licensing for the sale or supply of liquor; or
- (b) any authority that seeks the information for the purpose of performing functions of a public nature imposed on the authority by law;

information gathered in the course of administering this Act with respect to—

- (c) the administration of this Act; or
- (d) the affairs of any person affected by the administration of this Act.

Preservation of confidentiality

48.(1) Subject to subsection (2), a person who is engaged, or has been engaged, in giving effect to this Act must not make a record of, or directly or indirectly disclose, information about the affairs of another person gathered in the course of administration of this Act.

Maximum penalty—35 penalty units.

(2) Subsection (1) does not apply to—

- (a) disclosing information in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or
- (b) doing anything for the purposes of this Act.

Protection from liability

49.(1) A person engaged in giving effect to this Act does not incur civil liability for an act done or omitted to be done honestly and without negligence under, or for the purposes of, this Act.

(2) A liability that would, but for this section, attach to a person attaches instead to the State.

Division 2—Liquor Advisory Board

Board and its members

50.(1) There is a board called the Liquor Advisory Board.

(2) The Governor in Council may, by Gazette notice, appoint members of the Board.

(3) One member of the Board is to be appointed as the chairperson of the Board and another is to be appointed as deputy chairperson of the Board.

Membership of Board must include certain expertise

51.(1) The members of the Board must include persons with sound knowledge and experience in 1 or more of the following areas—

- finance;
- law;
- community affairs;
- the liquor industry.

(2) Subject to subsection (1), members of the Board may possess such expertise as the Governor in Council considers appropriate.

Appointment on part-time basis

52. A member of the Board is to be appointed on a part-time basis.

Removal from office

53. The Governor in Council may revoke the appointment of a member of the Board by notice signed by the Minister and given to the member.

Remuneration

54. A member of the Board is entitled to such remuneration by way of allowances as the Governor in Council determines.

Meetings of Board

55.(1) The chairperson of the Board is to preside at every meeting of the Board at which the chairperson is present and, in the absence of the chairperson, the deputy chairperson is to preside.

(2) Subject to subsection (1), the Board may regulate its proceedings as it considers appropriate.

Function of Board

56.(1) The Board's function is to assist the chief executive in relation to

applications made for licences or for transfer of licences by giving to the chief executive its advice concerning—

- (a) any such application referred to it by the chief executive; and
- (b) the conditions (if any) that should be specified in a licence granted on any such application referred to it by the chief executive.

(2) The Board must give its advice concerning each application referred to it within 14 days after the reference is made.

Consideration of Board's advice

57.(1) The chief executive may have such regard to advice properly given by the Board as the chief executive considers justified in the circumstances.

(2) The chief executive is not bound to act on the Board's advice.

(3) If the Board fails to give its advice on an application within the time specified in section 56(2), the chief executive may proceed to determine the application without further reference to the Board.

PART 4—LICENCES AND PERMITS

Division 1—Licences

Available licences

58.(1) The following licences may be granted and held under this Act—

- (a) general licence;
- (b) residential licence;
- (c) on-premises licence;
- (d) producer/wholesaler licence;
- (e) club licence;
- (f) restricted club licence;

- (g) special facility licence;
- (h) limited licence.

(2) Only 1 licence may be granted or held for any premises or any part of premises.

Division 2—General licence

Authority of general licence

59.(1) A general licence authorises the licensee to sell liquor—

- (a) on the licensed premises, for consumption on or off the premises, during ordinary trading hours or those hours extended by an extended hours permit; and
- (b) on the licensed premises, for consumption on the premises, at any time to—
 - (i) a resident on the premises; or
 - (ii) a guest of a resident in the resident's company; and
- (c) on premises approved by the chief executive for sale of liquor under authority of the general licence, for consumption off the premises;

subject to this Act and the conditions specified in the licence or extended hours permit.

(2) Premises approved by the chief executive for sale of liquor under the authority of a general licence are taken to be part of the licensed premises to which the licence relates.

Restriction on grant of general licence

60. The chief executive may grant a general licence only if the chief executive is satisfied that—

- (a) the primary purpose of the business to be conducted on the premises to which the licence would relate is—
 - (i) the sale of liquor for consumption on the premises, or on

and off the premises; and

- (ii) the provision of entertainment on the premises; and
- (b) the business to be conducted on the premises includes the provision of meals and accommodation to the extent required by the chief executive.

Consumption of liquor on premises by residents and guests

61. Liquor supplied under authority of a general licence to a resident on the licensed premises, or to a guest of a resident in the resident's company, for consumption on the premises at any time other than ordinary trading hours, or those hours extended by an extended hours permit, must be consumed—

- (a) in a residential unit on the premises; or
- (b) in a part of the premises approved for the time being by the chief executive for the purpose.

Division 3—Residential licence

Authority of residential licence

62. A residential licence authorises the licensee to sell liquor on the licensed premises—

- (a) at any time—
 - (i) to a resident on the licensed premises, or a guest of a resident in the resident's company, for consumption on the premises; or
 - (ii) to a resident on the licensed premises in a quantity of not more than 9 L on any day, for consumption off the premises; and
- (b) during ordinary trading hours or those hours extended by an extended hours permit, to any person as if the licence were an on-premises licence relating to a place conducted for the primary purpose of eating meals prepared and served to be eaten on the premises; and

- (c) if the chief executive so specifies in the licence—during ordinary trading hours to an owner or operator of a boat making use of facilities of a marina adjacent to the licensed premises, for consumption on or off the premises as specified in the licence; and
- (d) if the chief executive so specifies in the licence—during ordinary trading hours, or those hours extended by an extended hours permit, for consumption off the premises;

subject to this Act and the conditions specified in the licence or extended hours permit.

Restriction on grant of residential licence

63. The chief executive may grant a residential licence for premises only if the chief executive is satisfied that—

- (a) the primary purpose of the business to be conducted on the premises is the provision of residential accommodation; and
- (b) the premises contain, or will contain, residential units of an area and furnished with facilities approved by the chief executive; and
- (c) 1 of the following requirements is met—
 - (i) the premises contain at least 16 residential units;
 - (ii) the premises contain a number of residential units (fewer than 16) approved by the chief executive, and a part of the premises set apart and available for public use for dining;
 - (iii) the premises contain fewer than 16 residential units without the further qualification mentioned in subparagraph (ii).

Consumption of liquor on premises by residents and guests

64.(1) Liquor supplied under authority of a residential licence to a resident on the licensed premises (other than premises that meet the requirement mentioned in section 63(c)(iii)) or to a guest of a resident in the resident's company, for consumption on the premises must be consumed—

- (a) in a residential unit on the premises; or

- (b) in a part of the premises approved for the time being by the chief executive for the purpose.

(2) Liquor supplied under authority of a residential licence to a resident on licensed premises that meet the requirement mentioned in section 63(c)(iii), or to a guest of a resident in the resident's company for consumption on the premises—

- (a) must be supplied only by way of personal room-service at the order of the resident; and
- (b) must be consumed in a residential unit on the premises.

Consumption of liquor with meals

65. Liquor supplied under authority of a residential licence to a person as if the licence were an on-premises licence relating to a place conducted for the primary purpose of eating meals prepared and served to be eaten on the premises—

- (a) must be supplied in association with the consumer eating a meal on the licensed premises or in accordance with a condition specified in the licence; and
- (b) must be consumed in a part of the licensed premises in which such an on-premises licence would authorise liquor to be consumed.

Extension of authority to supply liquor for consumption on premises

66. The chief executive may specify in a residential licence that the licensee may, subject to such conditions as the chief executive specifies in the licence, sell and supply liquor to or for persons genuinely attending a function held in the licensed premises.

Restriction on sale of liquor for consumption off premises

67.(1) The chief executive may specify that liquor may be sold under authority of a residential licence for consumption off the licensed premises only if the chief executive is satisfied that sale of the liquor will be made only in the course of the licensee providing catering facilities for functions.

(2) The authority conferred under section 62(d) by a residential licence to sell liquor for consumption off the licensed premises is restricted to sale of liquor as ancillary to a function that happens at a place at which the liquor is consumed, for consumption by persons genuinely attending the function.

(3) The chief executive must not specify that liquor may be sold under authority of a residential licence for consumption off the licensed premises if the premises meet the requirement mentioned in section 63(c)(iii).

Division 4—On-premises licence

Subdivision A—General

Authority of on-premises licence

68. An on-premises licence authorises the licensee to sell liquor in association with an activity conducted on the licensed premises, or on premises of which the licensed premises form part, which activity is the primary purpose to be served by conduct of business under authority of the licence—

- (a) for consumption on the licensed premises; and
- (b) if the chief executive so specifies in the licence—for consumption off the licensed premises;

during ordinary trading hours or those hours extended by an extended hours permit, subject to this Act and the conditions specified in the licence or extended hours permit.

Restriction on grant of on-premises licence

69.(1) The chief executive may grant an on-premises licence in respect of premises only if the chief executive is satisfied that the primary purpose of the premises is their use for—

- (a) functions; or
- (b) cabaret; or
- (c) eating meals prepared and served to be eaten on the premises; or

- (d) carrying passengers commercially; or
- (e) sporting, cultural, theatrical or cinematographic presentations; or
- (f) an area developed as a tourist attraction by provision of entertainment or visual instruction to tourists on the premises; or
- (g) training or educational programs relating to preparation and service of food and beverage; or
- (h) any other activity or purpose approved by the chief executive.

(2) The chief executive must not grant an on-premises licence if the chief executive considers that the sale of liquor proposed to be carried on under authority of the licence would more appropriately be carried on under authority of a licence of another kind.

Restriction on sale of liquor for consumption off-premises

70.(1) The chief executive may determine that liquor may be sold under authority of an on-premises licence for consumption off the licensed premises only if the chief executive is satisfied that sale of the liquor will be made only in the course of the licensee providing catering facilities for functions.

(2) The authority conferred by an on-premises licence to sell liquor for consumption off the licensed premises is restricted to sale of liquor as ancillary to a function that happens at a place at which the liquor is consumed, for consumption by persons genuinely attending the function.

Subdivision B—Premises used for functions

Restriction on sale and supply of liquor at functions

71. Liquor sold or supplied as ancillary to a function must be sold or supplied only to persons genuinely attending the function for consumption by those persons at the function.

Subdivision C—Premises used for cabaret**Seating accommodation in cabarets**

72. Premises used for cabaret must have accommodation for at least 100 persons seated at tables or otherwise as the chief executive approves.

Subdivision D—Premises used for eating meals prepared and served to be eaten on the premises**Restriction on sale of liquor**

73.(1) The authority of an on-premises licence to sell liquor for consumption on licensed premises used for the primary purpose of eating meals prepared and served to be eaten on the premises is restricted—

- (a) to sale in association with the consumer eating a meal on the premises; and
- (b) if the chief executive so specifies in the licence—to sale and supply—
 - (i) to or for persons genuinely attending a function on the premises; or
 - (ii) to persons on the premises otherwise than in association with their eating a meal.

(2) If the authority of an on-premises licence extends to sale and supply of liquor under subsection (1)(b)(ii), the number of persons who may at anytime be so supplied with liquor must not exceed 20% of the number of persons who can be accommodated seated, in the part of the licensed premises set apart for dining, for the purpose of eating a meal.

Display of menu, liquor list and authority to sell liquor

74. There must be displayed in a conspicuous place on premises used for the primary purpose of consumption of meals prepared and served to be eaten on the premises and to which an on-premises licence relates—

- (a) details of the menu and of the liquor list available to consumers

on the premises; and

- (b) notice of the extent of the authority of the licensee to sell liquor for consumption on the premises;

so as to be clearly visible from outside the premises.

Maximum penalty—25 penalty units

Subdivision E—Premises used for carrying passengers commercially

Restriction on sale of liquor

75. The authority of an on-premises licence that relates to a boat, vehicle or aircraft used for the primary purpose of carrying passengers commercially is restricted to sale of liquor to passengers who are about to make, are making, or have just completed a journey on the boat, vehicle or aircraft.

Subdivision F—Premises used for presentations

Location of liquor outlets specified in licence

76.(1) There must be specified in an on-premises licence that relates to premises used for the primary purpose of sporting, cultural, theatrical or cinematographic presentations each part of the premises in which liquor may be sold and consumed.

(2) A part of the premises that is readily accessible to persons who are not attending a presentation on the premises must not be specified under subsection (1).

Determination of liquor outlets

77.(1) The chief executive must determine the number of liquor outlets that should be in premises mentioned in section 76 to which an on-premises licence relates.

(2) The chief executive must—

- (a) define in the licence each part of the premises that is to be a liquor

outlet; and

- (b) specify in the licence how each such liquor outlet must be marked out.

(3) Each liquor outlet defined in the licence, and marked out as specified in the licence, is the licensed premises in respect of the area to which the licence relates.

Restriction on sale of liquor

78. The authority of an on-premises licence that relates to premises developed as a tourist attraction by provision of entertainment or visual instruction to tourists is restricted to sale of liquor, at a liquor outlet specified in the licence, for consumption within that liquor outlet.

Subdivision G—Railway refreshment rooms

Restriction on grant of licence for railway refreshment room

79. The chief executive may grant or transfer an on-premises licence relating to a railway refreshment room only to a person who is nominated for the purpose by the Chief Executive, Queensland Rail.

Identification of licensed railway refreshment room

80. An on-premises licence that relates to a railway refreshment room must define the premises to which it relates with particularity sufficient to identify the licensed premises.

Authority of licence for railway refreshment room

81.(1) An on-premises licence that relates to a railway refreshment room authorises the licensee to sell liquor on the licensed premises, for consumption on the premises—

- (a) during ordinary trading hours, as if the licence were a general licence; and
- (b) as prescribed by subsection (2).

(2) The authority of an on-premises licence that relates to a railway refreshment room extends to authorise sale of liquor on the licensed premises, for consumption on the premises, on any day (including a day on which sale of liquor is prohibited) to a person (other than one to whom supply of liquor on licensed premises is prohibited) who produces a document that entitles the person to start, continue or end on that day at the railway station where the licensed premises are situated a journey by railway of at least 40 km—

- (a) during the period of 30 minutes before the anticipated time of departure of the train on start or continuation of the journey; or
- (b) during the period of 30 minutes following the time of arrival of the train at the end of the journey.

Division 5—Producer/wholesaler licence

Authority of producer/wholesaler licence

82. A producer/wholesaler licence authorises the licensee—

- (a) if the licensee is a producer of liquor—to sell on the licensed premises liquor produced or made on the licensed premises, for consumption on or off the licensed premises, during ordinary trading hours or those hours extended by an extended hours permit; or
- (b) if the licensee is a wholesale supplier of liquor—to sell liquor on the licensed premises, for consumption off the licensed premises, during ordinary trading hours;

subject to this Act and the conditions specified in the licence or extended hours permit.

Restriction on grant of producer/wholesaler licence

83. The chief executive may grant a producer/wholesaler licence only if the chief executive is satisfied that the primary purpose of the business to be conducted under authority of the licence is—

- (a) producing liquor for supply wholesale to licensees; or

- (b) supplying liquor wholesale to licensees; or
- (c) an activity to which this Act is prescribed not to apply.

Restriction on sale of liquor under producer/wholesaler licence

84.(1) Subject to subsection (2), the holder of a producer/wholesaler licence must not sell liquor to a person other than—

- (a) a licensee or permittee; or
- (b) a person engaged in an activity to which this Act is prescribed not to apply, if the sale is for the purpose of that activity; or
- (c) a person authorised by a law of any other State or a Territory to sell liquor or the person's agent; or
- (d) a person exempt from the application of a law of another State or a Territory relating to the sale of liquor, or the person's agent, if the sale is made in circumstances in which the person is so exempt.

(2) The holder of a producer/wholesaler licence who is a producer of liquor may sell liquor to—

- (a) a consumer on the licensed premises in association with the consumer eating, in a part of the premises ordinarily set apart for dining, a meal prepared and served to be eaten on the premises, for consumption on the premises; or
- (b) a visitor to the licensed premises, if the sale is of a souvenir of the visit.

(3) The holder of a producer/wholesaler licence does not contravene this section by selling liquor during any period—

- (a) to the holder's staff; or
- (b) for sampling, promotions or similar purposes;

if such sales do not exceed 2.5% by value of the holder's total sales of liquor during the period.

Division 6—Club licence

Authority of club licence

85.(1) A club licence authorises the licensee to sell liquor on the licensed premises—

- (a) during ordinary trading hours, or those hours extended by an extended hours permit held by the licensee in respect of the premises, to—
 - (i) a member of the club, for consumption on or off the premises, or a guest of a member in the member's company, for consumption on the premises; or
 - (ii) a member of a reciprocal club whose members' reciprocal rights are secured by formal reciprocal arrangements for consumption on or off the premises, or a guest of a member of such a reciprocal club in the member's company for consumption on the premises; or
 - (iii) an applicant for membership of the club for a period of 30 days after receipt by the secretary of the club of the applicant's application for membership for consumption on the premises; or
 - (iv) a visitor to the club whose ordinary place of residence is in another State or a Territory or in a foreign country for consumption on the premises; or
 - (v) a visitor to the club whose ordinary place of residence is in the State at least 40 km from the club's premises for consumption on the premises; or
 - (vi) a person attending a function or club activity (other than the purpose of the club) on the premises for consumption on the premises; and
- (b) at any time to a resident on the premises, or a guest of a resident in the resident's company, for consumption on the premises;

subject to this Act and the conditions specified in the licence or extended hours permit.

(2) A visitor to the premises of a club who—

- (a) with permission of an authorised agent of the management committee of the club; and

- (b) after payment of the fee (if any) ordinarily charged for the purpose;

plays a sport or game that is part of the club's business, or that is played under the auspices of the club, is taken, for the purposes of subsection (1), to be a member of the club for the day on which the visitor so plays.

(3) If it is a team that plays a sport or game mentioned in subsection (2) as visitors to the premises of a club, every genuine official of the team is taken to be a visitor who has played the sport or game although the official has not taken part in the sport or game.

