



Liquor Act 1992

Reprinted as in force on 1 July 2011

Reprint No. 10

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- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

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- use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- reorder definitions consistent with current drafting practice (ss 30)
- use aspects of format and printing style consistent with current drafting practice (s 35).

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 information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Spelling

The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).

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Queensland

Liquor Act 1992

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Liquor Act 1992

[as amended by all amendments that commenced on or before 1 July 2011]

An Act to regulate the sale and supply of liquor and the provision of adult entertainment

Part 1 Preliminary

1 Short title

This Act may be cited as the *Liquor Act 1992*.

2 Commencement

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

3 Main purposes of Act

The main purposes of this Act are—

- (a) to regulate the liquor industry, and areas in the vicinity of licensed premises, in a way compatible with—
 - (i) minimising harm, and the potential for harm, from alcohol abuse and misuse and associated violence; and

Examples of harm—

- adverse effects on a person's health
- personal injury
- property damage

- (ii) minimising adverse effects on the health or safety of members of the public; and

[s 3A]

- (iii) minimising adverse effects on the amenity of the community; and
- (b) 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
- (c) to provide for the jurisdiction of the tribunal to hear and decide reviews of certain decisions under this Act; and
- (d) 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
- (e) to regulate the sale and supply of liquor in particular areas to minimise harm caused by alcohol abuse and misuse and associated violence; and
- (f) to regulate the provision of adult entertainment; and
- (g) to provide revenue for the State to enable the attainment of this Act's main purposes and for other purposes of government.

3A Principle underlying this Act for facilitating and regulating the liquor industry

- (1) The underlying principle of this Act in relation to the sale and supply of liquor is—
 - (a) a person may obtain a licence to sell or supply liquor as part of conducting a business on premises; and
 - (b) liquor may only be sold or supplied on the licensed premises as part of the person conducting a business, on the licensed premises, that is the principal activity under the licence.
- (2) This Act states the principal activity of a business that may be conducted under each type of licence.

- (3) This Act must be administered in accordance with the underlying principle of this Act.
- (4) This section applies subject to the main purpose of this Act mentioned in section 3(a).

4 Definitions

In this Act—

accepted representations see section 142ZC(2).

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.

adult entertainment has the meaning given by section 103N(2).

adult entertainment permit means a permit granted under this Act authorising a person to provide adult entertainment.

affected by bankruptcy action, in relation to an individual, means the individual, in any jurisdiction—

- (a) is bankrupt; or
- (b) has compounded with creditors; or
- (c) has otherwise taken, or applied to take, advantage of any law about bankruptcy.

amenity, of a community or locality, means—

- (a) the atmosphere, ambience, character and pleasantness of the community or locality; and
- (b) the comfort or enjoyment derived from the community or locality by persons who live in, work in or visit the community or locality.

Anzac Day event, for an RSL or Services Club, means an event or occasion organised by the club to commemorate Anzac Day.

[s 4]

approval, for parts 5A and 5B, means an approval, under part 5A, as a trainer for the licensee's course or approved training course.

approved area has the meaning given by section 103P(1).

approved extended trading hours, for licensed premises, means the trading hours mentioned in an extended trading hours approval for the premises that is endorsed, under section 85(1), on the licence.

approved form means a form approved by the chief executive.

approved risk-assessed management plan see section 50.

approved training course means a course approved by the chief executive about the responsible service of liquor.

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.

assistant commissioner, for a locality, means the assistant commissioner in charge of the police service for the locality.

associate has the meaning given by section 4C.

authorised person, for part 6C, see section 173Q.

bar licence means a commercial other licence for conducting a business with the principal activity mentioned in section 70.

boat means a boat, ship or other vessel of any size or kind, and includes a hovercraft.

brothel licence has the meaning given by the *Prostitution Act 1999*, schedule 4.

change day—

- (a) for part 12, division 7, subdivision 1—see section 276; and
- (b) for part 12, division 7, subdivision 2—see section 282.

civil banning order, for part 6C, see section 173S(1).

club means an association of persons who meet periodically—

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

code means the adult entertainment code made and approved under section 103N.

column 1 licence, for part 12, division 8, see section 288.

column 1 permit, for part 12, division 8, see section 288.

column 2 licence, for part 12, division 8, see section 288.

column 2 permit, for part 12, division 8, see section 288.

commencement means—

- (a) for part 12, division 6, see section 268; or
- (b) for part 12, division 8, see section 288.

commission means the Queensland Liquor and Gaming Commission continued in existence under the *Gaming Machine Act 1991*, section 15.

commissioner means the commissioner of the police service.

community area means a community area under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

community impact statement means a statement by that name required to be given to the chief executive under section 116.

community investment fund, for part 9, see section 199.

community justice group means a community justice group established under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, part 4.

community police officer means a person who is—

- (a) appointed as a community police officer under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, or as an Aboriginal police officer under the *Local Government (Aboriginal Lands) Act 1978*, for a community area; and

[s 4]

- (b) authorised under that Act to exercise the powers of an investigator under part 7 of this Act for the administration and enforcement of a prescribed provision and sections 168B, 169 and 171 in the area.

controller means a person authorised by the chief executive under section 109B to supervise the provision of adult entertainment.

corporatised corporation means a corporate entity under the *Local Government Act 2009*.

council means—

- (a) an indigenous local government under the *Local Government Act 2009*; or
- (c) the Council of the Shire of Aurukun; or
- (d) the Council of the Shire of Mornington.

crowd controller, for part 5, division 6, see section 142AD.

current licensee's course certificate means a licensee's course certificate that is in force.

current training course certificate means a training course certificate that is in force.

decision of significant community impact, for part 5, division 7, see section 142AO(1).

designated public place, for part 6A, division 3, see section 173K.

detached bottle shop means premises approved by the chief executive as mentioned in section 60(1)(d), even if the premises are subsequently relocated under section 154A or transferred under section 154B.

development approval see the *Sustainable Planning Act 2009*, schedule 3.

disciplinary action, relating to a licence, means—

- (a) cancelling the licence; or
- (b) suspending the licence—

-
- (i) for a stated period; or
 - (ii) until further ordered by the chief executive up to a maximum period of 1 year; or
 - (c) closing the licensed premises, or part of the licensed premises, for a stated period; or
 - (d) varying the licence by—
 - (i) stating in the licence a condition to which it is to be subject; or
 - (ii) otherwise limiting the authority conferred by the licence; or
 - (da) cancelling an extended trading hours approval endorsed on the licence; or
 - (e) reducing the times at which the licensee may conduct business under authority of the licence; or
 - (f) disqualifying the licensee from holding a licence or permit—
 - (i) for a stated period; or
 - (ii) until further ordered by the chief executive up to a maximum period of 5 years; or
 - (g) requiring the licensee to pay to the department an amount of not more than \$10000; or

Editor's note—

The department may require the licensee to pay the department an amount of not more than \$10000 for each ground for which disciplinary action is taken—see part 5, division 3, subdivision 3 (Disciplinary action relating to licences).

- (h) requiring the licensee to undertake the licensee's course within a stated period; or
- (i) reprimanding the licensee.

disqualified person means a person disqualified under section 228A from holding a licence or permit.

drink safe precinct, for parts 6B and 6C, see section 173O.

[s 4]

entertainment, for an on-premises (cabaret) licence, see section 4AA.

executive officer, of a corporation, in sections 4C and 107E, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

exempt minor see section 155.

exit, of premises, for part 5, division 6, see section 142AD.

extended trading hours approval see section 84.

family of an individual, has the meaning given by the *Prostitution Act 1999*, schedule 4.

fee includes a tax.

function see section 4A.

have in possession includes have under control in any place, whether for the use or benefit of the person in relation to whom the term is used or another person, even though another person has the actual possession or custody.

incident register, for part 5, division 6, see section 142AD.

indigenous regional council means an indigenous regional council under the *Local Government Act 2009*.

industrial canteen licence means a commercial other licence for conducting a business with the principal activity mentioned in section 71A.

information notice, for a decision of the chief executive under part 5A, means a written notice stating the following—

- (a) the decision and the reasons for it;
- (b) that the person to whom the notice is given may apply to the chief executive for a review of the decision;
- (c) how the person may apply for a review.

interested person, in section 43 and part 5, division 3, subdivision 3, means a person who—

-
- (a) is an owner, lessee or mortgagee of licensed premises or a secured creditor of a licensee whose interest is likely to be affected by cancellation of the licence for the premises; and
 - (b) has, under section 44A(2), given the chief executive particulars of the person's interest in the licence.

interest in a brothel has the meaning given by the *Prostitution Act 1999*, section 7.

interim civil banning order, for part 6C, see section 173Y(2).

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; or
- (c) in part 7—
 - (i) any police officer; or
 - (ii) for the administration and enforcement of sections 168B, 169 and 171—a community police officer.

licence includes a licence granted or provisionally granted, and a staged development approval issued, under this Act.

licence period means the period for which a fee is payable in respect of a licence or permit.

licensed brothel has the meaning given by the *Prostitution Act 1999*, schedule 4.

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

[s 4]

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.

licensee's course see section 142A(1).

licensee's course certificate means a certificate in the approved form—

- (a) given to a person, for satisfactorily completing the licensee's course, by someone who holds an approval under part 5A as a trainer for the course; and
- (b) stating the certificate remains in force for 3 years after it is given to the person.

liquor see section 4B.

main premises, for part 4A, division 2, see section 101.

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.

member of a reciprocal club, in relation to a club with a community club licence, community other licence or restricted liquor permit, means a member of another club whose members have privileges at the club with the licence or permit because of arrangements between the clubs.

mortgagee includes a lienee.

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.

ordinarily set aside for dining, for a part of licensed premises, means the part of the licensed premises that is set aside as the regular or usual place for dining on the licensed premises, but does not include a part of the licensed premises set aside merely for a particular day.

original decision, for a review under part 5B, see section 142N(1).

patron, in relation to licensed premises or premises to which a permit relates, includes a person entering or seeking to enter the premises to use the areas, facilities or services on offer at the premises.

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.

post-amended Act means—

- (a) for part 12, division 6, see section 268; or
- (b) for part 12, division 8, see section 288.

pre-amended Act means—

- (a) for part 12, division 6, see section 268; or
- (b) for part 12, division 8, see section 288.

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.

prescribed provision means the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, section 34.

prescribed quantity see section 173H(2).

private event see section 101.

producer/wholesaler licence means a commercial other licence for conducting a business with the principal activity mentioned in section 72.

proposed action see section 142ZB(2)(a).

prostitution has the meaning given by the Criminal Code, section 229E.

provisional licence means a licence issued under section 123(2).

public event see section 101.

register means the register kept under section 43.

relevant action, relating to an adult entertainment permit, means—

- (a) cancel the permit; or
- (b) suspend the permit for a stated period; or
- (c) impose conditions on, or vary conditions of, the permit.

relevant licence—

- (a) for part 12, division 7, subdivision 1—see section 276; and
- (b) for part 12, division 7, subdivision 2—see section 282.

relevant period, for a development approval, means the first of the following periods to end—

- (a) the period for the approval under the *Sustainable Planning Act 2009*, section 341;
- (b) 4 years after the day the approval takes effect.

relevant public sector entity means—

- (a) an entity controlled by 1, or more than 1, local government; or
- (b) an entity controlled by an entity mentioned in paragraph (a).

remote industrial locality, for part 3A, division 4, subdivision 5, see section 71.

resident, in relation to licensed premises or premises to which a permit relates, means a resident of the premises.

respondent, for part 6C, see section 173S(1).

restricted area means an area declared under section 173G(1) to be a restricted area.

risk-assessed management plan see section 50.

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.

show cause notice see section 142ZB(1).

show cause period see section 142ZB(2)(e).

staged development approval see section 123A(2).

subsidiary off-premises licence means a commercial other licence for conducting a business with the principal activity mentioned in section 68.

subsidiary on-premises licence means a commercial other licence for conducting a business with the principal activity mentioned in section 67.

[s 4]

takeaway liquor means liquor that is sold on licensed premises to be consumed off the licensed premises.

trading period—

- (a) for part 5, division 5, see section 142AA(1); and
- (b) for part 5, division 6, see section 142AD.

training course certificate means a certificate in the approved form—

- (a) given to a person, for satisfactorily completing the approved training course, by someone who holds an approval under part 5A as a trainer for the course; and
- (b) stating the certificate remains in force for 3 years after it is given to the person.

training register, for part 5, division 6, see section 142AD.

tribunal means QCAT.

tribunal Act means the QCAT Act.

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) a licence under this Act; or
- (b) a licence under the *Wine Industry Act 1994*; or
- (c) an approval, however described, under a law of the Commonwealth or a State that allows the approval holder to sell liquor.

unlicensed premises means premises to which a licence or permit does not relate.

wine has the meaning given by the *Wine Industry Act 1994*.