(4) In this section—

“game” does not include a game within the meaning of the *Gaming Machine Act 1991*.

Restrictions on grant of club licence

86.(1) The chief executive may grant a club licence only if the chief executive is satisfied that—

- (a) the primary purpose of the premises to which the licence would relate is the business of a club; and
- (b) the club in question is a non-proprietary club.

(2) The chief executive may not grant a club licence if—

- (a) the premises to which the club licence would relate are a part of larger premises, wholly or partly (the “**larger premises**”); and
- (b) another type of licence was formerly held in relation to the larger premises; and
- (c) another type of licence is still held in relation to the remainder of the larger premises, wholly or partly.

Example—

If club A applies for a club licence in relation to a part of premises that has been excised from B's general licence or C's on-premises cabaret licence, club A's application must be refused.

Restriction on sale of liquor for consumption off premises

87. The holder of a club licence must not sell more than 18 L of liquor on a day to a member of the club or a reciprocal club for consumption off the club's premises.

Requirements of club and secretary

88.(1) A club licence is subject to the following conditions—

- (a) the rules of the club must comply with the Schedule, except as otherwise authorised in writing by the chief executive;
- (b) if an amendment of the rules of the club is adopted by the club—
 - (i) the club's secretary must, within 14 days after the adoption of the amendment, give to the chief executive a certified copy of the proposed amendment; and
 - (ii) the amendment takes effect at the end of 28 days after receipt by the chief executive of the certified copy, unless, within that period, the chief executive disallows the amendment by written notice given to the club's secretary;
- (c) the club's secretary must keep on the club premises a register of—
 - (i) the name and address of each member of the club; and
 - (ii) particulars of payment of the membership subscription last paid by the member;
- (d) the club's secretary must keep on the club premises a register of—
 - (i) the name of each guest of a member or visitor to the club premises; and
 - (ii) the current place of residence of each guest or visitor or, if the guest or visitor is a member of a reciprocal club, the name of the reciprocal club;
- (e) the club's secretary must keep the register mentioned in paragraph (c) or (d) open for inspection at any time by an investigator.

(2) A person must not make a false entry in a register mentioned in

subsection (1)(c) or (d).

Maximum penalty—35 penalty units.

Division 7—Restricted club licence

Authority of restricted club licence

89. A restricted club licence authorises the licensee to sell and supply liquor on the licensed premises to—

- (a) a member of the club; and
- (b) a guest of a member of the club in the member's company;

for consumption on the licensed premises, subject to this Act and at the times, and subject to the conditions, specified in the licence.

Restriction on grant of restricted club licence

90.(1) The chief executive—

- (a) may grant a restricted club licence only if the chief executive is satisfied that—
 - (i) the primary purpose of the business to be conducted on the premises to which the licence would relate is the business of a club; and
 - (ii) the club is a non-proprietary club; or
- (b) must not in respect of a restricted club licence, determine times for the sale of liquor totalling more than 21 hours per week.

(2) On application made to the chief executive by the holder of a restricted club licence, the chief executive may extend the times specified in the licence for sale and consumption of liquor (by not more than 10 hours per month) for special occasions celebrated by the club.

Duration of licence

91.(1) A restricted club licence ceases to be in force at the end of the licence period of such a licence under Part 9, unless the licence has been

previously renewed on application made to the chief executive.

(2) On application made for renewal of a restricted club licence, the chief executive may, by written notice, call on the applicant to show cause why the licence should be renewed if, in the chief executive's opinion, the business of the club has been conducted at any time during the current licence period in contravention of any condition of the licence or any provision of this Act.

(3) If an applicant called on under subsection (2) does not show cause, sufficient in the chief executive's opinion, why the licence should be renewed, the chief executive may reject the application for renewal.

Requirements of club and secretary

92.(1) A restricted club licence is subject to the following conditions—

- (a) the rules of the club must comply with the Schedule, except as otherwise authorised by the chief executive;
- (b) if an amendment of the rules of the club is adopted by the club, the club's secretary must, on next applying for renewal of the licence, give to the chief executive a certified copy of the amendment;
- (c) the club's secretary must have available on the club premises at any time when liquor is being sold on the premises a register of—
 - (i) the name and address of each member of the club; and
 - (ii) particulars of payment of membership subscription last paid by the member;
- (d) the club's secretary must have available on the club premises at any time when liquor is being sold on the premises a register of the name and place of residence of each guest of a member;
- (e) the secretary of the club must keep the register mentioned in paragraph (c) or (d) open for inspection at any time by an investigator.

(2) A person must not make a false entry in a register mentioned in subsection (1)(c) or (d).

Maximum penalty—35 penalty units.

Division 8—Special facility licence

Authority of special facility licence

93. A special facility licence authorises the licensee to sell liquor on the licensed premises, for consumption on or off the premises, subject to this Act and the conditions (if any) specified in the licence.

Restriction on grant of special facility licence

94.(1) The chief executive may grant a special facility licence only if the sale of liquor under authority of the licence will be in association with an activity, facility or presentation that—

- (a) provides enlightenment, entertainment or services to the public; or
- (b) forms part of the tourist development of the State.

(2) The chief executive must not grant a special facility licence if the chief executive considers that the supply of liquor proposed to be provided under authority of the licence would more appropriately be carried on under authority of a licence of another kind.

Division 9—Limited licence

Authority of licence

95. A limited licence authorises the licensee to sell liquor—

- (a) on the licensed premises, for consumption on or off the licensed premises; or
- (b) if the chief executive so specifies in the licence—on premises other than the licensed premises, for consumption on those other premises;

subject to this Act and at the times, and subject to the conditions, specified in the licence.

Restriction on grant of limited licence

96. The chief executive must not grant a limited licence if the chief executive considers that the supply of liquor proposed to be provided under authority of the licence would more appropriately be provided under authority of a licence of another kind.

Division 10—Permits

Available permits

97. The following permits may be granted and held under this Act—

- (a) a general purpose permit;
- (b) an extended hours permit.

Division 11—General purpose permit

Authority of general purpose permit

98.(1) A general purpose permit authorises the permittee to sell liquor—

- (a) at the event or occasion; and
- (b) at the times on the day or days; and
- (c) subject to the conditions;

specified in the permit and subject to this Act.

(2) Authority of a general purpose permit extends to sale of liquor—

- (a) for consumption at the event or occasion specified in the permit; and
- (b) for removal from the venue of the event or occasion, and subsequent consumption, if specified in the permit.

Restriction on grant of general purpose permit

99. The chief executive must not grant a general purpose permit—

- (a) in respect of licensed premises; or
- (b) if the chief executive considers that the supply of liquor proposed to be provided under authority of the permit would more appropriately be provided under authority of a licence.

Identification of premises

100.(1) The chief executive must—

- (a) define an area adjacent to each liquor outlet of premises to which a general purpose permit relates; and
- (b) specify the means by which the area must be marked out.

(2) An area so defined is part of the premises to which the general purpose permit relates.

Restriction on consumption or possession of liquor

101.(1) During continuance of a general purpose permit a person must not—

- (a) consume liquor; or
- (b) have liquor in possession for consumption;

at the venue of the event or occasion specified in the permit elsewhere than in an area that is part of the premises to which the permit relates.

(2) Subsection (1) does not apply to consumption, or having in possession, of liquor supplied by the person or association of persons controlling the event or occasion in a part of the venue of the event or occasion set apart for use by that person or association and guests.

Division 12—Extended hours permit**Authority of extended hours permit**

102. An extended hours permit authorises the licensee who is the holder of the permit to sell liquor under authority of the licence that relates to the licensed premises for which the permit is granted subject to this Act at the

times, and subject to the conditions, specified in the permit.

Restriction on grant of extended hours permit

103.(1) The chief executive must not grant an extended hours permit that would purport to authorise the sale of liquor at any time on Good Friday, Christmas Day or Anzac Day otherwise than as prescribed by section 9.

(2) The chief executive must not grant in respect of any licensed premises other than a cabaret an extended hours permit that would purport to authorise the sale of liquor at anytime between 2 a.m. and 7 a.m. except in special circumstances that, in the chief executive's opinion, justify an extension of trading beyond 2 a.m.

Division 13—Additional authority of licence and permit

Additional time for consumption or removal of liquor

104. A licence or permit that authorises—

- (a) the sale of liquor, during any period, for consumption on licensed premises; or
- (b) the sale of liquor, during any period, for consumption off licensed premises;

also authorises—

- (c) consumption on the premises of liquor supplied on a sale mentioned in paragraph (a); and
- (d) removal from the premises of liquor supplied on a sale mentioned in paragraph (b);

within 30 minutes after the end of the period during which the sale is made.

PART 5—GRANT, VARIATION AND TRANSFER OF LICENCES AND PERMITS

Division 1—Applications

Requirements for applications

- 105.** An application for any purpose of this Part must—
- (a) be made to the chief executive; and
 - (b) be in a form approved by the chief executive; and
 - (c) specify, or be accompanied by, the particulars prescribed by regulation; and
 - (d) be accompanied by the fee prescribed by regulation for an application of the relevant kind.

Who may apply for licence or permit

106. An adult individual, or a body corporate, may make application for a licence or a general purpose permit.

Restrictions on grant of licence or permit

107.(1) The chief executive may grant an application for a licence or permit only if the chief executive is satisfied that the applicant is a fit and proper person to hold the licence or permit applied for having regard to—

- (a) whether the applicant demonstrates knowledge and understanding of the obligations of a licensee or permittee of the relevant kind under this Act; and
- (b) whether the applicant is a person of good repute who does not have a history of behaviour that would render the applicant unsuitable to hold the licence or permit applied for; and
- (c) whether the applicant demonstrates a responsible attitude to the management and discharge of the applicant's financial obligations.

(2) If the applicant is a body corporate, or the chief executive knows, or suspects on reasonable grounds, that the applicant would hold any licence or permit granted on behalf of a partnership, the chief executive must discharge the responsibility under subsection (1) by applying the subsection to—

- (a) each person in a position of authority or influence in relation to the body corporate; or
- (b) each person who is a member of the partnership of whom the chief executive has knowledge;

as if each such person were the applicant.

(3) If the applicant has nominated a nominee in respect of the licence or permit sought, the chief executive must discharge the responsibility under subsection (1) by applying the subsection to the nominee as if the nominee were the applicant.

(4) Subject to section 123, the chief executive may grant an application only if the premises to which it relates are, in the chief executive's opinion, suitable for conduct of business under authority of the licence or permit applied for.

(5) The chief executive may obtain—

- (a) a report from the Commissioner of Police in relation to the criminal history of—
 - (i) an applicant for a licence or permit; and
 - (ii) each person to whom subsection (1) applies as if the person were the applicant; and
- (b) if the applicant or person holds or previously held in another State or a Territory a relevant licence, permit, authority, interest or position—a report from the appropriate authority in the State or Territory.

(6) A report under subsection (5)(a) must include reference to or disclosure of convictions mentioned in section 6 of the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

More than 1 licence may be held

108. A person may apply for, and hold, more than 1 licence, whether of the same kind or of different kinds, if in respect of each licence for which a nominee is nominated the nominee is other than the holder of the licence and any other nominee.

Nominees

109.(1) An applicant for a licence or permit must, in any of the following cases—

- (a) if the applicant is a body corporate;
- (b) if the applicant for a licence is already the holder of a licence;
- (c) if the application is for a club licence;
- (d) if the application is for an on-premises licence that, if granted, would relate to a vessel;

and may, in any other case, nominate an individual to be nominee in respect of the licence or permit sought by the applicant.

(2) An applicant for an on-premises licence that, if granted, would relate to a boat may nominate any number of persons, who will be in charge of the navigation of the boat, to be nominees in respect of the licence.

(3) If a licence or permit is granted on the application, an individual so nominated is taken to be, for the purposes of this Act, the nominee in respect of the licence or permit.

(4) If a nominee is nominated for the purposes of an application made on behalf of an unincorporated association—

- (a) a licence granted on the application must be granted and issued to the nominee, to be held for the benefit of the unincorporated association; and
- (b) the licence held by the nominee for the unincorporated association must be transferred to the association if it becomes incorporated.

(5) A transfer of licence under subsection (4)(b)—

- (a) must be made within 3 months after the association's incorporation; and
- (b) does not affect the status of the nominee as nominee of the association.

(6) In the conduct of business on premises to which a licence or permit relates a nominee in respect of the licence or permit that relates to the premises—

- (a) is responsible for ensuring that liquor is supplied or had in

possession on the premises only in accordance with the authority conferred by the licence or permit; and

- (b) is subject to the obligations imposed by this Act on the licensee or permittee; and
- (c) is liable as a licensee or permittee for an offence against this Act or for any failure to perform any of such obligations.

(7) A nominee's liability to be punished for a contravention of this Act does not affect the liability of the licensee or permittee to be punished for the contravention.

(8) A person ceases to be a nominee in respect of a licence or permit if the person ceases to hold the position in which the person is charged with responsibility for the supply of liquor in the conduct of the business for which the licence or permit was obtained.

(9) If—

- (a) subsection (1) requires an applicant to nominate a person to be nominee in respect of a licence; and
- (b) at any time after the licence is granted, the person so nominated (being an only nominee) ceases to be nominee in respect of the licence;

the licensee must nominate another individual to be nominee in respect of the licence and, on acceptance by the chief executive of the nominated person as such nominee, the nominated person becomes the nominee in respect of the licence.

(10) At any time during continuance of an on-premises licence that relates to a boat, the licensee may make application to the chief executive for acceptance of the licensee's nomination of persons who are, or will be, in charge of the navigation of the boat, as nominees in respect of the licence, in addition to or in substitution for existing nominees.

(11) If the chief executive accepts a nomination made under subsection (10), the persons nominated become nominees in respect of the licence.

Application for grant of extended hours permit

110.(1) An applicant for a licence, or a licensee, may make application for an extended hours permit in respect of the premises that would become, or are, the licensed premises.

(2) An applicant for an extended hours permit must, at or about the time the application is lodged with the chief executive, give a copy of the application to the police officer in charge of police in the locality in which the premises to which the application relates are situated.

(3) If the police officer wishes to make to the chief executive any objection or comment in relation to the application, the police officer must do so within 14 days after receipt of such copy of the application.

(4) In considering an application under this section, the chief executive must have regard to—

- (a) any matter raised by the local authority in whose area the premises to which the application relates are situated; and
- (b) any objection or comment made to the chief executive by a police officer under subsection (3); and
- (c) the impact on the amenity of the community.

(5) If an application is for extension of hours beyond 2 a.m., the chief executive must also have regard to the following matters—

- (a) the applicant's ability to conduct the premises for the purpose for which the extension is sought;
- (b) the applicant's ability to control noise and behaviour of the number of persons that could reasonably be expected to be on and in the vicinity of the premises if the extension were granted;
- (c) the suitability of the premises and its facilities for the purpose for which the extension is sought.

Variation of licence

111.(1) A licensee may make application to vary a licence by—

- (a) altering the times when business may be conducted under authority of the licence; or

(b) amending or revoking a condition of the licence.

(2) The chief executive may, on the chief executive's own initiative, seek to vary a licence—

(a) in a way specified in subsection (1); or

(b) by adding a condition to the licence.

Procedure for variation by chief executive

112. If the chief executive seeks to vary a licence—

(a) the chief executive must cause written notice to be given to the licensee; and

(b) the licensee may, within 14 days after receiving the notice, give to the chief executive written notice of objection to the proposed variation.

Application for transfer of licence

113.(1) On application made by—

(a) the licensee and the proposed transferee; or

(b) the owner or mortgagee of the licensed premises if—

(i) the licensee has been lawfully evicted from, or has abandoned, the licensed premises; or

(ii) the lease, tenancy or right to occupy the licensed premises of the licensee has been lawfully terminated; or

(iii) the licensee has ceased to conduct business in the licensed premises and has not agreed to the application;

the chief executive may transfer a licence (together with any extended hours permit held in association with the licence) to a person who could be granted the licence.

(2) The authority of the chief executive under subsection (1) is subject to section 3.13 of the *Gaming Machine Act 1991*.

(3) On transfer of a licence, the transferee becomes the licensee and—

(a) has the authority conferred by the licence on the holder; and

- (b) is subject to the obligations imposed by this Act or the conditions of the licence on the holder; and
- (c) is subject to the obligations imposed on the transferor or any previous holder of the licence by order of the chief executive, or requisition of an investigator, that has not been complied with.

Restriction on transfer of licence or permit

114. The chief executive may transfer a licence only if—

- (a) all fees payable under this Act in respect of the licence have been paid in full; and
- (b) either—
 - (i) a period of at least 3 months has elapsed since the licence was granted or last transferred; or
 - (ii) the chief executive is satisfied that exceptional circumstances exist that, if the transfer were not made, would cause hardship to a person.

Chief executive's responsibility on application for transfer or franchising of a licence

115. On application made for the chief executive's approval that—

- (a) a licence or permit be transferred; or
- (b) licensed premises, or any part, be let or sublet; or
- (c) a franchise, or management rights of a similar nature, be granted in respect of licensed premises, or any part;

sections 107 to 109 apply as if the proposed transferee, lessee, sublessee, franchisee or proposed holder of management rights were an applicant for a licence, and the chief executive must not approve the application unless the requirements of the sections are satisfied.

Public need relevant to applications

116.(1) An applicant for—

- (a) a licence other than a club licence or restricted club licence; or
- (b) an extended hours permit that would extend trading hours on a regular basis;

must satisfy the chief executive that, having regard to—

- (c) the number and condition of licensed premises already existing in the locality to which the application relates; and
- (d) the distribution of licensed premises already existing throughout the locality; and
- (e) the extent and quality of services provided, or to be provided, by licensed premises already existing; and
- (f) whether the services that would be provided, should the application be granted, could be adequately provided through licensed premises already existing by means of orders of the chief executive or requisitions of investigators; and
- (g) any other relevant matter as to which the chief executive seeks to be satisfied;

the licence or permit applied for is necessary to provide for the reasonable requirements of the public in the locality to which the application relates for liquor and related services that would be provided, if the application were granted.