4AA Meaning of *entertainment*

- (1) *Entertainment*, for a subsidiary on-premises licence for which the principal activity is the provision of entertainment, means entertainment provided by a person—
 - (a) who is physically present when providing the entertainment; and
 - (b) whose function is to present the entertainment.
- (2) However, *entertainment*, for a subsidiary on-premises licence for which the principal activity is the provision of entertainment, does not include entertainment using facilities that do not require a person present to provide the entertainment.

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

- 1 pool tables
- 2 jukeboxes

4A Meaning of *function*

- (1) *Function* is an event or occasion to which persons are invited by, or for, the organiser of the event or occasion.
- (2) However, *function* does not include an event or occasion organised—
 - (a) by the owner or licensee of the licensed premises where the event or occasion is held if the event or occasion is for the owner's or licensee's own benefit; or
 - (b) by someone else if the owner or licensee of the premises where the event or occasion is held is entitled to receive a benefit other than a charge for using the premises and providing catering facilities.

4B Meaning of *liquor*

- (1) *Liquor* is a spiritous or fermented fluid of an intoxicating nature intended for human consumption.

[s 4C]

- (2) **Liquor** also includes any other substance intended for human consumption in which the level of ethyl alcohol (ethanol) is more than 5mL/L (0.5%) at 20°C.

Examples of other substances—

ice confections, jellies and aerosol sprays

- (3) **Liquor** also includes any other substance containing ethyl alcohol (ethanol), which substance is prescribed under a regulation as liquor.
- (4) However, **liquor** does not include a fluid, that would otherwise be liquor, if it is used merely as a preservative or medium in which fruit is offered for sale to the public in sealed containers and with the contents visible.

4C Meaning of *associate*

- (1) For an adult entertainment permit, a person is an ***associate*** of an individual if the person—
- (a) is a member of the individual's family; or
 - (b) has entered into a business arrangement or relationship with the individual for the provision of adult entertainment; or
 - (c) is the owner or lessor, either alone or jointly, of premises used or proposed to be used for the provision of adult entertainment under an adult entertainment permit.
- (2) A person is an ***associate*** of a corporation if the person is an executive officer of the corporation.

5 Who is a responsible adult for a minor

Each of the following persons is a responsible adult for a minor—

- (a) a parent, step-parent or guardian of the minor;
- (b) an adult who has parental rights and responsibilities for the minor.

6 Acceptable evidence of age

- (1) For this Act, acceptable evidence of the age of a person is a document that is—
- (a) a proof of age card issued to the person by—
 - (i) the chief executive of the department in which the *Transport Operations (Road Use Management) Act 1995* is administered; or
 - (ii) an entity of the Commonwealth or another State performing functions similar to the functions of the chief executive under the *Adult Proof of Age Card Act 2008*; or
 - (iii) an entity approved in writing by the chief executive; or
 - (b) an adult proof of age card issued under the *Adult Proof of Age Card Act 2008*.
- (2) For subsection (1)(a)—
- proof of age card*** means a document that—
- (a) contains a photo of the person to whom it is issued; and
 - (b) indicates by reference to the person's date of birth or otherwise that the person has attained a particular age.

7 Presumed quantity of liquor

For the purposes of this Act—

- (a) 12 containers each containing at least 700mL of liquor, or 24 containers each containing at least 345mL of liquor, are to be taken to contain a total quantity of 9L of liquor; and
- (b) 6 containers each containing at least 700mL of liquor, or 12 containers each containing at least 345mL of liquor, are to be taken to contain a total quantity of 4.5L of liquor.

[s 8]

8 Venue of sale of liquor

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.

9 Ordinary trading hours

- (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.
- (1A) Subject to subsections (2) and (3), on any day other than Good Friday or Christmas Day, the ordinary trading hours of licensed premises are between 10a.m. and 12 midnight, unless the premises are any of the following—
 - (a) premises to which a producer/wholesaler licence relates;
 - (b) premises to which an industrial canteen licence relates;
 - (c) an airport or casino to which a commercial special facility licence relates;
 - (d) premises to which a commercial hotel licence, community club licence or commercial special facility licence relates, for the sale of takeaway liquor.
- (1B) Subject to subsections (2) and (3), on any day other than Good Friday or Christmas Day, ordinary trading hours of an airport or casino to which a commercial special facility licence relates are between 5a.m. and 12 midnight.
- (1C) Subject to subsections (2) and (3), on any day other than Good Friday or Christmas Day, ordinary trading hours of premises to which a commercial hotel licence, community club licence

or commercial special facility licence relates, for the sale of takeaway liquor, are between 10a.m. and 10p.m.

- (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 1p.m. on Anzac Day except—
 - (i) for sale of liquor to a person to consume on the premises in association with the consumer eating a meal in a part of the premises ordinarily set aside for dining if the meal is prepared, served and intended to be eaten on the premises between 10a.m. and 1p.m., or the period between 6a.m. and 1p.m. that the chief executive approves in a particular case; or
 - (ii) as specified in paragraph (b);
 - (b) of licensed premises on the premises of an RSL or Services Club—subject to subsection (2), include the period from 5a.m. until 1p.m. on Anzac Day.
- (4) Subject to subsections (2), (3) and (7), the ordinary trading hours of licensed premises to which a producer/wholesaler licence relates are the trading hours of the premises under the *Trading (Allowable Hours) Act 1990*.
- (5) Subject to subsection (2), on Good Friday and Christmas Day ordinary trading hours of all licensed premises, other than premises to which a producer/wholesaler licence relates, are—
 - (a) for sale of liquor to a person to consume on the premises in association with the consumer eating a meal in a part of the premises ordinarily set aside for dining if the meal is prepared, served and intended to be eaten on the premises—between 10a.m. and 12 midnight; or

[s 10]

- (b) for other sale of liquor—nil.
- (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, to a person to consume on the premises in association with the consumer eating a meal in a part of the premises ordinarily set aside for dining if the meal is prepared, served and intended 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 10a.m. and 12 midnight as the chief executive approves in a particular case.
- (12) In respect of licensed premises to which a commercial hotel licence, community club licence or commercial special facility licence relates, the chief executive may approve, as ordinary trading hours, different hours for different parts of the licensed premises.
- (13) The ordinary trading hours of licensed premises for New Year's Eve day are the ordinary trading hours for the premises for the day and, if the ordinary trading hours would end before 2a.m. on New Year's Day, the ordinary trading hours are extended until 2a.m.

10 When supply of liquor is in association with eating a meal

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) after the consumer orders the meal and before he or she finishes eating it; or

-
- (c) within 1 hour after the consumer has finished eating the meal;
- and at no other times.

10A When meal is taken not to have been prepared and served to be eaten on premises

- (1) For this Act, a meal is taken not to have been prepared and served to be eaten on premises if the preparation does not involve adding value to the food comprising the meal.
- (2) Without limiting subsection (1), a person does not add value to food comprising a meal by merely heating a product the person purchased.

Example for subsection (2)—

A person does not add value to food if the person heats a prepackaged pie or other item and serves it.

- (3) However, the preparation of a meal is taken to involve adding value to the food comprising the meal if the meal forms part of a menu and the majority of menu items offered and available are meals the preparation of which otherwise involves adding value to the food comprising the meals.

11 Public place

- (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—

[s 12]

- (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.

12 Exemptions

- (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) Also, this Act does not apply to the following—
 - (a) a sale in good faith of spirituous or distilled perfume as perfumery;
 - (b) a sale of spirituous cooking essence, other than for use as a beverage or for manufacturing a beverage, if—
 - (i) the essence is sold in a container containing not more than—
 - (A) if the essence is vanilla essence—100mL; or
 - (B) in any other case—50mL; or
 - (ii) the sale is by wholesale;
 - (c) a sale of liquor in a refreshment room of Parliament House by permission and under control of the Parliament;
 - (d) a sale of liquor in the lawful operation of an Australian Defence Force canteen;

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- (e) a sale in good faith of spirits or wine by a pharmacist as medicine or for medicinal or chemical purposes;
 - (f) a sale at auction conducted by a licensed auctioneer—
 - (i) of liquor for a person who is authorised by this Act to sell the liquor; or
 - (ii) by order of a trustee under the *Bankruptcy Act 1966* (Cwlth), of liquor held by the trustee as trustee under that Act; or
 - (iii) by order of the executor, administrator or trustee of the estate of a deceased person, of liquor that is the property of the deceased's estate; or
 - (iv) by order of the public trustee, of liquor that is the property of an estate in the course of administration by the public trustee;
 - (g) a sale, during actual flight of an aircraft, of liquor to a passenger on the aircraft made for the aircraft's operator and for consumption during the flight;
 - (h) a sale of liquor by a provider of bed and breakfast accommodation or host farm accommodation to a guest of the provider for consumption on the premises at which the accommodation is provided;
 - (i) a sale of liquor to a person by the proprietor of a duty free shop described in a warehouse licence under the Customs Act if—
 - (i) the sale takes place at the duty free shop; and
 - (ii) the liquor is goods specified in a permission given to the proprietor under section 96A or 96B of that Act; and
 - (iii) the liquor is to be delivered to the person under the permission;
 - (j) a sale of liquor forming part of a floral arrangement or gift basket to be delivered as a gift to a person (the *relevant person*) other than the purchaser of the floral arrangement or gift basket, if—

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- (i) the sale is part of a florist's business or the business of a person selling gift baskets; and
 - (ii) the relevant person is an adult; and
 - (iii) the gift is to be delivered to a place other than the place at which the business mentioned in subparagraph (i) is conducted; and
 - (iv) the quantity of the liquor is not more than 2L and, if the liquor includes spirits, the quantity of spirits is not more than 1L; and
 - (v) the total value of the liquor and the container in which it is supplied is not more than 75% of the gift's sale price or a lesser amount prescribed under a regulation; and
 - (vi) the liquor had been purchased on a retail basis;
- (k) a sale of liquor in a retirement village to a person who is a resident of the retirement village or an adult guest of a resident if the quantity of liquor sold to the person is not more than 2 standard drinks in a day;
- (l) a sale of liquor by a hairdresser or a barber to an adult client if—
- (i) the sale takes place at the premises where the hairdresser or barber conducts his or her business as part of the hairdressing or barber services provided to the client; and
 - (ii) the liquor is consumed on the premises; and
 - (iii) the quantity of the liquor sold to the client is not more than 2 standard drinks in a day; and
 - (iv) the liquor is not sold or consumed on Christmas Day, Good Friday or before 1p.m. on Anzac Day;
- (m) a sale of liquor by a limousine licensee to an adult passenger of a limousine if—
- (i) the sale takes part during the journey for which the limousine was hired; and

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- (ii) the liquor is consumed inside the limousine; and
 - (iii) the quantity of the liquor sold to the passenger is not more than 2 standard drinks in a day; and
 - (iv) the liquor is not sold or consumed on Christmas Day, Good Friday, before 1p.m. on Anzac Day, or on any other day between 5a.m. and 10a.m.
- (3) Also, this Act does not apply to carrying or exposing liquor for sale in an aircraft, as permitted by subsection (2)(g).

- (4) In this section—

aircraft means an aircraft that is not licensed premises.

bed and breakfast accommodation means accommodation that—

- (a) includes the provision of accommodation and breakfast for guests; and
- (b) is conducted on premises (other than a caravan, caretaker's or manager's residence, flat, home unit, hostel, hotel, lodging house, motel or relocatable home) by a person who lives on the premises; and
- (c) caters for a maximum of 6 guests at the same time; and
- (d) may be provided for a guest for a maximum continuous period of 14 days.

Customs Act means the *Customs Act 1901* (Cwlth).

duty free shop means—

- (a) an outwards duty free shop under section 96A of the Customs Act; or
- (b) an inwards duty free shop under section 96B of the Customs Act.

host farm accommodation means accommodation that—

- (a) includes the provision of accommodation and meals, or food for preparing meals, for guests; and
- (b) is conducted on a farm involved in primary production by a person who manages, and lives on, the farm; and

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- (c) caters for a maximum of 6 guests at the same time; and
- (d) may be provided for a guest for a maximum continuous period of 30 days.

limousine see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

limousine licensee means the holder of a limousine service licence under the *Transport Operations (Passenger Transport) Act 1994*.

pharmacist means a person registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession, other than as a student.

resident, of a retirement village, see the *Retirement Villages Act 1999*, section 9.

retirement village see the *Retirement Villages Act 1999*, section 5.

standard drink means a drink containing not more than 12.5mL of ethyl alcohol (ethanol).

13 Act binds the Crown

This Act binds the Crown.

Part 2 Jurisdiction of tribunal

Division 1 Jurisdiction of the tribunal

21 Jurisdiction and powers of tribunal

- (1) The tribunal may review the decisions of the chief executive in relation to—
 - (a) the grant or refusal of a licence or permit or the renewal of an extended hours permit; or

- (aa) a review decision under section 142P; or
 - (b) the specification of conditions in a licence or permit; or
 - (ba) an extended trading hours approval including the grant, refusal to grant or cancellation of the approval or any variation of the conditions of the approval; or
 - (bb) the extension of a period of time under section 155AD(5)(b); or
 - (bc) the payment of a fee by instalments under section 209; or
 - (c) the taking of disciplinary action relating to, or the urgent suspension of, a licence, the cancellation or suspension of a permit or the imposition or variation of the conditions of a permit; or
 - (ca) the 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
 - (ea) the refusal to grant an application to change an approved risk-assessed management plan; or
 - (eb) the refusal to grant an application for an approval as an approved manager; or
 - (ec) the refusal to renew an approval as an approved manager; or
 - (ed) the suspension or cancellation of an approval as an approved manager; or
 - (f) 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.
- (2) The tribunal may also review the decisions made under this Act by the commission.