(2) In considering what the requirements of the public in a locality may be, the chief executive must take into account the matters mentioned in subsection (1) and must have regard to—

- (a) the population of the locality to which the application relates and the foreseeable population growth in the locality; and
- (b) the number and kinds of persons residing in, resorting to or passing through the locality, or likely in the foreseeable future to do so, and their respective expectations; and
- (c) the extent to which any requirement or expectation—
 - (i) varies during different periods or at different times; and
 - (ii) is lawfully met by other premises, licensed or unlicensed; and
- (d) the likely health and social impact that the grant of an application

would have on the population of the locality to which the application relates.

(3) A reference in this section to licensed premises already existing includes reference to premises in respect of which an application for a licence or permit to which this section applies has been granted.

(4) If the applicant fails to satisfy the chief executive as prescribed by subsection (1), the application must be dismissed.

Preliminary conference on public need

117. On application made for—

- (a) a licence other than a club licence or restricted club licence; or
- (b) an extended hours permit that would extend trading hours on a regular basis;

and before notice of the application is advertised under section 118, the chief executive must hold a preliminary conference with the applicant (or the applicant's agent) with a view to assessing the public need.

Advertisement of applications

118.(1) An application made for—

- (a) a licence or variation of a licence; or
- (b) an extended hours permit or variation of an extended hours permit that in either case would extend trading hours on a regular basis;

must be advertised under this section unless, in the case of an application for which a preliminary conference must be held, the application is dismissed following the conference.

(2) The chief executive may require an application other than an application mentioned in subsection (1) to be advertised.

(3) If an application is required by subsection (1) or by the chief executive to be advertised, the applicant—

- (a) must cause notice of the application to be published, at the applicant's expense—
 - (i) once in the Gazette; and

- (ii) twice in a newspaper circulating in the locality that would be affected by grant of the application;

in a form, and on days, approved by the chief executive, generally or in a particular case; and

- (b) must cause a copy of the notice mentioned in paragraph (a) to be displayed on the premises to which the application relates by way of a sign of such dimensions (including dimensions of the print) as are approved by the chief executive, generally or in a particular case; and
- (c) must ensure that the copy notice is displayed under paragraph (b) conspicuously on the premises for 28 days immediately before the last day for filing objections to the application as specified in the notice.

(4) The applicant must give to the chief executive evidence of publication and display of a notice under subsection (3).

(5) The chief executive must cause to be displayed in a conspicuous place in the office of the department at Brisbane a list of all applications made under this Act currently before the chief executive, specifying—

- (a) the nature of each application; and
- (b) the location of premises to which each application relates.

Objection to grant of applications

119.(1) If notice of an application is published as required by section 118, any member of the public may object to the grant of the application, by writing filed with the chief executive on or before the last day for filing of objections as specified in the notice.

(2) An objection may be made individually or by petition.

(3) The grounds on which an objection may be made are that—

- (a) if the application were granted—undue offence, annoyance, disturbance or inconvenience to persons who reside or work or do business in the locality concerned, or to persons in or travelling to or from an existing or proposed place of public worship, hospital or school is likely to happen; or

- (b) if the application were granted—the amenity, quiet or good order of the locality concerned would be lessened in some way.

(4) In subsection (1)—

“member of the public” means any adult individual or body of persons that in the chief executive’s opinion—

- (a) has a proper interest in the locality concerned; and
- (b) is likely to be affected by the grant of the application.

Requirements of objection by petition

120. An objection purporting to be by petition to the grant of an application is ineffective, and may be disregarded, unless—

- (a) the first and each subsequent sheet of the petition bears an identical heading that clearly specifies the subject matter of the petition, so positioned as to be clearly legible to every person whose signature on the petition is sought; or
- (b) each signatory to the petition adds particulars of his or her connection with the locality in which the premises to which the licence or permit would relate or relates would be, or are, situated.

Conference on issues other than public need

121.(1) If the chief executive—

- (a) is required, after the giving of an application or a notice of objection under this Act, to make a determination on an issue other than public need for a licence or permit; and
- (b) considers it desirable that a conference of all persons concerned be held;

the chief executive may participate in a conference with the other persons concerned.

(2) If in respect of an application a notice of objection is given under section 112 or 119, a conference under subsection (1) must be held.

(3) If a conference under subsection (1) is held, and—

- (a) at or after the conference, agreement is reached between the

conferring persons as to the terms of a determination of the chief executive that are acceptable to the persons; and

- (b) the terms agreed on are reduced to writing and signed by the conferring persons; and
- (c) the chief executive is satisfied a determination in those terms is within power;

the chief executive must make a determination that is consistent with the terms.

(4) At a hearing of a proceeding before the Tribunal, unless the parties to the proceeding agree otherwise—

- (a) evidence must not be given; and
- (b) statements must not be made;

of any words spoken, or actions done, at a conference held under subsection (1), if the words spoken, or actions done, are relevant to a question to be determined by the Tribunal in the proceeding.

(5) If, contrary to this subsection, such evidence is given or statement is made, the Tribunal must disregard that evidence or statement, and the words spoken or actions done to which it relates, in making the determination in the proceeding before the Tribunal.

Procedure on receipt of objections

122.(1) The chief executive must give to the applicant written notice of all objections properly made to the grant of an application advertised under section 118.

(2) The notice of objections—

- (a) must either specify the ground of the objection or consist of a copy of the objection; and
- (b) must be given to the applicant within 7 days after the last day for lodging objections as specified in the relevant notice under section 118(3).

(3) A conference that is to be held under section 121 because of objections received must be held as soon as practicable after the chief executive has given notice of the objections to the applicant.

Provisional grant of licence or approval of transfer

123.(1) If, when the chief executive determines to grant an application for a licence, construction or alteration of the premises to which the application relates has not been completed, the chief executive may provisionally grant the application subject to the condition that if—

- (a) within a period specified by the chief executive; or
- (b) within an extension of the period approved by the chief executive;

the licensed premises—

- (c) are not completed as approved under the law relating to carrying out of building work; or
- (d) are not approved or certified as required by law for use as licensed premises and, if the case requires it, for conduct in the premises of a business for which the licence was sought;

the chief executive may cancel the licence.

(2) The chief executive may extend or further extend a period specified for the purposes of subsection (1) on application made by the licensee.

Summary cancellation under s.123

124. A cancellation of a licence under section 123 is to be effected under the authority of that section without other procedures.

Temporary licence

125.(1) If licensed premises are wholly or partially destroyed, or are damaged to such an extent that they are unsuitable for conduct of business under authority of the licence—

- (a) the licensee must discontinue business under authority of the licence until a temporary authority is granted under paragraph (b); and
- (b) the chief executive may, on application made by the licensee, grant to the licensee a temporary authority to conduct business under authority of the licence.

(2) A temporary authority may be granted in respect of—

- (a) any part or parts of the licensed premises; or
- (b) any neighbouring premises;

for the period the chief executive considers reasonable, although such part or parts, or neighbouring premises, do not satisfy the requirements of this Act or of the chief executive.

(3) While a temporary authority is in force, the part or parts of licensed premises, or neighbouring premises, to which it relates are, for the purposes of this Act, the licensed premises to which the existing licence relates.

Variation or transfer to be endorsed on licence or permit

126.(1) If a licence or extended hours permit is varied, the chief executive must cause an appropriate endorsement to be made on the licence or permit.

(2) If a licence is transferred, the chief executive must cause an appropriate endorsement to be made on the licence.

(3) The chief executive may, by written notice, require a licensee to produce the licence or permit for endorsement under subsection (1) or (2).

Duplicate licence or permit

127.(1) On application made by a licensee or permittee, the chief executive may issue to the applicant a duplicate of the licence or permit, or of any part, with the word 'duplicate' marked on it.

(2) A duplicate—

- (a) must be a true record of the original licence or permit, or part, of which it purports to be a duplicate; and
- (b) must bear all endorsements made on the original licence or permit, or part, that remain effective at the time of issue of the duplicate; and
- (c) must be certified by the chief executive as complying with paragraphs (a) and (b).

(3) A duplicate that complies with subsection (2)—

- (a) is valid for all purposes as the original licence or permit; and
- (b) is admissible in evidence and for all purposes to the same extent

as the original licence or permit.

Liability of licensees in certain cases

128. If a licence is held—

- (a) by a body corporate, and at any time there is no nominee in respect of the licence—each of the directors of the body corporate is subject to the same liabilities under this Act as a licensee; or
- (b) by or for the benefit of a club, and at any time there is no nominee in respect of the licence—each of the members of the club’s management committee is subject to the same liabilities under this Act as a licensee.

Division 2—Persons managing affairs of licensees

Executors etc. may conduct business

129.(1) A person who—

- (a) is entitled to be appointed as the legal personal representative of a deceased licensee and who intends to apply to be so appointed; or
- (b) is entitled to administer the affairs of a licensee who is a bankrupt or has taken advantage of the laws relating to bankruptcy, if the person is in possession of the licensed premises; or
- (c) is appointed according to law to manage or wind up the affairs of a licensee that is a body corporate, if the person is in possession of the licensed premises; or
- (d) is, according to law—
 - (i) guardian of a licensee; or
 - (ii) administrator or manager of the estate of a licensee, otherwise than as mentioned previously in this subsection;

may make application to the chief executive for the person, or the person’s nominee, be authorised to conduct business under authority of the licence.

(2) If the chief executive is satisfied that the applicant, or, if the applicant has nominated a nominee, that the nominee, is a fit and proper person to

conduct the business conducted under authority of the licence, the chief executive may authorise the applicant and the nominee to conduct that business until the licence is transferred, cancelled or suspended.

(3) A person authorised under this section to conduct business under authority of a licence is subject to the same liabilities under this Act as a licensee.

Where approval under s.129 not obtained

130. If application under section 129—

- (a) is not made within 7 days after a person becomes entitled to make such an application; or
- (b) is not granted by the chief executive;

the licensed premises to which an application (if made) would have related, or to which the application made relates, are taken to be unlicensed premises until an application under section 129 is granted by the chief executive.

Continuance of trading in emergency

131.(1) If—

- (a) a licensee who is not the sole owner of licensed premises has ceased to conduct business on the premises under authority of the licence; or
- (b) a licensee who holds the licence as a member of a partnership has ceased to be a member of the partnership; or
- (c) a nominee in respect of licensed premises has ceased to conduct business on the premises under authority of the licence; or
- (d) the chief executive has ordered cancellation of a licence but the order has not taken effect;

application for an order under this section may be made by a person specified in subsection (2).

(2) The application may be made by a person, other than the licensee, who is—

- (a) an owner of the licensed premises; or

- (b) a mortgagee of the licensed premises; or
- (c) an owner of a pecuniary interest that requires that trading in the licensed premises continue;

and who, in the chief executive's opinion, is entitled, immediately or prospectively, to the benefit of the licence.

(3) If an application is made in circumstances mentioned in subsection (1)(d), the order for cancellation will not take effect under section 136(6) but is stayed until the application is disposed of by the chief executive.

(4) An applicant—

- (a) must nominate a nominee in respect of the licensed premises, if, were the application an application for the licence held in respect of the premises, the applicant would be required by this Act to nominate a nominee; and
- (b) may nominate a nominee in respect of the licensed premises, in any other case.

(5) If an applicant, or the applicant's nominee—

- (a) is the occupier of the licensed premises; or
- (b) is entitled in law to possession of the licensed premises;

the chief executive may make an interim order that authorises the applicant to conduct business on the licensed premises under authority of the licence.

(6) The authority of an interim order continues until—

- (a) the application on which it is made is disposed of by the chief executive; or
- (b) the interim order is revoked by the chief executive because the applicant, or the nominee (if any), has contravened this Act or a condition of the relevant licence;

whichever happens first.

(7) If the chief executive is of the opinion that the applicant is a fit and proper person to conduct business on the licensed premises under authority of the licence, and accepts the nominee (if any), the chief executive may grant the application.

(8) On the grant of the application—

- (a) the applicant is authorised to conduct the business until the licence is transferred; and
- (b) if the application is made in circumstances mentioned in subsection (1)(d)—the order for cancellation of the licence is set aside.

(9) If the chief executive is not of the opinion mentioned in subsection (7), the chief executive must reject the application.

(10) On the rejection of the application—

- (a) if an interim order under subsection (5) made on the application is still in force—the authority conferred by it ceases; and
- (b) if the application is made under subsection (1)(d)—the chief executive's order for cancellation of the licence takes effect.

(11) If the chief executive rejects an application, other than one made in circumstances mentioned in subsection (1)(d), the chief executive may make an order under section 132 appropriate to the case.

(12) While the authority conferred by an interim order under subsection (5) continues, the applicant, and the applicant's nominee (if any), is each subject to obligations and liabilities under this Act as if each were the licensee in respect of the licensed premises.

(13) An applicant under subsection (1) authorised to conduct business on licensed premises, under an interim order or on grant of the application, may make application under section 113 for transfer of the licence although the person is not of a description of person specified in that section.

Discharge of licensee or permittee from obligations

132. If—

- (a) a licensee who is not the sole owner of licensed premises, has ceased to conduct business on the premises under authority of the licence; or
- (b) a licensee who holds the licence as a member of a partnership has ceased to be a member of the partnership; or
- (c) a nominee in respect of premises to which a licence relates has

ceased to conduct business on the premises under authority of the licence;

the chief executive may, by order—

- (d) discharge the licensee or nominee prospectively from obligations under this Act in respect of the licensed premises; and
- (e) suspend the licence until—
 - (i) the licence has been properly transferred; or
 - (ii) a person has been authorised by the chief executive under section 131 to conduct business under authority of the licence; or
 - (iii) a new nominee in respect of the licensed premises has been accepted by the chief executive;as the case may require.

Division 3—Surrender and cancellation of licence or permit

Request to surrender

133.(1) A licensee may request the chief executive to accept a surrender of the licence.

(2) A permittee may, by writing given to the chief executive, surrender the permit at any time.

(3) A request under subsection (1)—

- (a) must be in writing made by—
 - (i) if the licensee is sole owner of the licensed premises—the licensee; or
 - (ii) in any other case—the licensee and the owner of the licensed premises; and
- (b) must be accompanied or supported by the consents of all mortgagees or lessees of the licensed premises or any part of the licensed premises and by such information as the chief executive requires, generally or in a particular case; and

- (c) in the case of surrender of a club licence or restricted club licence—must be accompanied by a copy of a minute (certified as correct by the licensee) that evidences adoption by the club of a resolution for surrender of the licence.

(4) The chief executive must cause written notice of a request made by a licensee under subsection (1) to be given to each secured creditor of the licensee—

- (a) whose interest as creditor is registered with the chief executive; and
- (b) whose interest as creditor is likely to be affected by surrender of the licence; and
- (c) whose written consent to surrender of the licence does not accompany the request.

(5) A person given notice under subsection (4) who wishes to oppose the surrender requested is entitled to furnish, within 14 days after receiving the notice, a submission to the chief executive specifying the grounds of opposition.

(6) If a surrender is accepted, the licence continues in force until a day fixed by the chief executive for its termination, by written notice given to the licensee.

(7) Surrender of a licence or permit does not affect any liability incurred by the licensee or permittee before the surrender takes effect.

Cancellation and suspension of permits

134. The chief executive may, on the chief executive's own initiative, cancel or suspend a general purpose permit or an extended hours permit if the chief executive is satisfied that—

- (a) the permittee has contravened—
 - (i) this Act; or
 - (ii) a condition specified in the permit; or
 - (iii) an order of the chief executive or a requisition of an investigator; or
- (b) the use of the premises in respect of which the permit is held at

the times authorised by the permit, or the behaviour of persons entering or leaving the premises at or about those times—

- (i) is causing undue annoyance or disturbance to persons living, working or doing business in the neighbourhood of the premises; or
- (ii) is causing disorderly conduct in, or in the neighbourhood of, the premises.

Summary cancellation or suspension under s.134

135. Cancellation or suspension of a permit under section 134—

- (a) is to be effected under the authority of that section without other procedures; and
- (b) takes effect when written notice of the cancellation or suspension is given to the permittee.

Cancellation of licences

136.(1) The chief executive may cancel a licence if satisfied that—

- (a) the licensee has failed to comply with—
 - (i) this Act; or
 - (ii) a condition specified in the licence; or
 - (iii) an order of the chief executive or a requisition of an investigator; or
- (b) the licensee is convicted of—
 - (i) an offence against this Act; or
 - (ii) an offence under the *Health Act 1937* or the *Food Act 1981* in respect of the licensed premises or liquor; or
 - (iii) an offence that the chief executive considers indicates the licensee's unsuitability to hold the licence;

or has, at a material time, employed or engaged in the business conducted under authority of the licence a person convicted of any such offence committed in the course of the business; or

- (c) the licensee has obtained the licence by fraud or false representation; or
- (d) the licensee, or the nominee (if any) in respect of the licensed premises, is not a fit and proper person to conduct business under authority of the licence; or
- (e) the licensee has ceased to conduct business on the licensed premises; or
- (f) the licensee holds the licence for the benefit (wholly or partially) of a person to whom the chief executive would not grant the licence if application were to be made by the person; or
- (g) the use of the licensed premises, or the behaviour of persons entering or leaving the premises—
 - (i) is causing undue annoyance or disturbance—
 - (A) to persons living, working or doing business in the neighbourhood of the premises; or
 - (B) to persons conducting or attending religious services in the neighbourhood of the premises; or
 - (ii) is causing disorderly conduct in, or in the neighbourhood of, the premises.

(2) With a view to determining whether a licence is liable to cancellation under subsection (1), the chief executive must issue a notice calling on the licensee to show cause why the licence should not be cancelled.

(3) A notice to show cause—

- (a) must specify a day, time and place when and where cause may be shown; and
- (b) must be given to—
 - (i) the licensee to whom it is directed; and
 - (ii) the owner and mortgagee (if any) of the licensed premises; and
 - (iii) each secured creditor of the licensee whose interest is registered with the chief executive and is likely to be affected by cancellation of the licence.

(4) Each person to whom a notice to show cause is given is entitled to be heard on the matter of cancellation of the licence.

(5) If at the time and place specified in the notice to show cause, or to which the matter is adjourned, sufficient cause is not shown to the satisfaction of the chief executive, the licence may be cancelled by order of the chief executive.

(6) An order cancelling a licence takes effect at the end of 14 days after the day on which it is made.

(7) The chief executive must cause written notice of the result of the proceeding to show cause to be given to all persons to whom the notice to show cause was given.

(8) If an order for cancellation of a licence is made, the licensee must deliver to the chief executive such documents and information as the chief executive requires.

Other possible disciplinary orders

137.(1) In a proceeding to show cause why a licence should not be cancelled, the chief executive may, by order—

- (a) suspend the licence for a specified period or until further ordered by the chief executive; or
- (b) require licensed premises to be closed for a specified period; or
- (c) vary the licence by—
 - (i) specifying in the licence a condition to which it is to be subject; or
 - (ii) otherwise limiting the authority conferred by the licence; or
- (d) reduce the times at which the licensee may conduct business under authority of the licence; or
- (e) disqualify the licensee from holding any licence for a specified period or until further ordered by the chief executive; or
- (f) require the licensee to pay to the department an amount of not more than \$10 000; or
- (g) reprimand the licensee.

(2) An order under subsection (1) may be made instead of, or in addition to, an order for cancellation of the relevant licence.

(3) Suspension of a licence by order under subsection (1) takes effect when written notice of the suspension is given to the licensee.

(4) If an amount ordered to be paid by a licensee is not paid as required by the order within 28 days after the day on which the order is made, the amount unpaid is a debt due and payable to the State.

Effect of suspension

138. A licence or permit that is suspended ceases to be in force for the period of suspension.

Compensation not payable

139.(1) Compensation is not payable to any person in respect of—

- (a) acceptance by the chief executive of a surrender of a licence; or
- (b) cancellation or suspension by the chief executive of a licence or permit.

(2) For 3 years after the commencement of this section, subsection (1), in its application to a general licence that before the commencement of this section was held as a licensed victualler's licence or a tavern licence, is subject to the provisions of Part 11.

Division 4—Closure of premises

Closure of unsafe or unhealthy premises

140.(1) If, in respect of licensed premises, the chief executive considers the safety or health of members of the public to be endangered or prejudiced because of—

- (a) absence or inadequacy of fire prevention equipment on the premises; or
- (b) inadequacy of entrances to or exits from the premises; or

- (c) any condition of, or thing on, the premises that constitutes a health hazard; or
- (d) any other reason relating to safety or health that the chief executive considers sufficient;

the chief executive must give to the licensee, and the owner of the premises, an order to close the premises, and to keep them closed, until all orders in respect of the premises relating to—

- (e) public safety from risk of fire; or
- (f) matters of health;

have been complied with to the chief executive's satisfaction.

(2) If, in the chief executive's opinion, circumstances justify action under subsection (1), an order for closure may issue without prior notice to the licensee or owner of the licensed premises.

(3) A person must not contravene an order under subsection (1).

Maximum penalty for subsection (3)—25 penalty units.

Order to close premises for unlawful trading

141.(1) If business is conducted on licensed premises—

- (a) by or on behalf of a person who is not—
 - (i) a licensee in respect of the premises; or
 - (ii) a person authorised by the chief executive under section 129 or 131; or
- (b) by a person who is not the nominee, approved by the chief executive, of the person on whose behalf business is conducted on the premises;

the chief executive may give to the person conducting business on the premises an order to cease trading in liquor on the premises and to close the premises.

(2) A person must not contravene an order under subsection (1).

Maximum penalty—25 penalty units.

Closure of premises in face of riot or tumult

142.(1) On application made by an investigator, a Magistrate, or, if a Magistrate is not available, 2 justices, may order that all or any of the licensed premises in a locality in which a riot or tumult is happening, or is reasonably expected to happen, be closed during a period specified in the order.

(2) A person must not knowingly contravene an order under subsection (1).

Maximum penalty—25 penalty units.

PART 6—OBLIGATORY PROVISIONS AND OFFENCES***Division 1—Provisions binding licensees and permittees only*****Particulars to be displayed on premises**

143.(1) A licensee must at all times display, on a conspicuous place on the exterior of the licensed premises, in legible character at least 50 mm in height—

- (a) the name of the licensee and any nominee in respect of the premises; and
- (b) the name of the licensed premises; and
- (c) the nature of the business conducted on the licensed premises; and
- (d) the hours during which liquor may be sold on the premises to persons other than residents or their guests;

so that those particulars may be clearly read at all times.

Maximum penalty—25 penalty units.

(2) A person who contravenes subsection (1) commits a continuing offence against this Act, that may be charged in 1 complaint, from time to time, in respect of any period, and is liable to a penalty of a fine of not more

than 2 penalty units for each day during which the contravention continues.

Change of name requires approval

144. A licensee must not change the name of the licensed premises without the chief executive's prior approval.

Maximum penalty—25 penalty units.

Production of licence or permit

145. A licensee or permittee must produce the licence or permit for inspection on demand made by an investigator at the premises to which the licence or permit relates.

Maximum penalty—25 penalty units.

Sale or supply contrary to licence or permit

146. The licensee or permittee must not sell or supply liquor—

- (a) at a time other than a time at which the liquor may be sold under authority of the licence or permit; or
- (b) in a way, or for a purpose, other than that in or for which liquor may be sold under authority of the licence or permit.

Maximum penalty—100 penalty units.

Consumption or removal contrary to licence or permit

147.(1) In this section—

“**persons**” does not include residents on the relevant licensed premises or their guests.

(2) A licensee or permittee must not permit or allow liquor—

- (a) to be consumed on the licensed premises at any time other than a time when liquor may be sold to, or consumed by, persons on the licensed premises under authority of the licence or permit; or
- (b) to be removed from the licensed premises at any time other than a time when liquor may be removed by persons from the licensed

premises under this Act.

Maximum penalty—100 penalty units.

Gratuitous supply of liquor

148. A licensee or permittee does not contravene—

- (a) section 146 by gratuitously supplying liquor at any time; or
- (b) section 147 by permitting or allowing consumption at any time of liquor gratuitously supplied;

if the supply is made or the consumption happens—

- (c) in the course of social contact with the person supplied; and
- (d) in a part of the licensed premises not ordinarily used for the purposes of the business conducted on the premises or, with the chief executive's prior approval, in any part of the licensed premises.

Licensee to exercise control over premises

149. A licensee—

- (a) must not be absent from the management and supervision of business conducted under authority of the licence for a continuous period longer than 28 days without the chief executive's prior approval; and
- (b) must not permit the licensed premises to be in the keeping of a person who is not—
 - (i) a licensee of the premises; or
 - (ii) an employee of the licensee; and
- (c) except with the chief executive's prior approval, must not knowingly permit to be employed on the licensee's behalf on the licensed premises a person who, because of misconduct or bad character—
 - (i) has had a licence, permit or other authority relating to the sale or supply of liquor cancelled; or

- (ii) has been refused a licence, permit or other authority relating to the sale or supply of liquor;

under this Act or a corresponding previous enactment or under a corresponding law of another State or a Territory.

Maximum penalty—100 penalty units.

Notification of change in controlling interest in licensee

150. A licensee that is a body corporate must give to the chief executive written notice of every change in the beneficial ownership of the controlling interest in the body corporate, within 14 days after the change.

Maximum penalty—100 penalty units.

Unlawful betting or gaming

151.(1) A licensee or permittee must not—

- (a) bring or keep, or permit to be brought or kept, on the licensed premises any machine, apparatus or device capable of being used for betting or gaming other than—
 - (i) one required for operation of a totalisator by or on behalf of the Totalisator Administration Board under the *Racing and Betting Act 1980*; or
 - (ii) a gaming machine within the meaning of the *Gaming Machine Act 1991* under the authority of a gaming machine licence under that Act; or
- (b) conduct, or permit or allow to be conducted, on the premises to which the licence or permit relates an art union or lottery that is not authorised by law; or
- (c) permit or suffer to be played on the premises to which the licence or permit relates, or in their appurtenances, a sport or game declared by law to be unlawful.

Maximum penalty—250 penalty units.

(2) The holder of a licence or permit must not bring or keep, or permit to be brought or kept, on the licensed premises an entertainment machine

within the meaning of the *Art Unions and Amusements Act 1976* without the chief executive's prior approval or otherwise than in accordance with the conditions of such approval.

Maximum penalty—25 penalty units.

Prohibition on other use of premises

152.(1) The holder of a general licence must not, without the chief executive's prior approval—

- (a) conduct or permit to be conducted, or advertise or represent himself or herself as conducting, on the licensed premises, a business other than—
 - (i) that authorised by the licence; or
 - (ii) a business on behalf of the Totalisator Administration Board under the *Racing and Betting Act 1980*; or
 - (iii) a business under the authority of a gaming machine licence under the *Gaming Machine Act 1991*; or
- (b) supply or permit to be supplied, on the licensed premises, a service to the public other than that authorised by the licence.

(2) The holder of a general licence must not use or publish, or permit to be used or published, a document containing the name of the licensed premises for or in connection with a business or service to the public other than a business or service that may be conducted or supplied on the licensed premises consistently with subsection (1).

Maximum penalty—25 penalty units.

Subletting of licensed premises

153. A licensee must not—

- (a) let or sublet any part of the licensed premises; or
- (b) enter into a franchise or management agreement in respect of any part of the licensed premises;

without the chief executive's prior approval.

Maximum penalty—40 penalty units.

Alteration and maintenance of licensed premises

154.(1) A licensee must not—

- (a) alter or rebuild licensed premises; or
- (b) increase or decrease the area used for the conduct of business under authority of the licence or permit;

without giving to the chief executive prior notice.

(2) A licensee must maintain in good repair, and keep clean, the licensed premises.

Maximum penalty—25 penalty units.

Eviction of minors from premises

155.(1) Subject to this section, a licensee or permittee must remove a minor, or cause a minor to be removed, from premises to which the licence or permit relates immediately the minor is found on the premises.

Maximum penalty—100 penalty units.

(2) Subsection (1) does not apply to a minor found on relevant premises if—

- (a) the minor is a resident on the premises; or
- (b) the minor is on the premises for the purposes of—
 - (i) performing duties as an employee of the owner of the premises or the occupier of the premises or a part of the premises; or
 - (ii) performing duties in the conduct of a lawful business; or
 - (iii) performing duties in the course of receiving training for employment or work experience; or
- (c) the minor is attending a function being held on the premises; or
- (d) the premises are those to which a club licence, or a restricted club licence, relates and the minor's presence is not in contravention of the rules of the club or of a condition of the licence; or
- (e) the minor is on the premises for a purpose, and in circumstances, approved by the chief executive.

(3) Subject to subsection (4), subsection (1) does not apply to a minor found on relevant premises if—

- (a) the minor is eating a meal on the premises; or
- (b) the minor is accompanied by a responsible adult who clearly demonstrates a capacity and readiness to exercise responsible supervision of the minor.

(4) Subsection (1) applies in respect of a minor found on licensed premises used for cabaret—

- (a) at any time after 8 p.m.; and
- (b) if the premises are then being used for cabaret;

despite the minor being of a description mentioned in subsection (3).

Division 2—Provisions binding all persons

Liquor prohibited to certain persons

156.(1) A person must not, on premises to which a licence or permit relates—

- (a) supply liquor to; or
- (b) permit or allow liquor to be supplied to; or
- (c) allow liquor to be consumed by;

a person who—

- (d) is a minor; or
- (e) is unduly intoxicated or disorderly.

(2) A person must not, on a street or place adjacent to premises to which a licence or permit relates, supply liquor, or cause or permit liquor to be supplied, to a minor.

(3) A person must not send, or cause or permit to be sent, to premises to which a licence or permit relates a minor with a view to the minor or another person being supplied with liquor.

(4) A person who contravenes a provision of this section commits an offence punishable on conviction by a maximum penalty of a fine of—

- (a) if the person is the licensee, permittee, nominee or manager of the premises—250 penalty units;
- (b) in any other case—40 penalty units.

Prohibitions affecting minors

157.(1) A minor to whom section 155(1) applies must not be on premises to which a licence or permit relates.

Maximum penalty—25 penalty units.

- (2)** A minor must not—
 - (a) consume liquor; or
 - (b) be in possession of liquor;

on any premises to which a licence or permit relates, whether or not the minor is one in respect of whom section 155(1) applies.

Maximum penalty—25 penalty units.

False representation of age

158.(1) A person must not falsely represent himself or herself to have attained 18 years with the intent of being supplied with liquor.

Maximum penalty—25 penalty units.

- (2)** A person must not—
 - (a) make a false document that could reasonably be taken to be genuine acceptable evidence of age for the purposes of this Act; or
 - (b) give such a false document to another person;

knowing the document to be false and with intent that the document be used as acceptable evidence of age for the purposes of this Act.

Maximum penalty—

- (a) in the case of a minor—25 penalty units; and
- (b) in the case of an adult—40 penalty units.

Wrongful dealing with genuine evidence of age

159.(1) A person must not knowingly give a document that is evidence of age of the person specified in the document to another person, with intent that the document be used as evidence of age for the purposes of this Act of a person not specified in the document.

Maximum penalty—40 penalty units.

(2) A person must not wilfully or negligently deface or interfere with a document that is acceptable evidence of age for the purposes of this Act of the person or another person.

Maximum penalty—40 penalty units.

Seizure of document wrongly used as evidence of age

160.(1) If a contravention of section 158 consists in production of—

- (a) a genuine document that is acceptable evidence of age for the purposes of this Act of the person specified in the document; or
- (b) a false document that could reasonably be taken to be genuine acceptable evidence of age for the purposes of this Act;

the person to whom the document is produced must seize and confiscate the document and give it to an investigator.

Maximum penalty—25 penalty units.

(2) A person does not commit an offence by contravening subsection (1) if the person is not aware of the falsity of the representation as to age made by producing the document.

Consumption or removal of liquor outside trading hours

161. A person must not—

- (a) consume liquor on premises to which a licence or permit relates;
or
- (b) remove liquor from premises to which a licence or permit relates;
or
- (c) receive liquor from anyone on premises to which a licence or permit relates;

at any time other than a time when liquor may be sold to, or consumed by, the person on the premises, or be removed from the premises by the person, under authority of the licence or permit.

Maximum penalty—25 penalty units.

Taking liquor onto or away from premises subject to on-premises licence

162.(1) A person must not take liquor on to premises to which an on-premises licence relates, for consumption on the premises.

Maximum penalty—25 penalty units.

(2) Subject to subsection (4), a person must not remove from premises to which an on-premises licence relates liquor supplied to the person on the premises.

Maximum penalty—25 penalty units.

(3) If a person is found carrying away liquor from premises to which an on-premises licence relates, it is to be presumed, until the contrary is proved, that the liquor was supplied to the person on the premises.

(4) It is lawful for a person to remove liquor from licensed premises used for the primary purpose of consumption of meals prepared and served to be eaten on the premises if the liquor was supplied on the premises to the person as packaged liquor and the bottle or other container has been opened on the premises.

False representation of intention to dine

163. A person must not falsely represent that the person intends to eat a meal, or has recently eaten a meal, on licensed premises with a view to being supplied with liquor at any time when liquor could not lawfully be sold to that person under authority of the licence relating to the premises except in association with the person eating a meal on the premises.

Maximum penalty—25 penalty units.

Conduct causing public nuisance

164.(1) A person must not—

- (a) be drunk or disorderly; or
- (b) create a disturbance;

in premises to which a licence or permit relates.

Maximum penalty—25 penalty units.

(2) A person must not be drunk in a public place.

Maximum penalty—1 penalty unit.

(3) Subsection (2) expires on 30 June 1994.

(4) A police officer may arrest a person contravening subsection (1) or (2) if the police officer believes on reasonable grounds that, because of the consumption of liquor, the person is, or likely to be, a danger to—

- (a) himself or herself; or
- (b) others.

(5) Subsection (4) does not limit the circumstances in which a person may be arrested for a contravention of subsection (1) or (2).

Obstruction to eviction from premises

165. If a licensee or permittee, or an employee or agent of a licensee or permittee, is seeking to evict a person from the premises to which the licence or permit relates whether—

- (a) in exercise of a power, or performance of a duty, under this Act; or
- (b) in exercise of a licensee's or permittee's right to refuse to sell or supply liquor to any person;

the person whose eviction is sought must not—

- (c) refuse to leave the premises when required by the licensee, permittee or agent to do so; or
- (d) resist the licensee, permittee or agent.

Maximum penalty—25 penalty units.

Obstruction generally

166. A person must not obstruct or hinder, or attempt to obstruct or hinder a licensee or permittee, or an employee or agent of a licensee or permittee, in the exercise of a power or performance of a duty under this Act.

Maximum penalty—100 penalty units.

Ascertainment of age

167.(1) For the purposes of this Act, an authorised person may require another person whom the authorised person suspects on reasonable grounds to be a minor and to be contravening a provision of this Act—

- (a) to state all relevant particulars concerning the other person's age; and
- (b) to produce evidence of the other person's age.

(2) A refusal by a person to state particulars, or to produce evidence, as to age is justification for the authorised person to require the suspected minor to leave the premises.

(3) If the suspected minor fails immediately to leave the premises, the authorised person may, using such force and assistance as is necessary and reasonable, remove the person from the premises.

(4) In this section—

“authorised person” includes—

- (a) a licensee or permittee; and
- (b) an employee or agent of a licensee or permittee; and
- (c) an investigator; and
- (d) a police officer.

Interference with licence or permit

168. A person must not—

- (a) wilfully or negligently deface a licence or permit; or
- (b) alter a particular shown in a licence or permit, without the chief

executive's prior approval.

Maximum penalty—100 penalty units.