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Note—

See section 142AO (Decisions to be made by commission).

- (3) In exercise of its jurisdiction, the tribunal—
- (a) has—
 - (i) the powers and discretions of the chief executive or the commission in respect of the matter under review; and
 - (ii) the powers otherwise conferred on it by this Act; and
 - (b) has the duties imposed by this Act on the chief executive or the commission in respect of the matter under review; and
 - (c) is subject to the limitations imposed by this Act on the chief executive or the commission in respect of the matter under review.

Division 2 Review of decisions by tribunal

29A Definitions

In this division—

submission does not include a submission made under section 118A.

tribunal registrar means the principal registrar under the tribunal Act.

30 Who may apply for review of decisions

- (1) A person may apply, as provided under the QCAT Act, to the tribunal for a review of a decision of the chief executive or the commission if—
- (a) the person—
 - (i) made an application, submission or objection in the proceeding in which the decision was made; or

-
- (ii) if the decision is to take disciplinary action relating to, or the urgent suspension of, a licence, to cancel or suspend a permit or to impose or vary the conditions of a permit—is the licensee or permittee; and
 - (b) the person is aggrieved by the decision.
- (2) However, if, under section 111(2), the chief executive decides to vary conditions of a licence or permit relating to a restricted area, a person who made a submission or objection in the proceeding for the variation is not entitled to apply to the tribunal for a review of the chief executive's decision.
- (3) In this section—
- objection* includes an objection made by the Minister under section 119A.

31 Failure to notify about decision

- (1) This section applies 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 relating to the application must be taken.
- (2) For the purposes of a review by the tribunal, the chief executive or the commission 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.

32 Notification of review to interested persons

- (1) As soon as practicable after receiving notice of an application for a review under section 30, the chief executive must give to the principal registrar 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 review.
- (2) The principal registrar must give to each person whose name and address have been notified to the principal registrar under

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subsection (1), other than the person who applied for the review, written notice that a review has been started.

- (3) At least 3 days before a hearing of a review is to start, the principal registrar must give written notice of the time and place of the hearing to the following persons—
 - (a) the person who applied for the review;
 - (b) the chief executive;
 - (c) if the review relates to a decision of the commission—the commission;
 - (d) as far as is practicable—each person whose name and address have been given to the principal registrar under section 32(1).
- (4) In this section—

objection includes an objection made by the Minister under section 119A.

33 Tribunal to decide review on evidence before the chief executive or the commission

- (1) In a proceeding for a review of a decision of the chief executive or the commission by the tribunal, the tribunal must—
 - (a) hear and decide the review of the decision by way of a reconsideration of the evidence before the chief executive or the commission when the decision was made; and
 - (b) decide the review of the decision in accordance with the same law that applied to the making of the original decision.
- (2) If the tribunal decides, under the QCAT Act, section 139, that a proceeding for a review of a decision should be reopened, the issues in the proceeding that are reheard, must be—
 - (a) heard and decided by way of a reconsideration of the evidence given in the proceeding for the review of the decision; and

(b) decided in accordance with the same law that applied to the making of the original decision.

(3) In this section—

original decision means the decision of the chief executive or the commission to which the proceeding for the review relates.

34 Tribunal may give leave for review to be decided on new evidence in particular circumstances

(1) Despite section 33, the tribunal may grant a party to a proceeding for a review of a decision of the chief executive or the commission (the *decision*) leave to present new evidence if the tribunal is satisfied—

(a) the party did not know, and could not reasonably be expected to have known, of the existence of the new evidence before the decision; and

(b) in the circumstances, it would be unfair not to allow the party to present the new evidence.

(2) If the tribunal gives leave under subsection (1), the tribunal must adjourn the proceedings for a stated reasonable time to allow the chief executive or the commission to reconsider the decision together with the new evidence and to allow for further submissions by affected persons.

(3) In this section—

new evidence means evidence that was not before the chief executive or the commission when the decision was made.

35 Appeals from tribunal only to Court of Appeal on a question of law

(1) This section applies to a decision of the tribunal (the *tribunal decision*) in a proceeding for a review of a decision of the chief executive.

(2) The QCAT Act, chapter 2, part 8, division 1 does not apply to the tribunal decision.

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- (3) A party to the proceeding may appeal to the Court of Appeal against the tribunal decision but only if the appeal is on a question of law.
- (4) To remove any doubt, it is declared that the QCAT Act, section 149 does not apply to the tribunal decision.

Note—

See the QCAT Act, sections 151 to 153, 155 and 156 for other requirements and effects of an appeal to the Court of Appeal.

Part 3 Administration

42 Power of delegation

- (1) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified public service employee, police officer or person employed by a local government other than a council.
- (2) However, a delegation under subsection (1) for the issue of a permit relating to a restricted area may only be given to an appropriately qualified officer of the department.
- (3) A person to whom a power has been delegated under subsection (1) may delegate the power to an appropriately qualified public service employee, police officer or person employed by a local government other than a council.
- (4) In this section—

appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

for a public service employee, the employee's position in a department

42A Chief executive may issue guidelines

- (1) The chief executive may issue guidelines to inform persons about—
 - (a) the attitude the chief executive is likely to adopt on a particular matter; or
 - (b) how the chief executive administers this Act.

Examples—

- 1 The chief executive might issue a guideline stating the matters that must be dealt with in a risk-assessed management plan.
 - 2 The chief executive might issue a guideline stating the matters that must be dealt with in a community impact statement.
- (2) A guideline may be replaced or amended by a later guideline issued under this section.
 - (3) The chief executive must keep copies of the guidelines available for inspection, free of charge, by members of the public at—
 - (a) the department's head office and regional offices; and
 - (b) other places the chief executive considers appropriate.
 - (4) Also, the chief executive must, if asked by a person, give the person a copy of a guideline, or an extract from a guideline, free of charge.

43 Register of licences, permits and applications to be kept

- (1) The chief executive must keep a register of licences, permits and applications, in a form or forms the chief executive considers appropriate.
- (2) The register is to contain the following—
 - (a) particulars of licences and permits;
 - (b) particulars of licensees, permittees and interested persons;
 - (c) addresses of licensed premises or places to which permits relate;

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- (d) trading hours that apply to licences or permits;
 - (e) particulars of applications required under section 118(1) to be advertised that have not been decided.
- (3) However, the chief executive must ensure the register does not include any of the following—
- (a) sensitive information about a person;
 - (b) information the chief executive reasonably considers is commercially sensitive;
 - (c) particulars given to the chief executive under section 45.
- (4) For subsection (3)(b), a person may ask the chief executive to consider a written submission by the person about whether information is commercially sensitive.
- (5) In this section—
- sensitive information* about a person means information about—
- (a) the person's reputation; or
 - (b) the person's history of behaviour or attitude in relation to the management and discharge of the person's financial obligations.

44 Register open to inspection

The register 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.

44A Owner, lessee, mortgagee and secured creditors to give particulars to chief executive

- (1) This section applies to—
- (a) an owner, lessee and mortgagee of licensed premises; and

-
- (b) a secured creditor of the licensee whose interest is likely to be affected by cancellation of the licence for the premises.
 - (2) The persons mentioned in subsection (1) must give the chief executive particulars sufficient to identify their interest in the licence within 28 days of—
 - (a) acquiring the interest; or
 - (b) if the person holds the interest at the time the licence is granted—the granting of the licence.
 - (3) A person who has given particulars under subsection (2) of the person's interest in a licence must give the chief executive notice that the person no longer holds the interest within 28 days of ceasing to hold the interest.

Maximum penalty for subsection (3)—1 penalty unit.

45 Court officials to furnish particulars

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 approved managers; and
- (b) all penalties ordered by the court on the convictions.

46 Orders for licensed premises etc.

- (1) The chief executive may issue an order to a licensee, permittee, owner or other person shown in the register as a person who has an interest in licensed premises, or premises to which a restricted liquor permit relates, about—
 - (a) altering the premises to make the premises suitable for the conduct of business under authority of the licence or permit; or
 - (b) increasing or decreasing the area of the premises; or

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- (c) complying with laws about noise coming from the premises; or
 - (d) complying with laws about fire safety for the premises and hygienic practices in the conduct of business under authority of the licence or permit; or
 - (e) complying 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.

47 Assistance to public authorities

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.

47A Publication of information on internet etc.

The chief executive may publish information in the register kept under section 43 in a way the chief executive considers

appropriate, including, for example, by the internet or other telecommunication.

48 Preservation of confidentiality

- (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) disclosing information in the register; or
 - (c) disclosing information about the status of an application required to be advertised under section 118(1); or
 - (d) disclosing information about the status of an application to the tribunal for a review and the names of the parties to the review; or
 - (e) doing anything for the purposes of this Act.

49 Protection from liability

- (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.

Part 3A **Risk-assessed management plans**

50 **Definitions for pt 3A**

In this part—

approved risk-assessed management plan, for licensed premises or premises to which a restricted liquor permit relates, means a risk-assessed management plan approved under section 51 for the premises, and includes the plan as changed under section 52.

risk-assessed management plan, for licensed premises or premises to which a restricted liquor permit relates, means a document containing information about the procedures and practices, relating to the matters prescribed under a regulation, for the conduct of business at the premises.

51 **Approval of plan**

- (1) This section applies if the chief executive issues a licence or restricted liquor permit.
- (2) The chief executive is taken to have approved the risk-assessed management plan identified in the licence or permit.
- (3) The chief executive must endorse the plan with the chief executive's written approval and give the endorsed plan to the licensee or permittee.

52 **Changing plan**

- (1) A licensee, or permittee for a restricted liquor permit, may apply to the chief executive to change the licensee's, or permittee's, approved risk-assessed management plan for the licensed premises or premises to which the permit relates.
- (2) In deciding whether to grant the application, the chief executive must have regard to the requirements for a

risk-assessed management plan mentioned in the definition *risk-assessed management plan* in section 50.

- (3) If the chief executive decides to grant the application, the chief executive must as soon as practicable give the licensee or permittee written notice of the decision.
- (4) The change takes effect on the day stated for the change in the notice and does not depend on—
 - (a) the plan being amended to incorporate the change; or
 - (b) the licence or permit being amended to identify the amended plan.
- (5) If the chief executive decides not to grant the application, the chief executive must as soon as practicable give the licensee or permittee written notice of the decision and the reasons for it.
- (6) If the chief executive fails to decide the application within 90 days after its receipt, the failure is taken to be a decision by the chief executive not to grant the application.

53 Recording change of plan

- (1) This section applies if a licensee or permittee receives a notice under section 52(3) about a change to the licensee's, or permittee's, approved risk-assessed management plan for the licensed premises or premises to which the permit relates.
- (2) Within 14 days after receiving the notice, the licensee or permittee must return the following documents to the chief executive—
 - (a) the plan, incorporating the change;
 - (b) the licensee's licence, or permittee's permit, in which the plan is identified.

Maximum penalty—25 penalty units.

- (3) On receiving the plan, incorporating the change, the chief executive must immediately endorse the plan with the chief executive's written approval and give the endorsed plan to the licensee or permittee.

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- (4) On receiving the licence or permit, the chief executive must immediately amend the licence or permit to identify the amended plan and give the amended licence or permit to the licensee or permittee.

54 Conditions about approved plan

- (1) It is a condition of a licence or restricted liquor permit that the licensee or permittee—
- (a) keep the approved plan available for inspection at the licensed premises or premises to which the permit relates by an investigator and patrons of the premises; and
 - (b) display signage at the premises in a way that is likely to make the patrons aware that—
 - (i) the licensee or permittee has an approved risk-assessed management plan for the premises; and
 - (ii) the approved plan is available for inspection by the patrons; and
 - (c) ensure all staff of the premises, and crowd controllers engaged in maintaining order in and around the premises, are aware of, and perform their duties at the premises in compliance with, the approved plan.
- (2) In this section—

approved plan means the licensee's, or permittee's, approved risk-assessed management plan for the premises.

Part 4 Licences

Division 1 Licences under this Act

58 Available licences

- (1) The following licences may be granted and held under this Act—
 - (a) commercial hotel licence;
 - (b) commercial special facility licence;
 - (c) commercial other licence;
 - (d) community club licence;
 - (e) community other licence.
- (2) Only 1 licence may be granted or held for premises, or part of premises, but a licence may be granted or held for the premises or part even though there is a licence under the *Wine Industry Act 1994* for the premises or part.
- (3) However, if a licence is granted or held for premises, or part of premises, under this Act and the *Wine Industry Act 1994*—
 - (a) the licensee under both Acts must be the same person; and
 - (b) liquor may be sold under the licence under this Act only for the trading hours authorised under the licence.