***Division 3—Provisions concerning sale of liquor by unlicensed persons
or on unlicensed premises***

Authority required for sale

169. A person must not—

- (a) sell liquor unless—
 - (i) in the case of wine—the sale is made under authority of a licence or permit or a certificate of registration under the *Wine Industry Act 1974*;
 - (ii) in the case of other liquor—the sale is made under authority of a licence or permit; or
- (b) sell liquor in a quantity that is not authorised by the relevant licence or permit.

Maximum penalty—250 penalty units.

Sale of liquor on licensed premises only

170. A licensee or permittee must not sell or supply liquor on or from premises other than the premises to which the licence or permit relates.

Maximum penalty—100 penalty units.

Carrying or exposing liquor for sale

171.(1) A person must not—

- (a) carry liquor for sale; or
- (b) expose liquor for sale;

in any premises without the authority of a licence or permit relating to the premises.

(2) In a proceeding for a contravention of subsection (1), the burden of

proving that liquor was not carried or exposed for sale is on the person alleged to have so carried or exposed it unless—

- (a) the package or container in which the liquor is contained is labelled in writing on the outside with the name and address of—
 - (i) the vendor; and
 - (ii) the purchaser; and
 - (iii) the person (if other than the purchaser) to whom the liquor is to be delivered; or
- (b) the particulars prescribed by paragraph (a) and the description and quantity of the liquor are set out in a document in the possession of the person alleged to have so carried or exposed it, and the document is produced to an investigator or police officer on demand.

Maximum penalty—250 penalty units.

Offer to purchase liquor made elsewhere than at licensed premises

172.(1) A licensee must not take or receive, or cause or permit an agent or employee to take or receive, an order for liquor elsewhere than at the licensed premises.

Maximum penalty—100 penalty units.

(2) A person other than a licensee must not invite an offer to purchase liquor by way of an order taken or received elsewhere than at the licensed premises on or from which the liquor could be sold under authority of a licence in response to the order.

Maximum penalty—100 penalty units.

Occupier and owner of unlicensed premises liable for sale of liquor etc.

173.(1) Every occupier and every owner of unlicensed premises who permits or knowingly allows the sale of liquor on the premises in contravention of a provision of this Division is taken to have sold the liquor and is liable to be punished as if the person had actually sold the liquor.

(2) An owner of unlicensed premises on which liquor is sold is taken to

have knowingly suffered the sale of liquor on the premises if—

- (a) on 3 occasions during the year before the sale a person has been convicted of selling liquor on the premises; and
- (b) the owner was owner of the premises when the offences to which the convictions relate were committed; and
- (c) a copy of a certificate of each such conviction was given to the owner by personal service or by pre-paid certified mail addressed to the owner—
 - (i) at the owner's place of residence last known to the complainant in the case in which the conviction was recorded; or
 - (ii) at the owner's place of residence shown in the records of the official responsible for keeping registers in relation to dealings in land.

(3) Two convictions of the occupier of unlicensed premises for selling liquor on the premises constitute sufficient ground on which the owner of the premises may terminate the tenancy of the occupier by serving on the occupier a notice to quit the premises.

(4) If the occupier cannot be found, a notice to quit required to terminate the tenancy may, without limiting the way by which to effect service, be served on the occupier by fixing a copy of the notice to a place on the premises where it can easily be read.

(5) An owner may exercise power under subsection (3) although the owner is not the landlord in respect of the occupier's tenancy.

(6) Termination of a tenancy under subsection (3) takes effect at the end of 7 days after the day on which notice to quit is served on the occupier.

(7) An owner who has terminated a tenancy under subsection (3)—

- (a) is entitled, in legal proceedings by the owner against the occupier, to an order that the occupier quit the premises and deliver up possession to the landlord; and
- (b) is entitled, under authority of such an order, to have the occupier evicted.

Division 4—Provisions concerning consumption of liquor in certain public places

Definitions

173A. In this Division—

“**area**” has the same meaning as in section 3(1) of the *Local Government Act 1936*, and includes a community area and the area of the City of Brisbane;

“**designated public place**” means a public place designated under section 173C;

“**road**” has the same meaning as in section 3(1) of the *Local Government Act 1936*.

Consumption of liquor in certain public places prohibited

173B.(1) A person must not consume liquor in—

- (a) a public place that is—
 - (i) a road; or
 - (ii) land owned by, or under the control of, a local authority (other than an environmental park under the *Land Act 1962*); or
- (b) a doorway, entrance or vestibule that gives access to premises from a public place mentioned in paragraph (a).

Maximum penalty—1 penalty unit.

(2) A person does not commit an offence against subsection (1) in relation to a place—

- (a) if the consumption of liquor in the place is authorised or permitted under a licence or permit; or
- (b) if the place is, at the relevant time, a designated public place; or
- (c) if—
 - (i) the place was, but at the relevant time is no longer, a designated public place; and

- (ii) the local authority concerned has not complied with section 173E in relation to the place.

Local authority may designate public places where liquor may be consumed

173C.(1) A local authority may, by resolution, designate a public place mentioned in section 173B(1)(a) that is in its area as a public place where liquor may be consumed.

(2) The local authority may, in the resolution or by another resolution, specify the period or times during which the designation is to have effect.

(3) If the local authority specifies a period or times under subsection (2), the public place is a designated public place only during that period or those times.

Local authority must advertise designation and place signs

173D.(1) A local authority that designates a public place under section 173C must advertise the designation in a newspaper that circulates in its area.

(2) The advertisement must—

- (a) include a description of the public place; and
- (b) specify the period or times (if any) during which the public place is a designated public place.

(3) The local authority must also erect signs that—

- (a) sufficiently identify the public place as a designated public place; and
- (b) specify the period or times (if any) during which the public place is a designated public place.

(4) The local authority does not have to comply with subsection (1) if it has specified under section 173C(2) that the designation in relation to the public place has effect for a period not longer than 1 day.

Local authority must advertise repeal or amendment of designation and remove or alter signs

173E.(1) If a local authority repeals or amends a designation under section 173C, the local authority must advertise the repeal or amendment in a newspaper that circulates in its area.

(2) The advertisement must—

- (a) in the case of the repeal of a designation of a public place—include a description of the public place; and
- (b) in the case of an amendment that varies the boundaries of a designated public place—include a description of the public place as varied; and
- (c) in the case of an amendment that varies the period or times during which a designation of a public place has effect—specify the varied period or times.

(3) The local authority must also ensure—

- (a) in the case of the repeal of a designation of a public place—that all signs identifying the public place as a designated public place are removed; and
- (b) in the case of an amendment that varies the boundaries of a designated public place—that signs sufficiently identify the public place, as varied, as a designated public place; and
- (c) in the case of an amendment that varies the period or times during which a designation of a public place has effect—that signs identifying the public place specify the varied period or times.

PART 7—INVESTIGATORS AND THEIR POWERS**Investigators**

174.(1) The chief executive may authorise a person, or a class of persons, to exercise—

- (a) all the powers conferred by this Act on an investigator; or

(b) any powers conferred by this Act on an investigator.

(2) The chief executive must issue an identity card to a person authorised under subsection (1) (the “**investigator**”).

(3) The identity card must—

- (a) contain a recent photograph of the investigator; and
- (b) be in a form approved by the chief executive.

(4) If the investigator ceases to be authorised under subsection (1), the investigator must, as soon as practicable, return his or her identity card to the chief executive.

Maximum penalty—25 penalty units.

(5) The investigator is not entitled to exercise powers under this Act in relation to another person unless the investigator first produces the investigator’s identity card for inspection by the person.

Power to stop and search vehicles etc.

175.(1) This section applies if an investigator suspects on reasonable grounds that—

- (a) a vehicle, boat or aircraft is being, or has been, used in the commission of an offence against this Act; or
- (b) a vehicle, boat or aircraft, or anything on or in, a vehicle, boat or aircraft may afford evidence of the commission of an offence against this Act.

(2) The investigator may, with such assistance and by such force as is necessary and reasonable—

- (a) enter or board the vehicle, boat or aircraft; and
- (b) exercise the powers set out in section 178.

(3) If—

- (a) the vehicle or boat is moving or about to move; or
- (b) the aircraft is moving, or about to move, on the ground;

the investigator may signal the driver or the person in command or control, or who appears to be in command or control, of the vehicle, boat or aircraft,

to stop or not to move the vehicle, boat or aircraft.

(4) A person must not, without reasonable excuse, disobey a signal under subsection (3).

Maximum penalty—165 penalty units, imprisonment for 1 year or both.

(5) It is a reasonable excuse for the person to fail to stop or to move the vehicle, boat or aircraft if—

- (a) to immediately obey the signal would have endangered the person or another person; and
- (b) the person obeys the signal as soon as it is reasonably practicable to stop or move the vehicle, boat or aircraft.

(6) The investigator may require the driver or the person in command or control, or who appears to be in command or control, of the vehicle, boat or aircraft—

- (a) to provide such reasonable assistance as the investigator requires to enable the vehicle, boat or aircraft to be entered or boarded under subsection (2); or
- (b) to bring the vehicle, boat or aircraft to a specified place and remain in control of the vehicle, boat or aircraft at the place until the officer permits the person to leave.

(7) A person must not, without reasonable excuse, contravene a requirement under subsection (6).

Maximum penalty—165 penalty units or imprisonment for 1 year.

(8) If, while searching the vehicle, boat or aircraft, the investigator finds a thing that the investigator believes, on reasonable grounds, will afford evidence of the commission of an offence against this Act, section 177(2)(a), (b) and (c) apply to the thing.

(9) If, after searching the vehicle, boat or aircraft, the investigator believes on reasonable grounds that the vehicle, boat or aircraft will afford evidence of the commission of an offence against this Act, sections 177(2)(a) and (b) apply to the vehicle, boat or aircraft.

Entry and search—monitoring compliance

176.(1) Subject to subsection (2), an investigator may, for the purpose of finding out whether this Act is being complied with—

- (a) enter any place at any reasonable time of the day or night; and
- (b) exercise the powers set out in section 178.

(2) The investigator must not enter a place, or exercise a power under subsection (1), unless—

- (a) the occupier of the place consents to the entry or exercise of the power; or
- (b) a warrant under section 179 authorises the entry or exercise of the power; or
- (c) the place is a public place and the entry is made when members of the public attend or the premises are open for admission by the public; or
- (d) the place is premises, or the part of premises, that are licensed premises and—
 - (i) the entry is made when the premises are open for the conduct of business or otherwise open for entry; or
 - (ii) the investigator suspects on reasonable grounds that an offence is being committed against this Act in or on the place.

(3) In this section—

“**place**” does not include a vehicle, boat or aircraft.

Entry and search—evidence of offences

177.(1) Subject to subsection (3), if an investigator has reasonable grounds for suspecting that there is in a place a particular thing (“**the evidence**”) that may afford evidence of the commission of an offence against this Act, the investigator may—

- (a) enter the place; and
- (b) exercise the powers set out in section 178.

(2) If the investigator enters the place and finds the evidence, the following provisions have effect—

- (a) the investigator may seize the evidence;
- (b) the investigator may keep the evidence for 6 months or, if a prosecution for an offence against this Act in the commission of which the evidence may have been used or otherwise involved is instituted within that period, until the completion of the proceeding for the offence and any appeal in relation to the proceeding;
- (c) if the evidence is a document—while the investigator has possession of the document, the officer may take extracts from and make copies of the document, but must allow the document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the investigator's possession.

(3) An investigator must not enter the place or exercise a power under subsection (1) unless—

- (a) the occupier of the place consents to the entry or exercise of the power; or
- (b) a warrant under section 180 that was issued in relation to the evidence authorises the entry or exercise of the power.

(4) If, while searching the place under subsection (1) under a warrant under section 180, an investigator—

- (a) finds a thing that the investigator believes, on reasonable grounds, to be—
 - (i) a thing (other than the evidence) that will afford evidence of the commission of the offence mentioned in subsection (1); or
 - (ii) a thing that will afford evidence of the commission of another offence against this Act; and
- (b) the officer believes, on reasonable grounds, that it is necessary to seize the thing to prevent—
 - (i) its concealment, loss or destruction; or
 - (ii) its use in committing, continuing or repeating the offence

mentioned in subsection (1) or the other offence, as the case may be;

subsection (2) applies to the thing as if it were the evidence.

(5) In this section—

“place” does not include a vehicle, boat or aircraft.

General powers of investigator in relation to places

178.(1) An investigator who enters or boards a place under this Part may exercise any of the following powers—

- (a) search any part of the place;
- (b) inspect, examine, photograph or film anything in or on the place;
- (c) take extracts from, and make copies of, any documents in or on the place;
- (d) take into or onto the place such persons, equipment and materials as the investigator reasonably requires for the purpose of exercising any powers in relation to the place;
- (e) require the occupier or any person in or on the place to give to the investigator reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (d);
- (f) the powers mentioned in the following sections—
 - (i) section 182 (Requirement to give name, address and age);
 - (ii) section 183 (Power to require answers to questions);
 - (iii) section 184 (Other powers of investigators).

(2) A person must not, without reasonable excuse, fail to comply with a requirement made under subsection (1)(e).

Maximum penalty—50 penalty units.

(3) It is a reasonable excuse for a person to fail to answer a question or produce a document (other than a document required to be kept by the person under this Act) if answering the question, or producing the document, might tend to incriminate the person.

(4) An investigator who seizes or damages anything under this Part

must, as soon as it is reasonably practicable after seizing or damaging the thing, give written notice of particulars of the thing or damage.

(5) The notice must be given to—

- (a) if anything is seized—the person from whom the thing was seized; or
- (b) if damage is caused to anything—the person who appears to the investigator to be the owner.

(6) On the hearing of a proceeding for an offence against this Act or in a proceeding brought for the recovery of compensation under this section, a court may order the payment of compensation to a person for any loss resulting from the unreasonable exercise of powers under this Part.

(7) This section does not limit any power that an investigator has apart from this section.

Monitoring warrants

179.(1) An investigator may apply to a Magistrate for a warrant under this section in relation to—

- (a) a particular place that is licensed premises; or
- (b) another particular place (other than premises, or the part of premises, used exclusively for residential purposes).

(2) Subject to subsection (3), the Magistrate may issue the warrant if the Magistrate is satisfied, by information on oath, that it is reasonably necessary that the investigator should have access to the place for the purpose of finding out whether this Act is being complied with.

(3) If the Magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the Magistrate must not issue the warrant unless the investigator or some other person has given the information to the Magistrate in the form (either orally or by affidavit) that the Magistrate requires.

(4) The warrant must—

- (a) authorise the investigator, with such assistance and by such force as is necessary and reasonable—
 - (i) to enter the place; and

- (ii) to exercise the powers set out in section 178; and
- (b) state whether the entry is authorised to be made at any reasonable time of the day or night or only during specified reasonable hours of the day or night; and
- (c) specify the day (not more than 14 days after the issue of the warrant) on which the warrant ceases to have effect; and
- (d) state the purpose for which the warrant is issued.

Offence related warrants

180.(1) An investigator may apply to a Magistrate for a warrant under this section in relation to a particular place.

(2) Subject to subsection (3), the Magistrate may issue the warrant if the Magistrate is satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 7 days, in or on the place a particular thing (“**the evidence**”) that may afford evidence of the commission of an offence against this Act.

(3) If the Magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the Magistrate must not issue the warrant unless the investigator or another person has given the information to the Magistrate in the form (either orally or by affidavit) that the Magistrate requires.

(4) The warrant must—

- (a) authorise the investigator, with such assistance and by such force as is necessary and reasonable—
 - (i) to enter the place; and
 - (ii) to exercise the powers set out in section 178(1)(a) to (e); and
 - (iii) to seize the evidence; and
- (b) state whether the entry is authorised to be made at any time of the day or night or only during specified hours of the day or night; and
- (c) specify the day (not more than 14 days after the issue of the warrant) on which the warrant ceases to have effect; and

- (d) state the purpose for which the warrant is issued.

Warrants may be granted by telephone, facsimile, radio etc.

181.(1) If an investigator considers it necessary to do so because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the investigator's remote location;

the investigator may, under this section, apply by telephone, facsimile, radio or another form of communication for a warrant under section 179 or 180.

(2) Before applying for the warrant, the investigator must prepare an information of the kind mentioned in section 179(2) or 180(2) that sets out the grounds on which the issue of the warrant is sought.

(3) If it is necessary to do so, an investigator may apply for the warrant before the information has been sworn.

(4) If the Magistrate is satisfied—

- (a) after having considered the terms of the information; and
- (b) after having received such further information (if any) as the Magistrate requires concerning the grounds on which the issue of the warrant is sought;

that there are reasonable grounds for issuing the warrant, the Magistrate may, under section 179 or 180, complete and sign the warrant that the Magistrate would issue under the section if the application had been made under the section.

(5) If the Magistrate completes and signs the warrant, the Magistrate must immediately send a copy of the warrant to the investigator by facsimile or, if it is not reasonably practicable to do so—

- (a) the Magistrate must—
 - (i) tell the investigator what the terms of the warrant are; and
 - (ii) tell the investigator the day and time when the warrant was signed; and
 - (iii) record on the warrant the reasons for granting the warrant; and

- (b) the investigator must—
 - (i) complete a form of warrant in the same terms as the warrant completed and signed by the Magistrate; and
 - (ii) write on the form of warrant the name of the Magistrate and the day and time when the Magistrate signed the warrant.

(6) The investigator must also—

- (a) not later than the day after the day of expiry or execution of the warrant (whichever is the earlier); or
- (b) if it is not practicable to comply with paragraph (a)—as soon as practicable after the day mentioned in the paragraph;

send to the Magistrate—

- (c) the information mentioned in subsection (2), which must have been properly sworn; and
- (d) if a form of warrant was completed by the investigator under subsection (5)(b)—the completed form of warrant.

(7) When the Magistrate receives the documents mentioned in subsection (6), the Magistrate must—

- (a) attach them to the warrant that the Magistrate completed and signed; and
- (b) deal with them in the way in which the Magistrate would have dealt with the information if the application for the warrant had been made under section 179 or 180.