58A Licences subject to conditions imposed under regulation

- (1) A licence granted and held under this Act is subject to the conditions prescribed under a regulation.
- (2) To remove any doubt, it is declared that any condition that may be imposed on a licence by the chief executive or the commission may be prescribed under a regulation.

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- (3) If a condition is prescribed under a regulation for all licences, the condition applies to all licenses, whether issued before or after the commencement of the regulation.
- (4) If a condition is prescribed under a regulation for a particular class of licence, the condition applies to all licences of that class, whether issued before or after the commencement of the regulation.
- (5) Subsections (3) and (4) apply subject to a contrary intention stated in the regulation.

Division 2 Commercial hotel licence

59 Principal activity of a business conducted under a commercial hotel licence

- (1) The principal activity of a business conducted under a commercial hotel licence is the sale of liquor for consumption on the licensed premises, or on and off the premises, together with—
 - (a) the provision of meals and accommodation, as required under the licence; and
 - (b) the provision of premises and catering facilities for use by persons genuinely attending a function held on the premises.
- (2) The authority under a commercial hotel licence to sell liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).
- (3) To remove doubt, it is declared that it is inconsistent with the principal activity of a business conducted under a commercial hotel licence to only sell liquor for consumption off the premises.

60 Authority of commercial hotel licence

- (1) A commercial hotel licence authorises the licensee—

-
- (a) to sell liquor on the licensed premises, for consumption on or off the premises, during ordinary trading hours or approved extended trading hours; and
 - (b) to sell liquor on the licensed premises, for consumption on or off the premises, at any time to a resident on the premises; and
 - (c) to sell liquor on the licensed premises, for consumption on the premises, at any time to a guest of a resident on the premises while the guest is in the resident's company; and
 - (d) to sell liquor on premises approved by the chief executive for sale of liquor under authority of the licence, for consumption—
 - (i) off the premises; or
 - (ii) on the premises in the amount and in the circumstances prescribed by regulation.

Note—

Premises approved by the chief executive under subsection (1)(d) are detached bottle shops under this Act.

- (2) If the chief executive states in the licence, the authority of a commercial hotel licence extends to the sale of liquor off the licensed premises, for consumption off the premises, while the licensee is catering for a function if—
 - (a) the sale is ancillary to the function at the place where the liquor is consumed; and
 - (b) the liquor is sold for consumption by persons genuinely attending the function.
- (3) The authority under subsection (1) or (2) is subject to this Act and the conditions stated in a particular licence.
- (4) Premises approved by the chief executive for sale of liquor under the authority of a commercial hotel licence are part of the licensed premises to which the licence relates.

61 Restrictions on grant of commercial hotel licence

- (1) The chief executive may grant a commercial hotel licence only if the chief executive is satisfied of the following—
 - (a) the business to be conducted under the licence on the licensed premises will have the principal activity as mentioned in section 59(1);
 - (b) the business to be conducted under the licence on the licensed premises will have a commercial kitchen and at least 2 of the following facilities—
 - (i) a dining, restaurant, or bistro-style, facility;
 - (ii) self-contained accommodation of at least 3 rooms for letting to travellers;
 - (iii) a function room facility available for hire by members of the public;
 - (c) the licensed premises—
 - (i) have the capacity to seat more than 60 patrons at any one time; and
 - (ii) have toilet facilities for male and female patrons of the business to be conducted under the licence on the premises.
- (2) The chief executive must not grant a commercial hotel licence to a person—
 - (a) for premises the chief executive reasonably considers are, or are to be, used primarily as a supermarket; or
 - (b) 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 the authority of a licence of another kind.
- (3) Also, the chief executive must not grant a commercial hotel licence to an incorporated association under the *Associations Incorporation Act 1981*.

62 Consumption of liquor on premises by residents and guests

Liquor supplied under the authority of a commercial hotel 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 approved extended trading hours, must be consumed in a residential unit on the premises.

Division 3 Commercial special facility licence

63 Principal activity of a business under a commercial special facility licence

- (1) The principal activity of a business conducted under a commercial special facility licence is the provision of one of the following facilities—
 - (a) a casino;
 - (b) an airport;
 - (c) a convention centre;
 - (d) another type of facility, other than a sporting facility, that makes, or is likely to make, a significant contribution to the tourism development of the State.
- (2) The authority under a commercial special facility licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).

64 Authority of commercial special facility licence

- (1) A commercial special facility licence authorises the licensee—
 - (a) to sell liquor on the licensed premises, for consumption on or off the premises, during the times stated in the licence; and

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- (b) to sell liquor on the licensed premises, for consumption on or off the premises, at any time to a resident on the premises; and
 - (c) to sell liquor on the licensed premises, for consumption on the premises, at any time to a guest of a resident on the premises while the guest is in the resident's company.
- (2) The authority under subsection (1) is subject to this Act and the conditions that the chief executive has stated in the particular licence.

65 Restriction on grant of commercial special facility licence

- (1) The chief executive may grant a commercial special facility licence only if the chief executive is satisfied the business to be conducted under the licence on the licensed premises will have the principal activity as mentioned in section 63(1).
- (2) The chief executive must not grant a commercial 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 the authority of a licence of another kind.
- (3) Also, the chief executive must not grant a commercial special facility licence to a person for premises the chief executive reasonably considers are, or are to be, used primarily as a supermarket.

65A Consumption of liquor on premises by residents and guests

Liquor supplied under the authority of a commercial special facility licence to a resident on the licensed premises, or to a guest of a resident in the resident's company, for consumption on the premises at any time other than during the times stated in the licence, must be consumed in a residential unit on the premises.

Division 4 Commercial other licence

Subdivision 1 General

66 Types of commercial other licence

The following types of commercial other licence may be granted and held under this Act—

- (a) subsidiary on-premises licence;
- (b) subsidiary off-premises licence;
- (c) bar licence;
- (d) industrial canteen licence;
- (e) producer/wholesaler licence.

Subdivision 2 Subsidiary on-premises licence

67 Principal activity of a business under a subsidiary on-premises licence

- (1) The principal activity of a business conducted under a subsidiary on-premises licence is the provision of an activity, matter or service to which the sale of liquor for consumption on the licensed premises is a subsidiary aspect.
- (2) The authority under a subsidiary on-premises licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).

67AA Principal activity is the provision of entertainment

- (1) This section applies if the principal activity of a business conducted under a subsidiary on-premises licence is the provision of entertainment on the licensed premises.

[s 67A]

- (2) The authority of the licence is restricted to the sale and supply of liquor to a person for consumption on the premises in association with the person being provided entertainment on the premises.

67A Principal activity is the provision of meals

- (1) This section applies if the principal activity of a business conducted under a subsidiary on-premises licence is the provision of meals prepared, and served to be eaten, on the licensed premises.
- (2) The authority of the licence is restricted to the following—
 - (a) the sale and supply of liquor for consumption on the premises—
 - (i) in association with a consumer eating a meal on the premises; and
 - (ii) to persons on the premises other than in association with the persons eating meals;
 - (b) the sale and supply of 1 opened and 1 unopened bottle of wine for consumption off the premises to each adult consumer eating a meal.

67B Principal activity is the provision of accommodation

- (1) This section applies if the principal activity of a business conducted under a subsidiary on-premises licence is the provision of accommodation.
- (2) The 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

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- (ii) to a resident on the licensed premises in a quantity of not more than 9L on any day, for consumption off the premises; and
 - (b) during ordinary trading hours or approved extended trading hours, to any person, including a person not eating a meal, for consumption in a part of the premises stated in the licence as ordinarily set aside for dining.
- (3) Liquor supplied under authority of the licence to a resident on the licensed premises or a guest of a resident in the resident's company, for consumption on the premises outside ordinary trading hours or approved extended trading hours, must be consumed in a residential unit on the premises.

67C Authority of subsidiary on-premises licence

- (1) A subsidiary on-premises licence authorises the licensee to sell liquor in association with an activity, matter or service provided on the licensed premises, or on premises of which the licensed premises form part, which activity, matter or service 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 stated in the licence—for consumption off the licensed premises;
- during ordinary trading hours or approved extended trading hours.
- (2) Subject to section 67E, if the chief executive states in the licence, the authority of a subsidiary on-premises licence extends to the sale of liquor on premises other than the licensed premises for consumption on the other premises.
- (3) The authority under subsection (1) or (2) is subject to this Act and the conditions stated in a particular licence.

67D Restriction on grant of subsidiary on-premises licence

The chief executive must not grant a subsidiary on-premises licence to a person for a vehicle the chief executive reasonably considers is, or is to be, used primarily to transport persons by road between licensed premises.

67E Restriction on sale of liquor for consumption off premises

- (1) The chief executive may decide that liquor may be sold under authority of a subsidiary 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 a subsidiary on-premises licence to sell liquor for consumption off the licensed premises is restricted to the sale of liquor—
 - (a) as ancillary to a function that—
 - (i) happens at a place at which the liquor is consumed; and
 - (ii) includes the licensee providing food for the function of sufficient substance as to be ordinarily accepted as a meal for consumption by persons genuinely attending the function, even though the food may be eaten while standing and without cutlery; and
 - (b) for consumption by persons genuinely attending the function.
- (3) Subsection (4) applies if the principal activity of a business conducted under a subsidiary on-premises licence is the provision of meals prepared, and served to be eaten, on the licensed premises.
- (4) Subsections (1) and (2) do not apply to the licence in relation to a sale or supply of liquor under section 67A(2)(b).

Subdivision 3 Subsidiary off-premises licence

68 Principal activity of a business under a subsidiary off-premises licence

- (1) The principal activity of a business conducted under a subsidiary off-premises licence is the provision of an activity, matter or service to which the sale of liquor for consumption off the licensed premises is a subsidiary aspect.
- (2) The authority under a subsidiary off-premises licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).

69 Authority of subsidiary off-premises licence

- (1) A subsidiary off-premises licence authorises the licensee, during the times stated in the licence, to sell liquor on the licensed premises, for consumption off the premises, if the amount of each sale is not more than—
 - (i) if the chief executive stated an amount in the licence—the amount stated by the chief executive; or
 - (ii) in any other case—2L.
- (2) The authority under subsection (1) is subject to this Act and the conditions stated in the particular licence.

69A Restriction on grant of subsidiary off-premises licence

- (1) The chief executive must not grant a subsidiary off-premises licence to a person for premises the chief executive reasonably considers are, or are to be, used primarily as a supermarket.
- (2) Also, the chief executive must not grant a subsidiary off-premises licence to a person for premises the chief executive reasonably considers are, or are to be, used primarily for the hiring out of party equipment.

Subdivision 4 Bar licence

70 Principal activity of a business under a bar licence

- (1) The principal activity of a business conducted under a bar licence is the sale of liquor on the licensed premises having the capacity to seat not more than 60 patrons at any one time.
- (2) The authority under a bar licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).

70A Authority of bar licence

- (1) A bar licence authorises the licensee to sell liquor on the licensed premises for consumption on the premises during ordinary trading hours or approved extended trading hours.
- (2) The authority under subsection (1) is subject to this Act and the conditions stated in a particular licence.

Subdivision 5 Industrial canteen licence

71 Definition for sdiv 5

In this subdivision—

remote industrial locality means a locality at which—

- (a) there is no permanent residential population; and
- (b) mining, or rail or road construction, activities are happening.

71A Principal activity of a business under an industrial canteen licence

- (1) The principal activity of a business conducted under an industrial canteen licence is the sale of liquor on the licensed premises located within a remote industrial locality.

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- (2) The authority under an industrial canteen licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).

71B Authority of industrial canteen licence

- (1) An industrial canteen licence authorises the licensee to sell liquor to a relevant person on the licensed premises, for consumption on or off the premises, during the times stated in the licence.
- (2) The authority under subsection (1) is subject to this Act and the conditions stated in a particular licence.
- (3) In this section—
- relevant person* means—
- (a) a person working at the remote industrial locality within which the premises are located; or
 - (b) a member of the family, or a guest, of a person mentioned in paragraph (a).

71C Restriction on grant of industrial canteen licence

The chief executive may grant an industrial canteen licence in relation to a remote industrial locality only if there is no other licensed premises located within the locality.

Subdivision 6 Producer/wholesaler licence

72 Principal activity of a business under a producer/wholesaler licence

- (1) The principal activity of a business conducted under a producer/wholesaler licence is either or both of the following—
- (a) the production and wholesale sale on the licensed premises of liquor made on the premises;

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- (b) the wholesale sale on the licensed premises of liquor.
- (2) The authority under a producer/wholesaler licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).

73 Authority of producer/wholesaler licence

- (1) 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 premises, for consumption on or off the premises, during ordinary trading hours or approved extended trading hours; or
 - (b) if the licensee is a wholesale supplier of liquor—to sell liquor on the licensed premises, for consumption off the premises, during ordinary trading hours.
- (2) The authority under subsection (1) is subject to this Act and the conditions stated in a particular licence.