(8) A facsimile copy of a warrant, or a form of warrant properly completed by the investigator under subsection (5)(b), is authority for any entry, search, seizure or other exercise of a power that the warrant signed by the Magistrate authorises.

(9) If—

- (a) it is material for a court to be satisfied that an entry, search, seizure or other exercise of power was authorised by this section; and
- (b) the warrant completed and signed by the Magistrate authorising the exercise of power is not produced in evidence;

the court must assume, unless the contrary is proved, that the exercise of power was not authorised by such a warrant.

Requirement to give name, address and age

182.(1) An investigator who—

- (a) finds a person committing, or finds a person that the investigator suspects on reasonable grounds of having committed, an offence against this Act; or
- (b) believes on reasonable grounds that the name and address, or age, of a person is required for the purpose of the administration or enforcement of this Act;

may require the person to state the person's name and address or age and, if the investigator believes on reasonable grounds that the name, address or age given is false, may require evidence of its correctness.

(2) A person who is required under subsection (1) to state the person's name, address or age must not—

- (a) fail to comply with the requirement; or
- (b) state a false name, address or age.

Maximum penalty—25 penalty units.

(3) A person who is required under subsection (1) to give evidence of the correctness of a name, address or age must not—

- (a) without reasonable excuse, fail to give the evidence; or
- (b) give false evidence.

Maximum penalty—25 penalty units.

(4) If—

- (a) an investigator makes a requirement under subsection (1) on suspicion of a person having committed an offence; and
- (b) the person is not proved to have committed the offence;

the person does not commit an offence against this section.

Power to require answers to questions

183.(1) If an investigator believes on reasonable grounds that a person may be able to provide information relevant to the administration or enforcement of this Act, the officer may require the person to answer a question relevant to the administration or enforcement of this Act.

(2) A person who is required under subsection (1) to answer a question must not, without reasonable excuse, fail to comply with the requirement.

Maximum penalty—100 penalty units.

(3) It is reasonable excuse for a person to fail to answer a question if answering the question might tend to incriminate the person.

Other powers of investigators

184.(1) Subject to subsection (2), an investigator may, for the purposes of this Act, exercise any of the following powers—

- (a) require a person to produce to the investigator—
 - (i) any licence, permit or other authority held by the person under this Act; or
 - (ii) any document required to be kept by the person under this Act;
- (b) inspect, take extracts from, make copies of or keep a document produced to the investigator under paragraph (a);
- (c) if an investigator finds a person on premises to which a licence or permit relates at any time other than a time when liquor may be—
 - (i) sold to, or consumed by, the person on the premises; or
 - (ii) removed from the premises by the person;require the person to leave the premises and, if the person does not immediately leave, remove the person from the premises using such force as is necessary and reasonable;
- (d) if an investigator finds a minor to whom section 155(1) applies on premises to which a licence or permit relates—require the minor to leave the premises and, if the minor does not immediately leave, remove the minor from the premises using

such force as is necessary and reasonable;

- (e) if an investigator is a police officer—arrest a person who—
 - (i) is found by the investigator committing an offence against this Act; or
 - (ii) the investigator suspects on reasonable grounds of having committed an offence against this Act;

if the investigator believes on reasonable grounds that proceedings by way of complaint and summons against the person would be ineffective;

- (f) seize—
 - (i) liquor that has been, or is reasonably suspected to have been, sold, drawn or poured for sale, or supplied, in contravention of this Act; and
 - (ii) liquor that is being consumed, or is had in possession, in contravention of this Act;

together with all bottles or other containers in which the liquor is contained;

- (g) if the investigator suspects on reasonable grounds that liquor is being carried for sale otherwise than under authority of a licence or permit—seize any of the following—
 - (i) liquor that is suspected to be so carried;
 - (ii) all bottles or other containers in which the liquor is contained;
 - (iii) all utensils suitable for measuring or drinking the liquor;
 - (iv) any vehicle, boat, aircraft, animal or thing by way of which the liquor is suspected to be carried;

- (h) such other powers as are prescribed.

(2) An investigator may keep a document under subsection (1)(b) only for the purpose of taking copies of the document and must, as soon as practicable after taking the copies, return the document to the person who produced it.

(3) Liquor seized under subsection (1) may be taken away to a place of

safekeeping.

(4) In this section—

“**liquor**” includes anything suspected on reasonable grounds to be liquor.

Obstruction of investigators

185.(1) A person must not obstruct an investigator in the exercise of a power under this Act.

(2) A person is taken to obstruct an investigator in the exercise of a power under this Act if the person—

- (a) assaults, abuses, hinders, resists or intimidates the investigator or a person assisting the investigator in the exercise of the investigator’s powers under this Act; or
- (b) deliberately prevents or attempts to prevent (whether directly or indirectly) a person from—
 - (i) being questioned by an investigator; or
 - (ii) giving, under this Act, any information or document to an investigator; or
- (c) in any other way obstructs, or attempts to obstruct, an investigator in the exercise of the investigator’s powers under this Act.

Maximum penalty—200 penalty units or imprisonment for 1 year.

Seizure of material associated with representation of age

186. If an investigator reasonably believes or suspects that a person—

- (a) has made, or caused to be made, a false document in contravention of section 158(2)(a); or
- (b) is in possession of a document given to the person in contravention of section 158(2)(b) or 159(1); or
- (c) is in possession of a document defaced or interfered with in contravention of section 159(2);

the investigator may seize and confiscate—

- (d) in the case specified in paragraph (a)—

- (i) all documents made in contravention of section 158(2)(a) in the person's possession; and
- (ii) all equipment and materials in the person's possession reasonably suspected by the investigator to have been used, or to be intended for use, in contravening section 158(2)(a); and
- (e) in the case specified in paragraph (b) or (c)—the document in respect of which section 158(2)(b) or 159(1) or (2) appears to have been contravened.

Abatement of nuisance or dangerous activity

187.(1) If an investigator believes on reasonable grounds that—

- (a) noise coming from any part of licensed premises is—
 - (i) a nuisance to persons resident on the premises or occupying other premises in the vicinity of the premises; or
 - (ii) in contravention of an order issued under section 46; or
- (b) activity in, or in the vicinity of, licensed premises is such that there exists a danger to any person or property that is likely to be aggravated by the continued supply of liquor in the locality;

the investigator may, by written notice given to the licensee or a person who appears to be in charge of the premises, require that—

- (c) the noise cease or be diminished so that a nuisance is not created; or
- (d) the premises be closed immediately.

(2) If—

- (a) a requisition under subsection (1) is not complied with immediately; or
- (b) compliance with the requisition is not continued as required by the requisition;

the investigator may take all steps necessary and reasonable to ensure compliance, or continued compliance, with the requisition.

(3) If noise is ceased or diminished in compliance with a requisition

under subsection (1), an investigator or police officer must not require that the licensed premises be closed while compliance with the requisition continues.

(4) A person who contravenes a requisition under subsection (1) commits an offence.

Maximum penalty—25 penalty units.

PART 8—PROVISIONS AFFECTING COMMUNITIES OF ABORIGINES OR ISLANDERS

Applications by Councils

188.(1) A Council may make application to the chief executive for a licence or permit that, if granted, would relate to premises in the community area of the Council.

(2) An applicant Council must nominate a person to be nominee in respect of the premises to which the licence or permit would relate.

Reference to Councils of certain applications for licence or permit

189.(1) If a person other than a Council makes application for a licence or permit that, if granted, would relate to premises in a community area of a Council, the chief executive must first refer the application to the Council for its consideration.

(2) When considering an application referred to a Council under subsection (1), the chief executive must have regard to the views of the Council expressed in relation to the application.

Way of making and dealing with applications

190.(1) The provisions of Part 5 relating to the making of applications, and the steps to be taken in respect of applications, do not apply to applications for or concerning licences or permits in respect of premises in a community area of a Council.

(2) Applications for or concerning licences or permits in respect of premises in a community area of a Council must be made, and the steps to be taken in respect of such applications are, as prescribed by regulation.

Inconsistency between licences or permits and local community law

191.(1) A term or condition specified in a licence or permit granted in respect of premises in a community area of a Council does not have effect to the extent that it is inconsistent with a provision of—

- (a) the *Local Government (Aboriginal Lands) Act 1978*; or
- (b) the *Community Services (Aborigines) Act 1984*; or
- (c) the *Community Services (Torres Strait) Act 1984*; or
- (d) a by-law made by a Council under any of those Acts.

(2) If a Council declares its community area or a part of its community area as a dry area, a licence or permit in respect of premises in the area or part so declared is suspended while the declaration subsists.

Prohibition orders

192.(1) If it appears to a Council that a person ordinarily resident in its community area, because of consumption of liquor—

- (a) endangers, or is likely to endanger, the life, safety or wellbeing of the person's family or another person ordinarily resident in the community area; or
- (b) threatens, or is likely to threaten, the peace and good order of the community area; or
- (c) endangers, or is likely to endanger, the person's own health or wellbeing;

the Council may cause to be issued to the person a notice to show cause, on a day and at a time and place specified in the notice, why the person should not be subject to a prohibition order.

(2) Cause may be shown by oral or written submission made in person by the person called on to show cause.

(3) If the person called on by the notice does not show cause sufficient in

the Council's opinion why the person should not be subject to a prohibition order, the Council may make and direct the issue of such an order in relation to that person.

(4) This section expires on 30 June 1994.

Duration and effect of prohibition order

193. A prohibition order under section 192—

- (a) has effect for a period of 1 year starting on the day on which it is made, or for a shorter period specified in the order, unless it is sooner rescinded on appeal under section 192;
- (b) prohibits—
 - (i) the person to whom it relates from consuming, or having in possession or control, liquor in the community area of the Council that made the order; and
 - (ii) all persons from supplying liquor to the person to whom it relates so as to put the person in contravention of the order.

Publication of prohibition order

194. The Council that makes a prohibition order must cause a copy of the order—

- (a) to be given to the person to whom it relates; and
- (b) to be exhibited on a conspicuous place in its community area and to remain so exhibited for as long as the order has effect.

Appeal against prohibition order

195.(1) A person to whom a prohibition order relates may appeal against its making to a Magistrates Court.

(2) The Court may—

- (a) require the appellant and the Council that made the order to give to the Court such information as the Court considers necessary for a proper determination of the appeal; and

(b) confirm the order, rescind the order, or vary the order, as it considers just.

(3) An appeal must be made in writing within 21 days after the prohibition order is given to the person to whom the order relates.

(4) The making of an appeal does not affect the operation of the order to which it relates.

(5) On determination of an appeal—

(a) the Court must cause notification of its decision to be given to the appellant and to the Council that made the order; and

(b) the Court's decision does not prevent the making of another prohibition order in relation to the appellant at a subsequent time.

Offences relating to prohibition order

196.(1) A person to whom a prohibition order relates must not—

(a) consume liquor; or

(b) have liquor in possession or control;

in the community area of the Council that made the order.

(2) A person must not supply liquor to another knowing that other to be a person to whom a prohibition order relates so as to put that other in contravention of the order.

Maximum penalty—25 penalty units.

Continuance of authority to sell liquor

197.(1) A Council that, at the commencement of this section, is authorised—

(a) to establish and maintain in its community area premises for the sale of liquor; and

(b) to conduct in its community area the business of selling and supplying liquor;

continues to be so authorised after the commencement of this section until a licence or permit is granted in respect of premises in the community area.

(2) The authority continued by subsection (1) is subject to such conditions as affect the authorisation at the commencement of this section or as varied for the time being by the chief executive.

Cancellation or suspension of liquor facility on complaint of Council

198.(1) If, on complaint of a Council, the chief executive is satisfied that—

- (a) the sale of liquor on or from premises in the community area of the Council under authority of a licence or an authorisation mentioned in section 197 is the direct or indirect cause of regularly occurring disorder or breaches of the peace in the community area; or
- (b) liquor is regularly taken away from such premises contrary to the conditions of a licence or an authorisation mentioned in section 197; or
- (c) the sale of liquor on or from such premises under authority of a licence or permit or an authorisation mentioned in section 197 is proving—
 - (i) a detriment to the health or wellbeing of—
 - (A) the members generally of the community; or
 - (B) persons resident in the community area; or
 - (ii) a source of danger to—
 - (A) life or safety of members generally of the community; or
 - (B) persons resident in the community area; or
 - (C) property generally in the community area;

the chief executive may, without other procedures—

- (d) immediately cancel or suspend the licence or authorisation; or
- (e) immediately exercise in respect of the matter such other disciplinary powers as are conferred on the chief executive by this Act.

(2) If a licence or authorisation is cancelled or suspended under

subsection (1), the chief executive may—

- (a) take all steps necessary and reasonable to ensure—
 - (i) termination of the conduct of business under authority of the licence or authorisation; or
 - (ii) closure of the premises on or from which the business was conducted; and
- (b) to that end may give such orders to such persons as the chief executive considers necessary and reasonable.

(3) A person to whom an order is given under subsection (2) must not, without reasonable excuse, fail to comply with the order in all respects.

Maximum penalty for subsection (3)—25 penalty units.

PART 9—FINANCIAL PROVISIONS

Division 1—Assessment and payment of fees

Elements of gross amount paid or payable for liquor

199.(1) In this Part—

“gross amount paid or payable for liquor” means—

- (a) the price, calculated under subsection (2), for liquor paid or payable by the purchaser who is required by this Act to pay a licence fee assessed by reference to the gross amount; or
- (b) if the chief executive suspects on reasonable grounds that an amount greater than that disclosed by the purchaser as the gross amount should have been disclosed—an amount determined by the chief executive having regard to all relevant circumstances.

(2) In calculating the gross amount paid or payable for liquor, regard must be had to—

- (a) the amount attributable to the liquor purchased; and

-
- (b) the amount attributable to bottles or other containers and items of packaging in which the liquor is delivered to the person required to pay such licence fee; and
 - (c) the amount attributable to expenses of—
 - (i) importation, handling and storage; or
 - (ii) delivery other than in respect of freight charges; or
 - (iii) packaging, labelling and advertising; or
 - (iv) credit charges and penalties; or
 - (v) imposts under law, other than a licence fee payable under this Act recovered by a supplier of liquor from the person required by this Act to pay such licence fee;

incurred in respect of the liquor at any stage of its passage to the person required by this Act to pay the licence fee.

Table of licence and assessment periods

200. In respect of a licence specified in column 1 of the following Table—

- (a) the licence period is that specified in column 2 opposite the reference to the licence; and
- (b) the assessment period is that (if any) specified in column 3 opposite the reference to the licence.

TABLE

Column 1	Column 2	Column 3
Licence or permit	Licence period	Assessment period
every licence except a restricted club licence	1 July–30 June	1 July–30 June immediately before the licence period

restricted club licence 1 July–30 June

Duration of licence

201.(1) Although each licence has a licence period, a licence continues in force until—

- (a) its surrender is accepted by the chief executive; or
- (b) its cancellation takes effect.

(2) A licence does not have effect during a period for which it is suspended.

Fees payable for licences and permits

202.(1) Fees payable in respect of a licence, other than a restricted club licence, are as assessed by the chief executive under this Part.

(2) Fees payable in respect of a restricted club licence or a permit are as prescribed by regulation.

Assessment of fees

203.(1) Subject to this subsection, the fee payable in respect of a licence for each licence period of the licence is—

- (a) for a licence other than—
 - (i) a producer/wholesaler licence; or
 - (ii) a restricted club licence; or
 - (iii) a limited licence relating to premises used for conduct of business by a person who holds a certificate of registration under the *Wine Industry Act 1974* as a vigneron-vintner;

an amount that is 10% of the gross amount paid or payable for liquor purchased or otherwise obtained for the business conducted on the licensed premises during the assessment period; and

- (b) for a producer/wholesaler licence—\$600 and, in addition—

- (i) an amount that is 10% of the gross amount paid or payable to the licensee for liquor sold or supplied under authority of the licence to persons exempted by regulation from application of this Act or to holders of restricted club licences or general purpose permits during the assessment period; and
 - (ii) an amount that is 14% of the gross amount paid or payable to the licensee for liquor sold or supplied under authority of the licence to unlicensed persons (other than exempted persons specified in paragraph (i)) during the assessment period; and
- (c) for a limited licence relating to premises used for conduct of a business of selling wines by a person who holds a certificate of registration under the *Wine Industry Act 1974* as a vigneron-vintner—\$60 and, in addition—
- (i) an amount that is 10% of the gross amount paid or payable to the licensee for all Australian wines (other than wines made in Queensland); and
 - (ii) an amount that is 2% of the gross amount paid or payable to the licensee for all wines made in Queensland;

being wines sold or supplied under authority of the licence to unlicensed persons during the assessment period.

(2) The fee payable on grant of a licence in respect of premises that are to be used immediately for sale of liquor for a portion only of a licence period then current is to be assessed in accordance with subsection (1) and, subject to subsection (4), by reference to an estimate made by the chief executive of what the relevant gross amount would have been if the licensee had been able to trade on the licensed premises during the whole of the assessment period, proportionately reduced having regard to the period that has expired since the start of the licence period.

(3) If, in any licence period—

- (a) a return is not lodged under section 205 in respect of a licence; or
- (b) a return lodged in respect of a licence is incomplete or insufficient to enable the relevant gross amount paid or payable for liquor to be determined; or

- (c) a return covering the whole of the assessment period cannot be lodged in respect of a licence;

the chief executive, subject to subsection (4), is to assess the fee payable in respect of the licence in such amount as the chief executive considers reasonable, by reference to the whole of the assessment period.

(4) If—

- (a) a fee assessed under subsection (1) in respect of a licence is less than a minimum fee prescribed by regulation in relation to licences of that class of licence; or
- (b) a licensee, authorised by the licence to sell liquor during the whole of the assessment period immediately before a licence period for which a fee is to be assessed in respect of the licence, has not traded during the assessment period;

the fee payable in respect of the licence for the licence period in question is the minimum fee prescribed by regulation in relation to licences of the class of licence.

(5) A fee assessed under this section is to be calculated to the nearest whole dollar (rounding 50c upwards).