74 Restriction on grant of producer/wholesaler licence

The chief executive may grant a producer/wholesaler licence only if the chief executive is satisfied the business to be conducted under the licence on the licensed premises will have the principal activity as mentioned in section 72(1).

75 Restriction on sale of liquor under producer/wholesaler licence

- (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 licensee under the *Wine Industry Act 1994*; or

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- (c) 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
 - (d) a person authorised by a law of the Commonwealth, another State or a Territory or foreign country to sell liquor, or the person's agent; or
 - (e) a person exempt from the application of a law of the Commonwealth, 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; or
 - (f) a person who purchases the liquor for export; or
 - (g) a person who purchases the liquor for stock in a duty free store; or
 - (h) a person who purchases the liquor to provide it for consumption on ships or aircraft on international journeys; or
 - (i) a person who purchases the liquor to provide it at Government House, or at a foreign embassy or consulate, as part of official activities at the place; or
 - (j) a person who purchases the liquor for a religious entity for sacramental purposes.
- (2) The holder of a producer/wholesaler licence who is a producer of liquor may—
- (a) sell the licensee's liquor and liquor for which the licensee is a wholesaler to a visitor to the licensed premises for consumption on the premises in association with the visitor eating a meal in a part of the premises ordinarily set aside for dining if the meal is prepared, served and intended to be eaten on the premises; and
 - (b) sell the licensee's liquor, for consumption on or off the licensed premises, to a visitor to the licensed premises, if the liquor is sold as a souvenir of the visit.
- (3) The holder of a producer/wholesaler licence does not contravene this section by selling liquor during any period—

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- (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.
- (4) This section does not apply to the holder of a producer/wholesaler licence who holds a brewery licence within the meaning of the *Excise Act 1901* (Cwlth), section 77A in relation to the sale by the licensee of the licensee's liquor.
- (5) In this section—
licensee's liquor means liquor produced on the premises to which the licence relates.

Division 5 Community club licence

76 Principal activity of business under community club licence

- (1) The principal activity of a business conducted under a community club licence is the provision of facilities and services to the club's members and the achievement of the club's objects.
- (2) The authority under a community club licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).

77 Authority of community club licence

- (1) A community club licence authorises the licensee to sell liquor on the licensed premises—
 - (a) during ordinary trading hours, or approved extended trading hours, to—
 - (i) a member of the club, for consumption on or off the premises, or a guest of a member in the

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- 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 15km 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; or
 - (vii) for a club that is an RSL or Services Club—a defence member 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.
- (2) Despite subsection (1)(a)(vi), if the chief executive states in a community club licence that the licensed premises include particular premises (the *other premises*) that the club owns or has a legal right to occupy and the other premises may be used on an infrequent basis for an event, the licence authorises the licensee to sell liquor within a defined area on the other

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premises for the event for consumption within the defined area stated in the licence if—

- (a) the sale is during ordinary trading hours for the licence to members of the public attending the event on the other premises; and
- (b) the event is the playing of a sport or game for which the club is established; and

Example of sport or game for which a club is established—

If a rugby union club is established but the club allows other clubs to use its premises for bridge or darts, or encourages the rugby union club's members to play those games, the rugby union club is established for rugby union and not other sports or games (like bridge or darts) that may be played on its premises.

- (c) the club is catering for the event on the other premises; and
- (d) at least 14 days before the date of the event, the club gives written notice about the event to the police officer in charge of the locality in which the event is to be held.

Example for subsection (2)—

A football club may have premises with an adjacent field in 1 suburb that are used on a weekly basis for training and regular games. The club may also own a second field in another suburb which is used a few times a year for the club's games. The chief executive may state in the community club licence that the licensed premises includes defined areas at 1 or both fields. The community club licence authorises the club to sell liquor within the defined areas.

- (3) For subsection (2), the area of the other premises defined in the licence forms part of the licensee's licensed premises for the period the licensee is authorised to sell liquor on the other premises.
- (4) Despite section 76(1), a community club licence does not authorise the sale or supply of liquor from a facility ordinarily known as a drive-in or drive through bottle shop.
- (5) The authority under subsections (1) and (2) is subject to this Act and the conditions stated in a particular licence.
- (6) A visitor to the premises of a club who—

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- (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.

- (7) If it is a team that plays a sport or game mentioned in subsection (6) 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.
- (8) In this section—

defence member means any of the following persons in possession of a current service identity card—

- (a) a member of the Permanent Naval Forces, the Australian Regular Army, the Regular Army Supplement or the Permanent Air Force;
- (b) a member of the Emergency Forces or the Reserve Forces who is rendering continuous full-time service.

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

78 Restrictions on grant of community club licence

- (1) The chief executive may grant a community club licence only if the chief executive is satisfied that—
 - (a) the business to be conducted under the licence on the licensed premises will have the principal activity as mentioned in section 76(1); and
 - (b) the club in question is a non-proprietary club.
- (2) The chief executive may not grant a community club licence if—

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- (a) the premises to which the community 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 community club licence in relation to a part of premises that has been excised from club B's commercial hotel licence, club A's application must be refused.

79 Requirements of club and secretary

- (1) A community 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) The regulations may prescribe amendments to which subsection (1)(b)(i) does not apply.
- (3) An amendment to which subsection (1)(b)(i) does not apply takes effect as soon as it is adopted by the club.
- (4) Subsection (1)(d) does not apply to a person who is—
- (a) a minor; or
 - (b) a visitor mentioned in section 77(6) or (7).
- (5) A person must not make an entry in a register, or give information to someone else to enter in a register, mentioned in subsection (1)(c) or (d) that the person knows is false, misleading or incomplete in a material particular.
- Maximum penalty—35 penalty units.
- (6) It is enough for a complaint against a person for an offence against subsection (5) to state that the information entered was false, misleading or incomplete to the person's knowledge.

Division 6 Community other licence

80 Principal activity of business under community other licence

- (1) The principal activity of a business conducted under a community other licence is the provision of facilities and services to the relevant club's members and the achievement of the club's objects.
- (2) The authority under a community other licence to sell or supply liquor does not apply unless a business is conducted on the licensed premises with the principal activity as mentioned in subsection (1).
- (3) In this section—
relevant club means the club to which the licence relates.

81 Authority of community other licence

- (1) A community other licence authorises the licensee to sell and supply liquor on the licensed premises during ordinary trading hours to the following persons, for consumption on the premises—
 - (a) a member of the relevant club;
 - (b) a guest of a member of the relevant club in the member's company;
 - (c) a member of a reciprocal club;
 - (d) a guest of a member of a reciprocal club in the member's company.
- (2) The authority under subsection (1) is subject to this Act and the conditions stated in the licence.
- (3) In this section—
relevant club means the club to which the licence relates.

82 Restriction on grant of community other licence and other related matters

- (1) The chief executive may grant a community other licence only if the chief executive is satisfied the relevant club is a non-proprietary club.
- (2) The chief executive must include the following matters in a community other licence—
 - (a) the times, totalling not more than 25 hours a week, for the sale of liquor under the licence;
 - (b) the area to which the licence relates.
- (3) In this section—

relevant club means the club to which the licence relates.

83 Requirements of club and secretary

- (1) A community other licence is subject to the following conditions—
 - (a) the rules of the relevant club must comply with the schedule, unless the chief executive has given written permission to the club to amend the rules;
 - (b) if an amendment of the rules of the relevant club is adopted by the club—
 - (i) within 14 days after adoption of the amendment, the club's secretary must give the chief executive a certified copy of the amendment; and
 - (ii) the amendment takes effect at the end of 28 days after the chief executive receives the certified copy unless the chief executive has disallowed the amendment by written notice given to the club's secretary;
 - (c) the relevant club's secretary must keep on the club premises a register of—
 - (i) the name and address of each club member; and

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- (ii) particulars of the most recent membership subscription paid by the member;
 - (d) the relevant club's secretary must keep on the club premises a register of—
 - (i) the name and current address of each guest of a member; and
 - (ii) the name of each member of a reciprocal club, on the premises, and the name of the reciprocal club; and
 - (iii) the name and current address of each guest of a member of a reciprocal club mentioned in subparagraph (ii);
 - (e) the relevant club's secretary must keep the registers mentioned in paragraphs (c) and (d) open for inspection by an investigator at any time when the club is open.
- (2) The regulations may prescribe amendments to which subsection (1)(b)(i) does not apply.
- (3) An amendment to which subsection (1)(b)(i) does not apply takes effect as soon as it is adopted by the relevant club.
- (4) A person must not make an entry in a register, or give information to someone else to enter in a register, mentioned in subsection (1)(c) or (d), that the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—35 penalty units.

- (5) It is enough for a complaint against a person for an offence against subsection (4) to state that the information entered was false, misleading or incomplete to the person's knowledge.
- (6) In this section—

relevant club means the club to which the licence relates.

Division 7 Extended trading hours approval

84 Authority of extended trading hours approval

An *extended trading hours approval* authorises the licensee who is the holder of the approval to sell liquor on a regular basis under authority of the licence that relates to the licensed premises for which the approval is granted subject to this Act at the times, and subject to the conditions, stated in the approval.

Note—

Failure by a licensee to comply with the times or the conditions stated in the licensee's extended trading hours approval is, under section 136, a ground for the chief executive to take disciplinary action relating to the licence under section 137.

85 Application for approval

- (1) An applicant for a licence, or a licensee, may apply to the chief executive for an extended trading hours approval for the premises that are, or are to be, the licensed premises.
- (2) If the application is granted, the approval must be endorsed by the chief executive on the licence.

86 Hours to which application may relate etc.

- (1) An application may be made for an extended trading hours approval for a licence other than a community other licence that, if granted, would extend trading hours on a regular basis to include trading between 12a.m. and 5a.m.
- (2) An application may be made for an extended trading hours approval for a licence other than a community other licence that, if granted, would extend trading hours on a regular basis to include trading between 9a.m. and 10a.m.
- (2A) An application may be made for an extended trading hours approval for a commercial hotel licence, community club licence or commercial special facility licence, for the sale of

takeaway liquor, that, if granted, would extend trading hours on a regular basis to include trading—

- (a) between 9a.m. and 10a.m.; or
 - (b) between 10p.m. and midnight.
- (3) The applicant for an application mentioned in subsection (2) or (2A) must satisfy the commission that there is a demonstrated community need for the application to be granted.
- (4) An application may be made for an extended trading hours approval for a community club licence that, if granted, would extend trading hours on a regular basis to include trading between 7a.m. and 9a.m.
- (5) For an application mentioned in subsection (4)—
- (a) the applicant must satisfy the commission that there is a demonstrated community need for the application to be granted; or
 - (b) the club to which the licence relates must be a sporting club for a sport prescribed under a regulation.
- (6) An application may be made for an extended trading hours approval for a licence other than a community other licence that, if granted, would extend trading hours on a regular basis to include trading between 7a.m. and 9a.m. but only for the purpose of selling and supplying liquor to or for persons genuinely attending a function held on the licensed premises during those hours.
- (7) For subsections (3) and (5)(a), the commission may be satisfied that there is a demonstrated community need for the application to be granted, only if the applicant demonstrates to the commission—
- (a) a level of demand for liquor within the community that justifies the extended trading hours sought in the application; and
 - (b) the reasons for the level of demand mentioned in paragraph (a), including, for example—

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- (i) that the premises to which the licence relates are situated in an area that is popular with tourists or for dining; or
 - (ii) that there has been a significant increase in population in the area in which the premises to which the licence relates are situated.
- (8) Subsection (7) does not limit the matters the commission may consider in deciding whether there is a demonstrated community need for the application to be granted.

87 Restriction on grant of extended trading hours approval

The commission must not grant an extended trading hours approval 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.

88 Review of operation of extended trading hours approval

The chief executive may, at any time, review the conduct of a licensee under an extended trading hours approval endorsed on the licensee's licence.

Division 8 Moratorium on extended trading hours approvals

89 Definitions for div 8

In this division—

commencement means the commencement of this division.

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

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

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extended trading hours precinct means an area that—

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

moratorium period means—

- (a) the period from 16 September 2009 to 31 December 2013, both days inclusive; and
- (b) any extended period under section 95.

90 Restriction on making extended trading hours applications

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

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

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

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

- (1) This section applies to a proceeding in a court or tribunal—

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

93 Certain court or tribunal decisions of no effect

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

94 Protection from liability

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

[s 95]

- (2) The State, the chief executive or a delegate does not incur civil liability for acting, or failing to act, under this division in relation to an extended trading hours application.
- (3) If a civil proceeding relating to an extended trading hours application was started before the commencement against the State, the chief executive or a delegate, the proceeding is stayed and the court dealing with the proceeding must dismiss it.
- (4) In this section—
chief executive includes the commission.

95 Minister may extend moratorium period

The Minister, by gazette notice, may extend the moratorium period by a period not exceeding 3 months if satisfied that it would be in the public interest having regard to the main purpose of this Act mentioned in section 3(a).

Division 9 Banning use of regular glass in certain licensed premises

96 Definitions for div 9

In this division—

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

regular glass means glass other than tempered or toughened glass.

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

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

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

- (1) The chief executive may classify all or part of licensed premises as high risk if the chief executive is satisfied—
 - (a) one or more glassings have happened at the premises during the relevant period; or
 - (b) there has been a level of violence at the premises during the relevant period that is unacceptable having regard to the main purpose of this Act mentioned in section 3(a).
- (2) However, before classifying the premises or part of the premises as high risk the chief executive must—
 - (a) give the licensee of the premises a written notice under section 98; and
 - (b) have regard to the licensee's response, if any, to the notice.

Note—

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

98 Notice to licensee of licensed premises considered high risk

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

[s 99]

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

accommodation rooms, restaurants, bottle shops

99 Representations about notice

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

99A Ending process without further action

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

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

99B Notice classifying relevant premises as high risk

- (1) This section applies if, after considering any representations by the licensee under section 99, the chief executive still considers all or part of licensed premises should be classified as proposed.
- (2) The chief executive must give the licensee a written notice—
 - (a) classifying all or a stated part of the premises as high risk; and
 - (b) stating the day from which the classification starts.

-
- (3) The notice under subsection (2) must not classify a part of the premises not mentioned in the notice under section 98.

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

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

Maximum penalty—100 penalty units.

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

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

99E Judicial review only to apply to chief executive's decision

- (1) A decision of the chief executive under this division—
- (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, (whether by the Supreme Court, another court, a tribunal or another entity); and

[s 99F]

- (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (2) However, subsection (1) does not limit the *Judicial Review Act 1991*.

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

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

Editor's note—

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

99G Commissioner must provide information

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

Part 4A Permits

Division 1 Permits under this Act

100 Available permits

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

- (a) a commercial public event permit;
- (b) a community liquor permit;
- (c) an extended hours permit;
- (d) a restricted liquor permit;
- (e) an adult entertainment permit;
- (f) a restricted area permit.

Division 2 Commercial public event permits

101 Definitions for div 2

In this division—

licence means each of the following licences for which the authority under the licence is extended to allow the sale of liquor on premises that are not the licence's main premises—

- (a) commercial hotel licence;
- (b) subsidiary on-premises licence;
- (c) subsidiary off-premises licence.

main premises means licensed premises described in a licence.

private event means an event or occasion, held at premises other than main premises, if—

[s 101A]

- (a) the event or occasion is not publicly advertised or is not open to the public or casual attendance; or
- (b) attendance at the event or occasion is restricted by personal invitation of the function's host; or
- (c) admission to the event or occasion does not involve paying a fee for—
 - (i) admission; or
 - (ii) entertainment or services provided at the event or occasion.

Examples of a private event—

a 21st birthday party, boardroom lunch, company cocktail party, wedding
public event, in relation to a licensee, means an event or occasion held at premises other than the licensee's main premises, that is not a private event.

Examples of a public event—

a festival, public ball, race meeting, rock concert

101A Commercial public event permit issued jointly to 2 or more licensees

- (1) A reference in this division to a licensee, for a commercial public event permit issued jointly to 2 or more licensees, is a reference to each of the licensees.
- (2) If a commercial public event permit is issued jointly to 2 or more licensees and one of the licences is suspended, the permit is taken to be suspended for the period of the suspension.
- (3) If a commercial public event permit is issued jointly to 2 or more licensees and one of the licences is cancelled, the permit is taken to be cancelled.

102 Licensee to obtain a commercial public event permit for selling or supplying liquor at public events

- (1) A licensee who proposes to sell or supply liquor at a public event under the licence must apply for the grant of a commercial public event permit to sell or supply the liquor at the public event.
- (2) Without limiting section 105, an application must—
 - (a) describe the area where the liquor will be sold or supplied and consumed and the area where any catering to be provided by the licensee will take place; and
 - (b) be accompanied by a proposed event management plan for the public event addressing all matters about which the chief executive is to be satisfied under section 103(1).
- (3) An application under subsection (1) may be made jointly by 2 or more licensees.

103 Restriction on grant of commercial public event permit

- (1) The chief executive must not grant a commercial public event permit for a public event unless the chief executive is satisfied about all of the following—
 - (a) the licensee would, in catering for the public event, be carrying out the principal activity of the business conducted under the licence;
 - (b) premises in which liquor may be sold, supplied and consumed at the public event are properly defined and will be appropriately monitored;
 - (c) the public event will not create any undue annoyance, disturbance or inconvenience to residents of the locality in which the public event is to be held;
 - (d) the public event will not create an unsafe or unhealthy environment for persons employed at and attending the public event or residents of the locality in which the public event is to be held;

[s 103A]

- (e) appropriate planning for the public event has been carried out with the police service and local government for the area in which the public event is to be held;
 - (f) any other matter prescribed under a regulation.
- (2) Subsection (1)(a) does not apply to an application for a commercial public event permit to extend the authority of a subsidiary on-premises licence if the principal activity of the business conducted under the licence is the provision of accommodation.
- (3) The chief executive must not grant a commercial public event permit for a public event that would purport to authorise the sale of liquor at any time on Good Friday or Christmas Day or before 1.00p.m. on Anzac Day.
- (4) Despite subsection (3), the chief executive may grant a commercial public event permit to authorise a licensee to sell liquor between 5a.m. and 1p.m. on Anzac Day if—
- (a) the chief executive is satisfied the licensee has entered into an agreement with an RSL or Services Club to sell liquor under the permit at a public event that is an Anzac Day event for the club; and
 - (b) the permit authorises the sale of liquor only at the event.

103A Area defined in commercial public event permit forms part of licensed premises

The area defined in a commercial public event permit for a public event forms part of the licensee's licensed premises for the period the licensee is authorised to sell or supply liquor at the event under the permit.

103B Authority of commercial public event permit

- (1) Subject to this Act, a commercial public event permit authorises the licensee to sell or supply liquor—
- (a) at the public event stated in the permit; and
 - (b) at the times on the day or days stated in the permit; and

- (c) subject to the conditions stated in the permit.
- (2) The authority of a commercial public event permit for a public event extends to the sale or supply of liquor for consumption within the area defined in the permit for the event.

Division 3 Community liquor permit

103C Authority of community liquor permit

- (1) Subject to this Act, a community liquor 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;
stated in the permit.
- (2) Authority of a community liquor permit extends to sale of liquor—
 - (a) for consumption at the event or occasion stated in the permit; and
 - (b) for removal from the venue of the event or occasion, and subsequent consumption, if stated in the permit.

103D Restriction on grant of community liquor permit

- (1) The chief executive must not grant a community liquor permit—
 - (a) for 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.
- (2) The chief executive may grant a community liquor permit only to—

[s 103E]

- (a) a non-proprietary club; or
 - (b) another entity, if the chief executive is satisfied all the net proceeds from the sale of liquor under the permit will be used for the benefit of the community.
- (3) If the applicant for a community liquor permit is a non-proprietary club that is an unincorporated association, the permit may be granted only to an individual for the non-proprietary club.

103E Identification of premises

- (1) The chief executive must—
- (a) define an area adjacent to each premises to which a community liquor permit relates; and
 - (b) state the means by which the area must be marked out.
- (2) An area defined under subsection (1) is part of the premises to which the permit relates.

103F Restriction on consumption or possession of liquor

- (1) During continuance of a community liquor permit, a person must not—
- (a) consume liquor; or
 - (b) have liquor in possession for consumption;
- at the venue of the event or occasion stated 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 of, or having in possession, 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 4 Extended hours permit

103G Authority of extended hours permit

An extended hours permit authorises the licensee who is the holder of the permit to sell liquor on a particular day under authority of the licence that relates to the licensed premises for which the permit is granted subject to this Act at the time, and subject to the conditions, stated in the permit.

103H Restriction on grant of extended hours permit

- (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) However, the chief executive may grant an extended hours permit to authorise a licensee to sell liquor between 5a.m. and 1p.m. on Anzac Day if—
 - (a) the chief executive is satisfied the licensee has entered into an agreement with an RSL or Services Club to sell liquor under the permit at an Anzac Day event for the club; and
 - (b) the permit authorises the sale of liquor only at the event.

103I Hours to which application may relate etc.

- (1) An application may be made for an extended hours permit for a licence other than a community other licence that, if granted, would extend trading hours on a particular day to include trading between 12a.m. and 5a.m.
- (2) An application may be made for an extended hours permit for a licence other than a community other licence that, if granted, would extend trading hours on a particular day to include trading between 9a.m. and 10a.m.

[s 103J]

- (3) The applicant, for an application mentioned in subsection (2), must satisfy the chief executive that there is a demonstrated community need for the application to be granted.
- (4) An application may be made for an extended hours permit for a community club licence that, if granted, would extend trading hours on a particular day to include trading between 7a.m. and 9a.m.
- (5) For an application mentioned in subsection (4)—
 - (a) the applicant must satisfy the chief executive that there is a demonstrated community need for the application to be granted; or
 - (b) the club to which the licence relates must be a sporting club for a sport prescribed under a regulation.
- (6) An application may be made for an extended hours permit for a licence other than a community other licence that, if granted, would extend trading hours on a particular day to include trading between 7a.m. and 9a.m., but only for the purpose of selling and supplying liquor to or for persons genuinely attending a function held on the licensed premises during those hours.

103J Restriction on number of extended hours permits for particular premises

- (1) The chief executive may issue a maximum of 12 extended hours permits, for particular licensed premises, mentioned in section 103I(1) during a 1-year period.
- (2) The chief executive may issue a maximum of 4 extended hours permits, for particular licensed premises, mentioned in section 103I(2), (4) or (6) during a 1-year period.

Division 5 Restricted liquor permit

103JA Authority of restricted liquor permit

- (1) A restricted liquor permit authorises the permittee to sell and supply liquor on the premises to which the permit relates to the following persons, for consumption on the premises—
 - (a) a member of the relevant club;
 - (b) a guest of a member of the relevant club in the member's company;
 - (c) a member of a reciprocal club;
 - (d) a guest of a member of a reciprocal club in the member's company.
- (2) The authority under subsection (1) is subject to this Act and the conditions stated in the permit.
- (3) In this section—

relevant club means the club to which the permit relates.

103K Restriction on grant of restricted liquor permit and other related matters

- (1) The chief executive may grant a restricted liquor permit only if the chief executive is satisfied the relevant club is a non-proprietary club.
- (2) The chief executive must include the following matters in a restricted liquor permit—
 - (a) the times, between 10a.m. and 12 midnight and totalling not more than 25 hours a week, for the sale of liquor under the permit;
 - (b) the area to which the permit relates.
- (3) In this section—

relevant club means the club to which the permit relates.

[s 103L]

103L Duration of permit

The chief executive may grant a restricted liquor permit for a period of at least 3 months but no longer than 6 months.

103M Requirements of club and secretary

- (1) A restricted liquor permit is subject to the following conditions—
 - (a) the rules of the relevant club must comply with the schedule, unless the chief executive has given written permission to the club to vary the rules;
 - (b) if an amendment of the rules of the relevant club is adopted by the club—
 - (i) within 14 days after adoption of the amendment, the club's secretary must give the chief executive a certified copy of the amendment; and
 - (ii) the amendment takes effect at the end of 28 days after the chief executive receives the certified copy unless the chief executive has disallowed the amendment by written notice given to the club's secretary;
 - (c) the relevant club's secretary must keep on the club premises a register of—
 - (i) the name and address of each club member; and
 - (ii) particulars of the most recent membership subscription paid by the member;
 - (d) the relevant club's secretary must keep on the club premises a register of—
 - (i) the name and current address of each guest of a member; and
 - (ii) the name of each member of a reciprocal club, on the premises, and the name of the reciprocal club; and

-
- (iii) the name and current address of each guest of a member of a reciprocal club mentioned in subparagraph (ii);
 - (e) the relevant club's secretary must keep the registers mentioned in paragraphs (c) and (d) open for inspection by an investigator at any time when the club is open.
- (2) The regulations may prescribe amendments to which subsection (1)(b)(i) does not apply.
 - (3) An amendment to which subsection (1)(b)(i) does not apply takes effect as soon as it is adopted by the relevant club.
 - (4) A person must not make an entry in a register, or give information to someone else to enter in a register, mentioned in subsection (1)(c) or (d), that the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—35 penalty units.

- (5) It is enough for a complaint against a person for an offence against subsection (4) to state that the information entered was false, misleading or incomplete to the person's knowledge.
- (6) In this section—
relevant club means the club to which the permit relates.

Division 6 Adult entertainment permit

103N Adult entertainment code

- (1) There is to be an adult entertainment code (the *code*).
- (2) The code prescribes the live entertainment that may be performed for an audience, by a person performing an act of an explicit sexual nature (*adult entertainment*), on licensed premises or premises to which a community liquor permit or restricted liquor permit relates under an adult entertainment permit.
- (3) Adult entertainment does not include the performance of the following acts—

[s 103O]

- (a) sexual intercourse;
 - (b) masturbation;
 - (c) oral sex.
- (4) The chief executive and the commissioner are to make the code.
- (5) The code is not effective until it is approved by the Governor in Council under a regulation.
- (6) The chief executive must ensure that a copy of the code approved under subsection (5) is made available for inspection without charge, or for purchase during normal business hours at the office of the department in which this Act is administered.
- (7) In this section—
oral sex has the meaning given by the Criminal Code, section 229E(5).