Additional fee for bars in restaurants or residential licence premises

204. The holder of—

- (a) a residential licence; or
- (b) an on-premises licence relating to premises used for the primary purpose of eating meals prepared and served to be eaten on the premises;

who has the chief executive's approval to sell liquor under authority of the licence otherwise than in association with the consumer eating a meal must pay, in addition to all other fees payable by the holder, a fee for each licence period of the licence in an amount prescribed by regulation.

Filing of returns

205.(1) For the purpose of assessing fees in respect of a licence for a licence period, returns must be filed with the chief executive under this

section.

(2) In each licence period the holder of a licence other than—

- (a) a producer/wholesaler licence; or
- (b) a restricted club licence; or
- (c) a limited licence relating to premises used for conduct of a business selling wines by a person who holds a certificate of registration under the *Wine Industry Act 1974* as a vigneron-vintner;

must, within 21 days after the end of the assessment period, file with the chief executive a return in respect of all liquor purchased or otherwise obtained for the licensed premises during the assessment period.

Maximum penalty—25 penalty units.

(3) In each licence period the holder of—

- (a) a producer/wholesaler licence; or
- (b) a limited licence relating to premises used for conduct of a business selling wines by a person who holds a certificate of registration under the *Wine Industry Act 1974* as a vigneron-vintner; or
- (c) a certificate of registration under the *Wine Industry Act 1974*;

must, within 21 days after the end of each assessment period, file with the chief executive a return in respect of all liquor sold or supplied under authority of the licence or certificate during the assessment period.

Maximum penalty—25 penalty units.

(4) A return under subsection (2) or (3) must contain the particulars prescribed by regulation and be in a form approved by the chief executive.

Factors affecting assessment of fees

206. In assessing a fee payable in respect of a licence under section 203, an amount paid or payable for liquor of any of the following descriptions is to be disregarded—

- (a) liquor that is sold—

- (i) for export, and is exported, from Australia for consumption outside Australia; or
- (ii) to duty free shops; or
- (iii) for consumption on ships or aircraft on international journeys; or
- (iv) to a foreign embassy or consulate or to Government House; or
- (v) to religious organisations for sacramental purposes;
- (b) liquor purchased or otherwise obtained from the holder of a general licence for premises to which a licence or permit relates;
- (c) liquor purchased or otherwise obtained from a transferor of a licence by a transferee of the licence in the course of transfer of the business conducted under authority of the licence;
- (d) liquor of any other description prescribed by regulation.

Notification of assessment

207.(1) As soon as practicable after a fee payable in respect of a licence has been assessed, notification of the assessment must be given to the licensee.

(2) A notification of assessment must specify the due date for payment of the amount of the assessment.

Payment of fees

208.(1) The fee in respect of a permit is due and payable to the department on the day application for the permit is made.

(2) The fee in respect of a restricted club licence is due and payable to the department for each licence period of the licence on—

- (a) 1 July; or
- (b) for the first licence period if it starts on a day other than 1 July—the day the licence is granted.

(3) The fee in respect of a licence, other than a restricted club licence, is due and payable to the department on the day specified as the due date for

payment in the notification of assessment given to the licensee.

Suspension and cancellation for failure to pay fee

209. If a fee in respect of a licence or permit is not paid when it is due and payable, the licence or permit is immediately suspended and, subject to section 210, is cancelled at the end of 14 days.

Appeal concerning failure to pay fee

210.(1) A person aggrieved by the suspension and impending cancellation of a licence or permit because of a failure to pay a fee may appeal to the Tribunal on the ground that the failure was due to—

- (a) the business conducted under authority of the licence or permit has been adversely affected by a natural disaster; or
- (b) personal hardship of the licensee.

(2) Financial hardship is not a personal hardship for the purposes of subsection (1).

(3) An appeal is started by—

- (a) filing a notice of appeal with the registrar of the Tribunal within 14 days after the day on which the licence or permit is suspended; and
- (b) giving a copy of the notice to the chief executive within 7 days after the notice is filed with the registrar.

(4) If a notice of appeal has been filed with the registrar, the licence or permit will not be cancelled at the end of 14 days mentioned in section 209, but continues suspended until it is restored or cancelled as provided by section 211.

Determination of appeal

211.(1) The Tribunal must determine an appeal under section 210(1) within 30 days after notice of appeal is filed with the registrar.

(2) If it appears to the Tribunal that an appellant is not prosecuting an appeal diligently, it may strike out the appeal.

(3) In determining an appeal, the Tribunal may—

- (a) allow the appeal on condition that the fee due and payable is paid to the department within 7 days after the day on which the appeal is allowed; or
- (b) dismiss the appeal.

(4) If an appeal is allowed and the fee due and payable is paid to the department within 7 days after the day on which the appeal is allowed, the suspension of the licence or permit ceases on payment of the fee.

(5) If an appeal is—

- (a) dismissed or struck out; or
- (b) allowed, but the fee due and payable is not paid within 7 days after the day on which the appeal is allowed;

the licence or permit is immediately cancelled.

(6) If a licence or permit is cancelled under subsection (5), the portion of the fee assessed or payable in respect of it for the whole of the licence period in which it was suspended that is proportionate to the portion of the licence period that had expired before the suspension occurred is a debt due and payable to the department.

Reassessment of fee

212.(1) If a licensee has paid the fee assessed in respect of the licence, the chief executive—

- (a) may, on the chief executive's own initiative; and
- (b) must, on application made by the licensee;

review an assessment of the fee payable in respect of a licence if—

- (c) it is suspected that there is any error or miscalculation in the assessment; or
- (d) the assessment was based on information that is incorrect or incomplete; or
- (e) the assessment was based on an assumption as to the nature, scale or duration of the business to be conducted under authority of the licence that is incorrect.

(2) A review may be made under subsection (1) only within 5 years after the date of the assessment.

(3) If on review under subsection (1) an assessment is altered, a due adjustment is to be made and—

- (a) any amount overpaid must be—
 - (i) refunded to, or as directed by, the licensee; or
 - (ii) credited against future fees that may become payable by the licensee in respect of the licence;as the chief executive, by written notice given to the licensee, elects; and
- (b) any amount underpaid must, subject to section 213, be paid to the department by the licensee within 14 days after receipt by the licensee of notice of reassessment.

(4) If a reassessment is made of a fee payable for a licence period in which 2 or more persons held the licence, the chief executive may apportion an entitlement to refund, or a liability to pay, among those persons as the chief executive considers just, and such persons are entitled to refund, or are liable to make payment, as so apportioned.

(5) If a licence is surrendered or cancelled, any amount credited under subsection (3)(a) in respect of the licence must be refunded to, or as directed by, the former licensee.

(6) If—

- (a) a fee as reassessed is more than the fee as previously assessed; and
- (b) the chief executive is satisfied that the fee was previously assessed on the basis of information disclosed by the licensee that was known, or ought to have been known, by the licensee to be incorrect;

the chief executive may impose on the licensee a supplementary fee in respect of the licence in an amount determined by the chief executive that is—

- (c) not less than the amount by which the fee as reassessed exceeds the fee previously assessed; and

(d) not more than 3 times the amount.

(7) The licensee must pay to the department a supplementary fee within 14 days after receipt by the licensee of notice of the imposition of the supplementary fee.

(8) Sections 210 to 212 apply in respect of payment of a fee as reassessed or a supplementary fee imposed.

Liability for reassessed fee in certain cases

213.(1) If, at the time notification of the reassessment is to be given to a person—

- (a) the premises to which the licence related are no longer licensed premises; or
- (b) the licensee at that time is not the licensee at the time of payment of the fee previously assessed;

responsibility for payment to the department of the difference between the amount of fee paid and the fee as reassessed may be allotted or apportioned as the chief executive considers just to, between or among—

- (c) the licensee at the time the fee was previously assessed; and
- (d) the persons who, at the time of payment of the fee previously assessed, were directly or indirectly interested in the business, or the profits of the business, conducted under authority of the licence; and
- (e) the person (if any) who gave incorrect information, or failed to give information, because of which the fee has been reassessed;

or any of them.

(2) A person to whom responsibility is allotted or apportioned under subsection (1) is liable to pay to the department the amount so allotted or apportioned.

Discontinuance fee

214.(1) If—

- (a) a licensee surrenders the licence; or

(b) a licence is cancelled;

the chief executive may, on such surrender or cancellation, assess a discontinuance fee.

(2) A discontinuance fee is the amount of fee that, in the chief executive's opinion, would have been payable in respect of the licence had it continued in force for the next licence period of the licence, less the fee last paid in respect of the licence.

Refund of fee

215. If the chief executive—

- (a) accepts a surrender of a licence or permit; or
- (b) cancels a licence or permit;

in respect of which a fee, other than a discontinuance fee, has been paid for any period subsequent to the date of surrender or cancellation, a refund must be made to, or as directed by, the former licensee or permittee of the portion of the fee that is proportionate to the unexpired period for which the fee has been paid.

Unpaid fees a debt to State

216. An amount due and payable to the department as a fee payable in respect of a licence or permit is a debt due and payable to the State by the licensee, permittee or other person liable for payment.

Records to be kept by licensee

217.(1) A licensee must make and maintain a true and up-to-date record of all transactions made by or on behalf of the licensee that involve—

- (a) the purchase or other acquisition of liquor by or for the licensee;
or
- (b) the sale or supply of liquor by or on behalf of the licensee.

Maximum penalty—350 penalty units.

(2) The record—

- (a) must be in a language and form acceptable to the chief executive; and
- (b) must contain—
 - (i) the prescribed particulars; or
 - (ii) such of the prescribed particulars as are determined by the chief executive in relation to licences of a specified description; and
- (c) must be kept, on the licensed premises to which it relates or in some other place approved by the chief executive for 5 years after the day on which the record is made, by the licensee by whom it is made or, if the licence has since been transferred, by the licensee to whom it is last transferred.

(3) On a transfer of a business conducted under authority of a licence, the transferor must surrender to the transferee every record made and kept under this section relating to the business.

Maximum penalty—25 penalty units.

(4) The licensee who for the time being has possession or control of the record made and kept under this section must make it available for examination by an investigator on demand.

Maximum penalty—25 penalty units.

Powers of examination by investigator

218.(1) An investigator may, on reasonable notice, require a licensee or former licensee—

- (a) to produce to the investigator, at a place specified in the notice—
 - (i) a record made and kept under section 217; or
 - (ii) an accounting record or other record relating to the business conducted under authority of the licence;
 of which the licensee or former licensee has possession or control; and
- (b) to permit the investigator to examine any such record and—
 - (i) to make copies of, or take extracts from, the record; or

- (ii) to remove the record from the possession or control of the licensee or former licensee and keep it in the investigator's custody or control for preservation as evidence or a thorough examination, for such period as the investigator considers necessary.

(2) A person who fails, without reasonable excuse, to comply with a requirement under subsection (1) commits an offence.

Maximum penalty—25 penalty units.

(3) While an investigator has custody or control of a record removed under subsection (1)—

- (a) section 217(2)(c) is to be taken to be complied with; and
- (b) the investigator must permit, at all reasonable times—
 - (i) inspection of the record; and
 - (ii) making additions to the record;

by a person who, if the record had not been removed, would be entitled to inspect the record or make the additions.

(4) As soon as is practicable, an investigator who has removed a record under subsection (1) must return the record to the possession or control from which it was so removed.

Division 2—Continuance and source of Trust Fund

Payment of premium for general licence and special facility licence

219. The chief executive may grant a general licence or a special facility licence only if there is paid to the department a premium in an amount fixed by the chief executive in respect of the application for the licence.

Basis of calculation of premium

220. For the purpose of fixing the amount of premium, the chief executive must have regard to—

- (a) the extent of the locality to be served by the proposed licensed premises and the nature of the component parts of the locality;

and

- (b) the nature of the business proposed to be conducted on the proposed licensed premises; and
- (c) the size of the proposed licensed premises; and
- (d) the number and size of liquor outlets on the proposed licensed premises.

Continuance of Trust Fund

221.(1) The Trust Fund maintained in the Treasury in the name 'Liquor Act Fund' is to continue to be maintained.

(2) All amounts received by the department by way of premium paid in respect of grants of general licences or special facility licences must be paid to the Trust Fund.

Application of Trust Fund

222.(1) The amount standing to the credit of the Trust Fund may be applied as follows—

- (a) in payment of compensation payable in respect of surrendered general licences for so long as and to the extent that such compensation continues to be payable; and
- (b) expenses incurred by the chief executive in connection with payment of compensation specified in paragraph (a); and
- (c) assisting in programs directed to—
 - (i) discouraging intemperance; or
 - (ii) preserving the health of the community and its members against alcoholism; or
 - (iii) emphasising the dangers of consumption of liquor to users of the roads; or
 - (iv) establishing or maintaining culturally appropriate detoxification centres and other therapeutic facilities for persons suffering problems from liquor; or
 - (v) maintaining and enhancing education and training in patron

care; or

- (vi) furthering development of appropriate components in curricula of hospitality training courses.

(2) Amounts from time to time applied from the Trust Fund are to be allocated to the department administered by the Minister charged with responsibility for the relevant sector of public administration, and are to be expended for the purpose of such allocation as the relevant Minister considers appropriate, whether within the department or otherwise.

Supplementary payments to Trust Fund

223. If, in a financial year, the balance at credit of the Trust Fund falls below—

- (a) the amount required to pay compensation payable in respect of surrendered general licences as prescribed by Part 11; or
- (b) \$2 000 000;

the Treasurer may, by order, pay into the Trust Fund from the aggregate amount of fees paid in respect of all licences and permits throughout that year—

- (c) one-sixteenth of that aggregate; or
- (d) if a lesser amount is sufficient to restore the balance at credit of the Trust Fund to the prescribed level—that amount.

Amount of allocation from Trust Fund

224. In each financial year, such amount, being not less than 1.5% of the aggregate amount of fees paid in respect of all licences and permits throughout the previous financial year, as the Governor in Council authorises, must be applied from the Trust Fund to all or any of the purposes to which that fund may be applied under section 222.

PART 10—MISCELLANEOUS PROVISIONS

Review of Act

225. The Minister must cause a review of this Act to be undertaken at a time 1 year after the commencement of this section with a view to amending the Act as is considered appropriate.

Contravention of conditions of licences etc.

226. A person who contravenes a condition specified in—

- (a) a licence or permit; or
- (b) an authorisation to sell and supply liquor mentioned in Part 8;

commits an offence against this Act.

Maximum penalty—25 penalty units.

Payment of penalties to Consolidated Fund

227. Amounts recovered by way of penalty for an offence must be paid to the Consolidated Fund.

Suspension of licence for offences concerning minors

228. If, within a period of 2 years, 2 convictions are recorded against the holder of a licence for offences consisting of contraventions of—

- (a) section 155(1); or
- (b) section 156(1) or (2);

(whether for the same or different offences) the licence that relates to the premises on or from which the latest of the offences was committed, if it is still held by, or under the control of, the licence holder, is suspended—

- (c) for a period of 2 months; or
- (d) until the chief executive otherwise orders;

whichever period is less.

Liability for certain offences against Act

229.(1) Despite section 7 or 23 of the Criminal Code, if an offence against section 155, 156, 157 or 161 is committed by a person as agent or employee, the principal or employer is presumed to have participated in the offence, may be charged with actually committing the offence and, subject to subsection (2), may be punished for the offence.

(2) It is a defence to a charge made against a person under subsection (1) that—

- (a) the offence happened without the defendant's knowledge or authority; and
- (b) the defendant had exercised due diligence to avoid the commission of the offence.

Defence to charge if age material

230.(1) If the age of a person is material to a charge of an offence against this Act, it is a defence to prove that, at the time of the offence, the defendant (if the defendant is the actual offender) or an agent or employee (if the defendant is charged merely because of being principal or employer of the actual offender)—

- (a) honestly and reasonably believed that the person whose age is material to the offence had attained 18 years; or
- (b) had sighted acceptable evidence of age of the person whose age is material to the offence that indicated the person had attained 18 years;

and the operation of section 24 of the Criminal Code is excluded.

(2) Evidence that the defendant (if the defendant is the actual offender) or an agent or employee (if the defendant is charged merely because of being principal or employer of the actual offender) did not request the person whose age is material to the offence to produce acceptable evidence of age is evidence that any belief that the person had attained 18 was not reasonable.

False or misleading statements or documents

231.(1) A person must not—

- (a) make a statement under or for the purposes of this Act that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made under or for the purposes of this Act anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—100 penalty units or imprisonment for 6 months.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the information given was false or misleading to the person's knowledge.

(3) A person must not give a document under or for the purposes of this Act containing information that the person knows is false, misleading or incomplete in a material particular without—

- (a) indicating that the document is false, misleading or incomplete and the respect in which the document is false, misleading or incomplete; and
- (b) giving the correct information if the person has, or can reasonably obtain, the correct information.

Maximum penalty—100 penalty units or imprisonment for 6 months.

Forfeiture and disposal of seized property

232.(1) If—

- (a) property has been seized under any provision of this Act; and
- (b) a person is convicted of an offence against this Act consisting in an action done or omission made with which the seized property was associated;

the court by which the person is convicted may, on its own initiative or on application made to it by the complainant, order that all or any of the property be forfeited to the State.

(2) On the making of the order, the property—

- (a) is forfeited to the State; and
- (b) is to be sold in a way calculated to yield the best return to the State or, if that is impracticable, is to be otherwise disposed of as the

person having custody of the property considers appropriate.

(3) Proceeds of sale of the property are to be paid—

- (a) firstly, in meeting expenses of the sale; and
- (b) secondly, to the Consolidated Fund.

(4) A provision of this Act that requires anything seized to be returned to the person from whom it was seized ceases to apply in relation to the property.