103O Only licensees and permittees eligible for grant of adult entertainment permit

- (1) A person is eligible to apply for, or to be granted, an adult entertainment permit only if the person is a licensee or the holder of a community liquor permit or restricted liquor permit.
- (2) Subsection (1) does not limit another requirement about who may apply for, or the grant of, an adult entertainment permit under part 5.

103P Authority of adult entertainment permit

- (1) An adult entertainment permit authorises the permittee to provide adult entertainment only—
- (a) in an area of the permittee's premises approved by the chief executive (the *approved area*); and
 - (b) during the hours stated in the permit.

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- (2) The adult entertainment permit is subject to this Act and the conditions prescribed under a regulation or imposed by the chief executive.

103Q Approved area to conform with requirements

Before the chief executive approves an area as an approved area, the chief executive must be satisfied the area conforms, or will conform, with this Act and the following requirements while adult entertainment is being provided in the area—

- (a) the area must be fully enclosed in a way that prevents a person outside the area from seeing inside the area;
- (b) the area must not contain, for the private use of persons attending the entertainment, a lounge, booth, compartment or cubicle (other than a toilet cubicle);
- (c) another requirement prescribed under a regulation.

103R Duration of adult entertainment permit

An adult entertainment permit—

- (a) is issued for the term stated in it, not longer than 1 year, unless it is sooner surrendered, suspended or cancelled under this Act; and
- (b) is not renewable; and
- (c) is not transferable.

103S Adult entertainment permit dependent on currency of licence or community liquor permit or restricted liquor permit

- (1) This section applies if an adult entertainment permit is issued for licensed premises or for premises to which a community liquor permit or restricted liquor permit relates and—
- (a) the licence or community liquor permit or restricted liquor permit ends or is suspended or cancelled; or

[s 103T]

- (b) the licensee or permittee surrenders the licence or community liquor permit or restricted liquor permit.
- (2) If the licence or community liquor permit or restricted liquor permit ends, the adult entertainment permit also ends at the same time.
- (3) If the licence or community liquor permit or restricted liquor permit is suspended, the adult entertainment permit is also suspended at the same time.
- (4) If the licence or community liquor permit or restricted liquor permit is surrendered or cancelled, the adult entertainment permit is also surrendered or cancelled at the same time.

103T Restriction on grant of adult entertainment permit

- (1) The chief executive must not grant an adult entertainment permit that would relate to premises at which a public event or private event is to be held other than for—
 - (a) if the applicant is a licensee—the main premises under the licence; or
 - (b) if the applicant is the holder of a community liquor permit or restricted liquor permit—the premises to which the permit relates.
- (2) In this section, including in the definitions *public event* and *private event* as applying for this section—

main premises means licensed premises described in a licence other than—

 - (a) a detached bottle shop; or
 - (b) for a community club licence—premises mentioned in section 77(2).

Division 7 Restricted area permits

103U Authority of restricted area permit

- (1) A restricted area permit authorises the permittee to have in possession in a restricted area more than the prescribed quantity of a type of liquor for the area—
 - (a) at the times and on the day or days, and for the purpose, stated in the permit; or
 - (b) during the period of not more than 1 year, and for the purpose, stated in the permit.
- (2) The permit is subject to this Act and the conditions prescribed under a regulation or imposed by the chief executive.

103V Restriction on grant of restricted area permit

The chief executive must not grant an application for a restricted area permit unless the chief executive is satisfied—

- (a) the amount of liquor the applicant has applied to have in possession is reasonable for the purpose stated in the application; and
- (b) if the purpose is not merely personal to the applicant—another restricted area permit has not been issued to another person for the purpose.

Part 5 **Grant, variation and transfer of licences and permits**

Division 1 **Applications**

105 Requirements for applications

- (1) An application for or relating to a licence or a permit for any purpose under this Act must—
 - (a) be made to the chief executive; and
 - (b) be in the approved form; 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.
- (1A) Also, the application must be accompanied by—
 - (a) if the application is for a licence or restricted liquor permit—the proposed risk-assessed management plan for the proposed licensed premises or premises for which the applicant wants a restricted liquor permit; or
 - (b) if the application is a relevant application—the proposed revised risk-assessed management plan for the licensed premises.
- (2) The chief executive may, by written notice given to an applicant, require the applicant to give the chief executive further information or a document about the application within the reasonable time, not less than 30 days, stated in the notice.
- (3) The requirement must relate to information or a document that the chief executive reasonably considers is necessary to help the chief executive decide the application and reasonable for the applicant to provide.
- (4) The application is taken to be withdrawn by the applicant if—

- (a) the chief executive has given the applicant a notice under subsection (2) requiring the applicant to give the chief executive further information or a document about the application; and
- (b) the applicant has failed to comply with the requirement within the time stated in the notice unless the applicant provides the chief executive with an excuse for the failure that the chief executive considers to be a reasonable excuse.

(5) In this section—

relevant application means—

- (a) an application for the transfer of a licence; or
- (b) an application for a permanent variation of a licence; or
- (c) an application for an approval for a permanent change in a licensed area; or
- (d) an application for an extended trading hours approval; or
- (e) an application for an approval for a change in the principal activity of a business conducted under a licence; or
- (f) an application by a licensee for an approval to sell or supply liquor, or allow liquor to be consumed, in a car park of the licensed premises.

106 Who may apply for licence or permit

- (1) An adult individual, or a corporation, may make application for a licence or permit.
- (2) Also, an adult may apply for a licence or permit for or on behalf of an unincorporated association.
- (3) A person who holds a brothel licence, or has an interest in a brothel, may not apply for or hold a licence or permit.

[s 107]

- (4) Also, a local government, corporatised corporation or relevant public sector entity may not apply for or hold a commercial hotel licence.

107 Restrictions on grant of licence or permit

- (1) The chief executive may grant an application for a licence or permit only if the chief executive is satisfied that the applicant is not a disqualified person and 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 corporation, 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 corporation; 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.
- (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 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*.
- (7) In this section—
permit does not include an adult entertainment permit.

107A Additional restriction on grant of licence

- (1) This section applies to an application for a licence made by an individual.
- (2) The chief executive may grant the application only if the individual has, within 3 years before the day the application is granted successfully completed the licensee's course and approved training course.
- (3) Despite subsection (2), the chief executive may grant the application if the chief executive is satisfied the individual need not undertake either or both of the courses, having regard to the principal activity, and the nature and extent, of the business conducted, or to be conducted, under the licence.
- (4) In this section—
individual does not include an individual who is applying for the licence in the capacity of chief executive of a department.

[s 107B]

107B Additional restriction on grant of permit

- (1) This section applies to an application for a permit if the chief executive—
 - (a) reasonably believes that, having regard to the nature of the activity to be conducted under the permit and to minimise harm caused by alcohol abuse or misuse and associated violence, the applicant should undertake the licensee's course and approved training course, or either course, before the permit is granted; and
 - (b) gives the applicant a written notice stating the applicant must undertake the licensee's course and approved training course, or either course, before the permit is granted.
- (2) The chief executive may grant the application only if the applicant successfully completes the course or courses stated in the notice.
- (3) In this section—

nature, of the activity to be conducted under the permit, includes the duration, location or size of the activity.

permit does not include a restricted area permit.

107C Chief executive may impose conditions on licences and permits

- (1) The chief executive may impose conditions on licences and permits—
 - (a) to ensure appropriate compliance with this Act; or
 - (b) to give effect to an agreement about the management of premises that has resulted from a decision of the tribunal; or
 - (c) to give effect to the main purpose of this Act mentioned in section 3(a); or
 - (d) to minimise alcohol-related disturbances, or public disorder, in a locality.

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- (2) Without limiting subsection (1), a condition may, and always could, require that a patron of licensed premises or premises to which a permit relates must not be allowed to enter the premises during a stated period of a day.

Example—

a condition mentioned in section 142AA(4)

107D Restriction on grant of adult entertainment permit

- (1) The chief executive may grant an application for an adult entertainment permit only if the chief executive is satisfied that—
- (a) the applicant is a suitable person to provide adult entertainment in licensed premises (the *relevant premises*) or premises to which a community liquor permit or restricted liquor permit relates (also the *relevant premises*); and
 - (b) after considering that, if the application were granted, the combined total of licensed brothels and premises permitted to provide adult entertainment in the locality in which the relevant premises are situated would not substantially affect the character of the locality; and
Example of character of locality being substantially affected—
locality becoming a ‘red light district’
 - (c) the proposed approved area for the entertainment conforms with the requirements of section 103H; and
 - (d) the applicant has submitted a proposed management plan in the approved form that provides for any matters prescribed under a regulation.
- (2) Without limiting subsection (1), the chief executive must have regard to any comments of the relevant local government or assistant commissioner received under section 117(2)(a).

107E Suitability of applicant for adult entertainment permit

- (1) In deciding whether an applicant for an adult entertainment permit is a suitable person to provide adult entertainment, the chief executive must consider all relevant matters including the following—
 - (a) the applicant's reputation, having regard to character, honesty and integrity;
 - (b) whether the applicant has been convicted of—
 - (i) an indictable offence; or
 - (ii) an offence against the *Prostitution Act 1999*;
 - (c) whether the applicant is an associate of a person who has been convicted of—
 - (i) an indictable offence; or
 - (ii) an offence against the *Prostitution Act 1999*;
 - (d) whether the applicant is an associate of a corporation, an executive officer of which has been convicted of—
 - (i) an indictable offence; or
 - (ii) an offence against the *Prostitution Act 1999*;
 - (e) whether the applicant has been charged with any offence of a sexual nature that involves violence, intimidation, threats or children, including the circumstances surrounding the laying of the charge and whether proceedings in relation to the charge are continuing or have been discontinued;
 - (f) whether the applicant's business structure is sufficiently transparent to enable all associates of the applicant, whether individuals or bodies corporate, to be readily identified;
 - (g) whether the applicant has the ability to control the 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 permit were granted;
 - (h) any other matters prescribed under a regulation.

-
- (2) For subsection (1)(e), it does not matter whether the offence is alleged to have been committed in Queensland or elsewhere.

107F Application to be referred to commissioner

- (1) The chief executive must give to the commissioner any particulars the chief executive considers relevant for each application for an adult entertainment permit.
- (2) On receiving particulars of the application, the commissioner—
- (a) must make inquiries about the applicant's criminal history; and
 - (b) must make any other inquiries about the application, including inquiries to the Prostitution Licensing Authority, the commissioner considers appropriate.
- (3) The commissioner must report to the chief executive after receiving the results of the inquiries.
- (4) The commissioner's report may include recommendations.
- (5) The commissioner's report must include reference to or disclosure of convictions of the person mentioned in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.

108 More than 1 licence or adult entertainment permit may be held

- (1) A person may apply for, and hold, more than 1 licence, whether of the same kind or of different kinds, or adult entertainment permit.
- (2) In this section—
licence includes a permit, other than an adult entertainment permit.

109B Controllers

- (1) A licensee or permittee who holds an adult entertainment permit may nominate an adult to be a controller to supervise the provision of the adult entertainment under the permit to ensure that it is provided in accordance with this Act and the conditions of the permit.
- (2) The nomination of a person by a licensee or permittee as a controller has no effect until it is authorised by signed written notice from the chief executive to the licensee or permittee.
- (3) If the licensee or permittee nominates a person to be a controller, the licensee or permittee must, within 14 days after nominating the person, give to the chief executive the following particulars about the person—
 - (a) the person's full name and residential address;
 - (b) the date and place of the person's birth;
 - (c) any other particulars prescribed under a regulation.Maximum penalty—25 penalty units.
- (4) Before authorising the nomination, the chief executive must give to the commissioner any particulars about the person the chief executive considers relevant to the nomination.
- (5) On receiving the particulars, the commissioner must make the inquiries the commissioner considers appropriate including—
 - (a) inquiries about the person's criminal history; and
 - (b) inquiries to the Prostitution Licensing Authority.
- (6) The commissioner must report to the chief executive after receiving the results of the inquiries.
- (7) The commissioner's report may include recommendations.
- (8) The commissioner's report must include reference to or disclosure of convictions of the person mentioned in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.
- (9) Without limiting subsection (2), the chief executive must refuse to authorise the nomination if the chief executive is

satisfied the nominated person is not a suitable person to be a controller.

- (10) In deciding whether the nominated person is a suitable person to be a controller, the chief executive must consider all relevant matters including the following—
- (a) whether the nominated person has an interest in a licensed brothel;
 - (b) whether the nominated person has been convicted of—
 - (i) an indictable offence; or
 - (ii) an offence against the *Prostitution Act 1999*;
 - (c) whether the nominated person has been charged with any offence of a sexual nature that involves violence, intimidation, threats or children, including the circumstances surrounding the laying of the charge and whether proceedings in relation to the charge are continuing or have been discontinued.
- (11) For subsection (10)(c), it does not matter whether the offence is alleged to have been committed in Queensland or elsewhere.