Evidentiary provisions

233. In proceedings under this Act—

- (a) a copy of, or extract from, an entry in the Register of Licences and Permits kept under this Act, bearing a certificate purporting to be that of the chief executive that it is a true copy of, or extract from, the register is admissible as evidence of the entry in the register; and
- (b) a copy of—
 - (i) a licence or permit; or
 - (ii) an endorsement on a licence;bearing a certificate purporting to be that of the chief executive that it is a true copy of the licence or permit or the endorsement is admissible as evidence of the original licence or original endorsement; and
- (c) a copy of a notice of assessment of fees payable in respect of a licence or permit bearing a certificate purporting to be that of the chief executive that it is a true copy of the original notice of assessment is admissible as evidence of the original notice of assessment; and
- (d) an averment or allegation in a complaint of an offence against this Act that—
 - (i) a person specified has not, or had not at a material time, attained 18 years; or
 - (ii) a machine, apparatus or device is capable of being used for

betting or gaming; or

- (iii) a specified art union or lottery was not authorised by law at a material time;

is sufficient proof of the truth of the averment or allegation until the contrary is proved.

Service of documents

234.(1) Without limiting the ways by which a document may be served, a document to be given for the purposes of this Act to a licensee, permittee or nominee may be given—

- (a) by leaving it with a person who appears to be in charge of the premises to which the licence or permit relates; or
- (b) by affixing it to some conspicuous place on the premises to which the licence or permit relates.

(2) Service of a document given under subsection (1) or transmitted by telex, facsimile or electronic means is taken to have been effected at the time when it is so given or transmitted unless the contrary is proved.

Regulations

235.(1) The Governor in Council may make regulations for the purposes of this Act.

(2) A regulation may be made with respect to—

- (a) requirements in respect of an application made to the chief executive; and
- (b) obligations of holders of licences or permits; and
- (c) payment of fees under this Act and the way and purpose of their payment; and
- (d) particulars to be given for the purposes of this Act; and
- (e) the consumption or possession of liquor in a public place.

(3) A regulation may be made—

- (a) creating offences against the regulation; and

- (b) fixing a maximum penalty of a fine of 10 penalty units for an offence against the regulation.

PART 11—TRANSITIONAL PROVISIONS AND REPEALS

Division 1—General

Objects of Part

236. The objects of this Part are—

- (a) to repeal certain legislation and to provide for transition from the repealed Act to the current Act; and
- (b) to encourage rationalisation of the liquor industry by providing for payment of compensation for a limited period for surrender of general licences that under the repealed Act were licensed victualler's licences.

Interpretation

237. In this Part—

“Commission” means the Licensing Commission constituted under the repealed Act;

“Court” means the Licensing Court constituted under the repealed Act;

“current Act” means this Act (other than this Part);

“licence” includes a licence within the meaning of the repealed Act;

“licensed premises” includes licensed premises within the meaning of the repealed Act;

“licensee” includes a licensee within the meaning of the repealed Act;

“permit” includes a permit granted under the repealed Act;

“proclaimed day” means the day of commencement of this Part;

“**repealed Act**” means the *Liquor Act 1912*.

Division 2—Transitional provisions

Completion of proceedings in the Court

238.(1) Subject to subsections (2) and (3), a proceeding that—

- (a) has been started in the Court; and
- (b) has not been completed;

before the proclaimed day may be completed by the Court as if this Act had not been enacted, and for this purpose the Court’s jurisdiction conferred by the repealed Act is preserved.

(2) Subsection (1) does not apply to a proceeding whose completion requires only that the Court approve of compliance with conditions ordered by the Court to be fulfilled before a licence or permit is to be issued to a particular applicant.

(3) If, in a proceeding to which subsection (1) applies, a determination or an order is to be made for issue of a licence or permit, the determination or order must be for the issue of a licence under this Act that corresponds to a licence or permit applied for in the proceeding.

(4) A proceeding mentioned in subsection (2) may be continued before the chief executive, who may grant or withhold approval as if the chief executive were the Court.

(5) A proceeding continued before the chief executive is subject to Division 3 of Part 2.

Termination of Court

239. On completion of all proceedings to which section 238(1) applies, the Court ceases to exist.

Disposal of applications made to Commission

241.(1) An application for a permit or for an approval under section 5(vi) of the repealed Act that has not been disposed of before the proclaimed day

may be continued before, and be disposed of by, the chief executive.

(2) A proceeding before the chief executive on an application mentioned in subsection (1) is subject to Division 3 of Part 2.

(3) A decision that an application mentioned in subsection (1) be granted must be for the grant of—

- (a) a licence under the current Act that corresponds to the permit or approval applied for; or
- (b) if no licence so corresponds—a general purpose permit.

Table of corresponding licences

242. A licence specified in the column 1 of the following Table is the licence under the current Act that corresponds to a licence or permit under the repealed Act specified in column 2 opposite the reference to the first licence—

TABLE

Column 1 Corresponding licence	Column 2 Licence or permit under repealed Act
general licence	licensed victualler's licence; tavern licence; canteen licence; spirit merchant's (retail) licence.
residential licence	limited hotel licence; resort licence.

on-premises licence	restaurant licence; cabaret licence; function room licence; bistro licence; cultural centre licence; tourist park licence; theatre licence; airport licence; packet licence; railway refreshment room licence; college or institutional approval under section 5(vi).
producer/wholesaler licence	spirit merchant's licence.
club licence	golf club licence; bowling club licence; registered club licence; ex-servicemen's club licence; principal sporting club licence; workers' club licence.
restricted club licence	sporting club permit; unlicensed club permit;
special facility licence	public facility licence; casino licence; historic inn licence.
limited licence	caterer's licence; canteen permit under section 5(iv) or (v); vigneron-vintner's licence.

Continuance of existing licences

243.(1) A licence that has been issued under the repealed Act, and has not been surrendered or cancelled before the proclaimed day, continues in force and is taken to be a licence under the current Act that corresponds to it.

(2) Until a licence continued in force by subsection (1) is reviewed by the chief executive (on application of the licensee or on the chief executive's own initiative) it remains subject to the terms and conditions to which it is subject at the proclaimed day.

Continuance of existing permits

244.(1) A permit that has been issued under the repealed Act and has not expired, or been surrendered or cancelled, before the proclaimed day—

- (a) if it is a permit under section 75 of the repealed Act or of limited duration—continues in force until it expires or is earlier surrendered or cancelled; and
- (b) if it is another permit—continues in force for 6 months after the proclaimed day or until it is earlier surrendered or cancelled.

(2) A term or condition of a permit under section 75 of the repealed Act that requires a place to be used for a particular purpose ceases to have effect.

Continuance of business of brewers etc.

245. A person who at the proclaimed day conducts—

- (a) the business of a brewer; or
- (b) another business involving the sale or supply of liquor;

for which the holding of a licence was not required by the repealed Act, but is required by the current Act, is taken to hold a licence that authorises the person to conduct that business until—

- (c) in the case of a brewer—a producer/wholesaler licence is granted to the person under the current Act; or
- (d) in any other case—an appropriate licence is granted to the person under the current Act;

or, in either case, the end of 1 year after the proclaimed day.

Continuance of business of spirit merchant

246. Despite the provisions of the current Act, it is lawful for a person who at the proclaimed day holds a producer/wholesaler licence that before the proclaimed day was held as a spirit merchant's licence to sell liquor under authority of the licence as conferred immediately before the proclaimed day, subject to—

- (a) the terms and conditions specified in the licence; and
- (b) the relevant provisions of the repealed Act, which for this purpose are to be taken as continuing in force;

until—

- (c) transfer of the licence; or
- (d) if the holder of the licence is a body corporate—a change in the beneficial ownership of the controlling interest in the holder.

Review of licences

247.(1) The chief executive must review every licence that is in force at the proclaimed day with a view to ensuring that—

- (a) the terms and conditions to which the licence is subject are not inconsistent with the current Act; and
- (b) the licence is endorsed with all terms and conditions considered by the chief executive as appropriate to be determined and specified in the licence consequent on the enactment of this Part.

(2) Subsection (1)(a) does not apply to a term or condition varying or extending hours under section 17A of the *Liquor Regulation 1955*.

(3) For the purpose of reviewing a licence under subsection (1), the chief executive may direct the licensee to produce the licence to the chief executive within a specified reasonable period.

(4) A person must not, without reasonable excuse, contravene a direction under subsection (3).

Maximum penalty for subsection (4)—25 penalty units.

Enforcement of orders etc. under repealed Act

248.(1) Every—

- (a) order of the Court; or
- (b) direction or requisition;

made or issued under the repealed Act, and not complied with before the proclaimed day, continues in force until it is complied with, and is taken to be an order of the chief executive, or a requisition of an investigator, made or issued under the current Act.

(2) A person must not, without reasonable excuse, contravene an order, direction or requisition mentioned in subsection (1).

Maximum penalty—25 penalty units.

Recovery of outstanding amounts

249. All amounts due and payable under or for the purposes of the repealed Act at or after the proclaimed day are debts due and payable to the State.

Apportionment of licence fees under s.18B of repealed Act

249A.(1) Despite the repeal of the repealed Act and subject to subsections (3) and (5), section 18B of the repealed Act continues to apply to every case to which it applied under the repealed Act immediately before the proclaimed day as if the section had not been repealed.

(2) In applying section 18B of the repealed Act under this section—

- (a) a reference to a licensed victualler under the repealed Act—
 - (i) is a reference to the holder of a licence under this Act that corresponds under section 242 to a licensed victualler's licence, or a licence that was taken to be a licensed victualler's licence, under the repealed Act; and
 - (ii) includes a reference to the holder of any licence under the repealed Act to which section 18B applied, or was taken to have applied, immediately before the proclaimed day; and
- (b) a reference to licensed premises under the repealed Act is a

reference to licensed premises under this Act; and

- (c) a reference to a licensed victualler's licence under the repealed Act—
 - (i) is a reference to a licence under this Act that corresponds under section 242 to a licensed victualler's licence, or a licence that was taken to be a licensed victualler's licence, under the repealed Act; and
 - (ii) includes a reference to any licence under the repealed Act to which section 18B applied, or was taken to have applied, immediately before the proclaimed day; and
- (d) a reference to a fee payable under the repealed Act is a reference to a fee payable in respect of a licence under this Act; and
- (e) all other necessary changes are taken to be made.

(3) The rights that a person has because of subsection (1)—

- (a) cease when the term (including a further term arising under the exercise of an option of renewal) of the person's lease, agreement for lease or other tenancy agreement relating to the licensed premises, and in force immediately before the proclaimed day, expires or is lawfully terminated, whichever happens first; and
- (b) if the licence concerned is transferred under section 113—are, subject to paragraph (a), exercisable by the transferee.

(4) Subsection (3)(a) does not affect the enforcement of any right that a person has under this section if the right accrued before the expiry or termination.

(5) Subsection (1) does not apply to persons (and their transferees) who, between 1 July 1992 and the day of the introduction into the Legislative Assembly of the Bill for this Act—

- (a) entered into an agreement; or
- (b) varied a lease, agreement for lease or tenancy agreement;

relating to licensed premises to which subsection (1) would otherwise apply in a way that has the effect of providing for the adjustment between them of financial obligations that arise out of or relate to the apportionment of licence fees relating to licensed premises under section 18B of the repealed Act or

licence fees payable in relation to the premises under this Act.

Division 3—Compensation for surrendered general licences

Negotiation for compensation

250.(1) In this section—

“nominated period” means the period of 28 days starting on the day of publication of a notice under subsection (8);

“relevant premises” means the premises to which a licence mentioned in this section—

- (a) relates; or
- (b) related before its surrender.

(2) This section applies if—

- (a) in a proceeding to show cause why a general licence that, before the proclaimed day, was held as a licensed victualler’s licence or a tavern licence should not be cancelled, instituted within 3 years after the proclaimed day, the chief executive has determined to cancel the licence; or
- (b) a request to the chief executive to accept the surrender of a general licence that, before the proclaimed day, was held as a licensed victualler’s licence or a tavern licence is made—
 - (i) within 3 years after the proclaimed day; or
 - (ii) on invitation of the chief executive in proceedings mentioned in paragraph (a).

(3) Before the chief executive makes an order for cancellation of a licence in a case to which this section applies under subsection (2)(a), the chief executive may in an appropriate case invite the licensee and owners of the relevant premises to request the chief executive under section 133 to accept the surrender of the licence, within a time specified by the chief executive.

(4) If a request is not properly made within the time specified in response to an invitation under subsection (3), the chief executive may proceed to make an order for cancellation of the licence without further reference to this

section.

(5) Before written notice of acceptance of a surrender of a licence is given in a case to which this section applies under subsection (2)(b), the chief executive must invite—

- (a) the licensee; and
- (b) the owners of the relevant premises; and
- (c) every person of whom the chief executive has knowledge whose secured interest would be adversely affected by surrender of the licence;

to enter into negotiation with the chief executive as to the amount of compensation that should be paid in respect of the surrender.

(6) The objective of a negotiation under subsection (5) is to establish the amount (and, where necessary, its apportionment) accepted by the chief executive as fair and reasonable.

(7) When, following negotiation under subsection (5), the chief executive determines—

- (a) the amount of compensation payable; and
- (b) where necessary, apportionment of the amount among persons who appear to the chief executive to be entitled to share in the compensation;

the chief executive may accept the surrender of the licence under section 133.

(8) Following acceptance of the surrender of a licence and before compensation is paid, the chief executive must cause to be published in the Gazette and in a newspaper circulating in the locality where the relevant premises are situated a notice that—

- (a) compensation is to be paid for surrender of the licence in respect of relevant premises identified in the notice, to or among persons specified in the notice; and
- (b) any secured creditor of the owner, lessee, sublessee or licensee of the relevant premises who claims an entitlement to the compensation or any part of the compensation may lodge, within the nominated period, full particulars of the claim.

(9) The chief executive must not pay compensation or, if it has been apportioned, the part of compensation, against which a claim is made, within the nominated period, by a secured creditor of the owner, lessee, sublessee or licensee of relevant premises until the matter of the claim is settled between the creditor and debtor, or the claim is withdrawn.

(10) If a claim is settled, compensation, to the extent that it is affected by the claim, must be paid in accordance with the terms of settlement.

(11) To the extent that compensation is not affected by a claim, made within the nominated period, that has not been withdrawn, compensation may be paid at any time after the end of the nominated period.

SCHEDULE**RULES OF CLUBS**

sections 88 and 92

Rules of a club—

- (a) must provide that a person cannot be admitted as a member unless the person makes written application for membership and the application is approved at a meeting of the club's management committee; and
- (b) except in the case of a club that exists primarily for sporting purposes, must provide that a minor cannot be admitted as a member of the club; and
- (c) must provide that the members of the club entitled to vote at any meeting of the club do not include temporary or honorary members or minors; and
- (d) must provide that the club's management committee must be elected by the voting members of the club at a general meeting of the club for a period of at least 1 year; and
- (e) must provide that the management committee of the club must present to each annual general meeting of the club—
 - (i) a written report of the club's operation throughout the year; and
 - (ii) an audited statement of the club's financial position; and
- (f) must preclude the payment to an officer or employee of the club of an amount by way of commission or allowance calculated by reference to the quantity of liquor sold or supplied by the club or the receipts of the club for such liquor; and
- (g) must be consistent with the club being a non-proprietary club.

ENDNOTES

1 Index to Endnotes

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2 Date to which amendments incorporated

This is the day mentioned in section 5(c) of the *Reprints Act 1992*. Accordingly, this reprint includes all amendments that commenced operation on or before 8 June 1992. Future amendments of the *Liquor Act 1992* may be made in accordance with this reprint because of section 49 of the *Reprints Act 1992*.

3 Table of reprints

Reprint No.	Amendments included	Reprint date
1	none	1 October 1992
2	to Act No. 50 of 1992	1 December 1992

4 List of legislation

Liquor Act 1992 No. 21

date of assent 22 May 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1992 (1992 SL No. 136)

as amended by—

Liquor Amendment Act 1992 No. 50

date of assent 30 November 1992

ss 3 and 5 commenced 1 July 1992 (see s 2)

remaining provisions commenced on date of assent

Liquor Amendment Act 1993 No. 10

date of assent 20 May 1993

commenced on date of assent

5 List of annotations**Key to abbreviations in list of annotations**

RA	=	<i>Reprints Act 1992</i>
amd	=	amended
ins	=	inserted
om	=	omitted
renum	=	renumbered
sub	=	substituted
Pt hdg	=	Part heading
Div hdg	=	Division heading
Sdiv hdg	=	Subdivision heading
hdg prec	=	heading preceding
prov hdg	=	provision heading
cl	=	clause
pres	=	present
prev	=	previous

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Restrictions on grant of club licence

s 86 amd 1993 No. 10 s 3

Conduct causing public nuisance

s 164 amd 1993 No. 10 s 4

Division 4—Provisions concerning consumption of liquor in certain public places

Div hdg ins 1992 No. 50 s 4

Definitions

s 173A ins 1992 No. 50 s 4

Consumption of liquor in certain public places prohibited

s 173B ins 1992 No. 50 s 4

Local authority may designate public places where liquor may be consumed

s 173C ins 1992 No. 50 s 4

Local authority must advertise designation and place signs

s 173D ins 1992 No. 50 s 4

Local authority must advertise repeal or amendment of designation and remove or alter signs

s 173E ins 1992 No. 50 s 4

Prohibition orders

s 192 amd 1993 No. 10 s 5

PART 11—TRANSITIONAL PROVISIONS**Pt hdg** amd (see s 37 RA)**Termination of Commission****s 240** om (see s 38 RA)**Apportionment of licence fees under s.18B of repealed Act****s 249A** ins 1992 No. 50 s 5**Division 4—Repeals****Div hdg** om (see s 37 RA)**Table of Acts repealed****s 251** om (see s 40 RA)**6 Table of corrected minor errors**TABLE OF CORRECTED MINOR ERRORS
under section 7(1)(j) of *Reprints Act 1992*

Section	Description
s 82	om '82.(1) A' ins '82. A'
s 99	om '99.(1) The' ins '99. The'
s 104	om '104.(1) A' ins '104. A'
s 119	om '(3) In' ins '(4) In'
s 148	om '148.(1) A' ins '148. A'
s 185(2)(a)	om 'Act; and' ins 'Act; or'