110 Application for grant of extended hours permit

- (1) A licensee may apply for an extended hours permit for the licensed premises.
- (2) An applicant for an extended hours permit must, at or about the time the application is given to the chief executive, also give a copy of the application to the police officer in charge of the locality in which the relevant premises are situated.
- (3) The police officer may comment or object to the chief executive about the application within 14 days of receiving the copy of the application.
- (4) In considering an application under this section, the chief executive must have regard to—

[s 111]

- (a) any matter raised by the local government 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 trading hours on a particular day to include trading between 12a.m. and 5a.m., the chief executive must also have regard to the following matters—
- (a) the previous conduct of the applicant in discharging any duties under this Act previously placed on the applicant, especially for the premises 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.

111 Variation of licence

- (1) A licensee may apply to vary a licence by amending or revoking a condition of the licence.
- (1B) The holder of a producer/wholesaler licence also may apply to vary the licence by changing the description of the licensed premises under the licence.
- (2) The chief executive may, on the chief executive's own initiative, seek to vary a licence in relation to any 1 or more of the following—
 - (a) the restriction of the authority under the licence;
 - (b) the ordinary hours of the licence;
 - (c) the hours stated in the licence;

- (d) the description of the licensed premises;
- (e) the type, quantity and availability of liquor from the licensed premises;
- (f) responsible practices in relation to the service, supply or promotion of liquor;

Examples for paragraph (f)—

- 1 providing meals
- 2 prohibiting takeaway sales of liquor to taxi drivers
- 3 prohibiting a licensee holding a person's financial-institution access card

- (g) another matter for the purpose of ensuring compliance with this Act or minimising harm caused by alcohol abuse and misuse and associated violence.
- (2A) The chief executive may exercise the power under subsection (2) in the same way for all licensed premises in a restricted area.

112 Procedure for variation by chief executive

- (1) 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.
- (1A) Also, if the chief executive proposes to vary a licence relating to licensed premises in a community area or part of a community area that is, or is in, a restricted area, the chief executive must give written notice of the proposed variation to—
 - (a) each assistant commissioner for a locality in the restricted area; and
 - (b) the community justice group for the community area.

[s 112A]

- (1B) An entity given a notice under subsection (1A) may, within 14 days, give to the chief executive written notice of objection to the proposed variation.
- (2) This section does not apply to a variation of a licence for a disciplinary action relating to the licence under section 137A.

112A Compensation not payable for variation

Compensation is not payable to any person for the variation of a licence under section 111(2).

112B Variation of condition about noise—licensed premises in special entertainment precinct

- (1) This section applies if—
 - (a) a licence is subject to a condition (a *noise condition*) about noise coming from the licensed premises; and
 - (b) the licensed premises are in a special entertainment precinct established by a local government under the *Local Government Act 2009*; and
 - (c) a licence, permit or other authority has been issued for the premises under a local law made by the local government under the *Local Government Act 2009*, including a licence, permit or other authority that has expired or been revoked or cancelled by the local government.
- (2) The noise condition does not apply in relation to noise from amplified music played at the licensed premises.
- (3) To remove any doubt, it is declared that this section no longer applies if the local government—
 - (a) revokes the special entertainment precinct; or
 - (b) changes the boundaries of the special entertainment precinct so that the premises are no longer within the precinct's core area under the *Local Government Act 2009*.

113 Application for transfer of licence

- (1) On application made by—
 - (a) the licensee and the proposed transferee; or
 - (b) the owner, lessee 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, sublease, 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 trading hours approval 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 the *Gaming Machine Act 1991*, section 78.
- (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.

113A Transfer of licence or permit held for or on behalf of unincorporated association

- (1) This section applies if—

[s 115]

- (a) a person holds a licence or permit for or on behalf of an unincorporated association; and
 - (b) the association becomes incorporated.
- (2) The person and the incorporated association must, within 3 months after the association is incorporated, apply to the chief executive for the licence or permit to be transferred to the incorporated association.

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

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) the right to sell liquor be let or sublet; or
- (d) a franchise, or management rights of a similar nature, be granted for licensed premises, or a part of licensed premises;

sections 107 to 108 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.

116 When community impact statement to be given to chief executive

- (1) The following applications must be accompanied by a community impact statement—
- (a) an application for a licence, other than a community other licence;
 - (b) an application, under section 111, by a licensee for a variation of the licence;
 - (c) an application for an extended trading hours approval mentioned in section 86(1).

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- (2) Subsection (3) applies to the following applications—
 - (a) an application for a community other licence;
 - (b) an application for a commercial public event permit or community liquor permit.
 - (3) If the chief executive reasonably believes granting the application may be inconsistent with the main purpose of this Act mentioned in section 3(a), the chief executive may, by written notice given to the applicant, require the applicant to give the chief executive a community impact statement in relation to the application within 60 days after the giving of the notice.
 - (4) However, the chief executive need not require the applicant to give the chief executive a community impact statement in relation to the application if the chief executive is satisfied a community impact statement is not necessary—
 - (a) because the application does not involve a significant change to the licensed premises or the nature or extent of the business carried on from the licensed premises; or
 - (b) because of the remote location of the premises; or
 - (c) because the purpose of the community impact statement has been, or can be, achieved by other means; or
 - (d) because of other special circumstances.
 - (5) The applicant is taken to have withdrawn the application if, within the time stated in subsection (3), the applicant does not comply with the requirement under subsection (3).
 - (6) The purpose of a community impact statement is to help the chief executive assess the impact on the community concerned if the application were granted, having regard to the main purpose of this Act mentioned in section 3(a).
 - (7) However, if, under section 142AO, the application is to be decided by the commission, the purpose of a community impact statement is—
 - (a) to help the chief executive, for making a recommendation to the commission under section

[s 117]

- 142AP, assess the impact on the community concerned if the application were granted, having regard to the main purpose of this Act mentioned in section 3(a); and
- (b) to help the commission, for making a decision about the application, assess the impact on the community concerned if the application were granted, having regard to the main purpose of this Act mentioned in section 3(a).
- (8) A community impact statement must address the following—
- (a) the existing and projected population and demographic trends in the locality;
 - (b) the number of persons residing in, resorting to or passing through the locality, and their respective expectations;
 - (c) the likely health and social impacts that granting the application would have on the population of the locality;
 - (d) an assessment of the magnitude, duration and probability of the occurrence of the health and social impacts;
 - (e) the proximity of the proposed licensed premises or proposed premises to which the permit is to relate to identified sub-communities within the locality, including, for example, schools and places of worship, and the likely impact on those sub-communities.
- (9) In preparing a community impact statement, the applicant must have regard to relevant guidelines issued by the chief executive.

117 Advice about application etc.

- (1) As soon as practicable after the chief executive receives a relevant application, the chief executive must tell the following about the application—
- (a) the local government for the relevant locality;

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- (b) if the application is for an extended trading hours approval or an adult entertainment permit—the assistant commissioner for the locality.
- (2) The local government or assistant commissioner may—
 - (a) comment on the reasonable requirements of the public in the locality; or
 - (b) object to the grant of the relevant application on the grounds that the amenity, quiet or good order of the locality would be lessened.
 - (3) The comment or objection must be given to the chief executive—
 - (a) if the relevant application was required to be advertised—on or before the last day for filing objections to the application; or
 - (b) in any other case—within 14 days of receiving advice about the application, or within a longer time stated by the chief executive in the advice.
 - (4) In this section—

relevant application means—

 - (a) an application to which section 116 applies; or
 - (b) an application for a community club licence; or
 - (c) an application for an adult entertainment permit; or
 - (d) another application the chief executive reasonably considers may adversely affect the amenity, quiet or good order of a locality.

117A Comments about particular applications

- (1) As soon as practicable after the chief executive receives an application relating to a restricted area, the chief executive may ask any 1 or more of the following to give the chief executive comments about the application—
 - (a) the local government that may exercise jurisdiction in the area;

[s 118]

- (b) the assistant commissioner for the locality to which the application relates;
 - (c) if the area is or is in a community area—the community justice group for the area.
- (2) In deciding the application, the chief executive must have regard to comments received from the entities mentioned in subsection (1).

Editor's note—

Also, see section 121 (Matters the chief executive must have regard to).

118 Advertisement of applications

- (1) An application for the following must be advertised under this section—
- (a) a licence or variation of a licence;
 - (b) an approval of a detached bottle shop;
 - (c) an extended trading hours approval or variation of an extended trading hours approval;
 - (d) an adult entertainment permit, other than a one-off permit or subsequent permit;
 - (e) another application that the chief executive requires, by written notice to the applicant, to be advertised.
- (2) If an application must be advertised, the applicant must—
- (a) in a form, and on days, approved by the chief executive generally or in a particular case, publish notice of the application, at the applicant's expense—
 - (i) once in the gazette; and
 - (ii) twice in a newspaper circulating in the locality; and
 - (b) display a copy of the notice on a sign the dimensions of which (including dimensions of the print) are approved by the chief executive, generally or in a particular case; and

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- (c) ensure the copy is displayed conspicuously for 28 days immediately before the last day for making submissions about the reasonable requirements of the public in the locality or filing objections to the application.
- (2A) For subsection (2)(b), the sign must be displayed—
- (a) if the land on which the premises to which the application relates has only 1 road frontage—conspicuously, on the front alignment of the land or on the premises, at street level and in a way that ensures it is clearly visible to the passing public; and
 - (b) if the land on which the premises to which the application relates has more than 1 road frontage—conspicuously, on the land or on the premises, at street level and in a way that ensures it is clearly visible to the passing public on each road frontage.
- (3) The chief executive may—
- (a) waive or vary the publication and display requirements for an application if the chief executive is satisfied that publication and display under subsection (2) is not necessary because of the remote location of the premises or other special circumstances; or
 - (b) vary the display requirements for an application, including by requiring the applicant to comply with other requirements, if the chief executive is satisfied that display under subsection (2) is not appropriate having regard to the specific nature of the location.
- (4) Subject to subsection (5), the applicant must give to the chief executive evidence of satisfying the publication and display requirements under subsection (2) or (3).
- (5) The chief executive may approve publication and display that—
- (a) substantially complies with subsection (2); or
 - (b) has already taken place for another purpose and substantially complies with subsection (2).

[s 118A]

- (6) In deciding whether to require an application for an adult entertainment permit to be advertised, that is an application for a one-off permit or subsequent permit, the chief executive must have regard to—
- (a) for a one-off permit—whether the frequency, location, size or timing of the adult entertainment may cause some community concern; and
 - (b) for a subsequent permit—whether a previous adult entertainment permit exists or has lapsed or whether there are specific problems relating to the locality of the licensed premises, including, for example, the use of the premises for adult entertainment, or the behaviour of persons entering or leaving the premises, may cause undue annoyance or disturbance to persons living or working or doing business in the neighbourhood of the premises.

- (7) In this section—

one-off permit means an adult entertainment permit for a term of less than 4 days.

subsequent permit means an adult entertainment permit relating to a person for premises if the person was, within the preceding 6 months of the date of the application for the subsequent permit, previously the holder of an adult entertainment permit for the premises, other than a one-off permit.

118A Submissions

- (1) If a notice about an application to which section 116 applies is published as required by section 118, a member of the public may make a written submission to the chief executive about the matters mentioned in section 116(6).
- (3) In this section—

member of the public has the meaning given by section 119.

119 Objection by member of public to grant of applications

- (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 about an application, other than an application for an adult entertainment permit, may be made are that, if the application were granted, 1 or more of the following may happen—
 - (a) undue offence, annoyance, disturbance or inconvenience to persons who reside, 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;
 - (b) harm from alcohol abuse and misuse and associated violence;
 - (c) an adverse effect on the health or safety of members of the public;
 - (d) an adverse effect on the amenity of the community.
- (4) The grounds on which an objection about an application for an adult entertainment permit may be made are that, if the application were granted, 1 or more of the following may happen—
 - (a) undue annoyance, disturbance or inconvenience to persons who reside, 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, school, or other facility or place regularly frequented by children for cultural or recreational activities;
 - (b) harm from alcohol abuse and misuse and associated violence;
 - (c) an adverse effect on the health or safety of members of the public;

[s 119A]

- (d) an adverse effect on the amenity of the community.
- (5) 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.

119A Objection by Minister to grant of applications having significant community impact

- (1) This section applies if—
 - (a) notice of an application for either of the following is advertised under section 118—
 - (i) a licence or variation of a licence;
 - (ii) an extended trading hours approval or variation of an extended trading hours approval; and
 - (b) the commission is required, under section 142AO, to make the decision whether to grant the application.
- (2) The Minister 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 stated in the notice.
- (3) The grounds on which an objection about an application may be made are that, if the application were granted, 1 or more of the following may happen—
 - (a) undue offence, annoyance, disturbance or inconvenience to persons who reside, 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;
 - (b) harm from alcohol abuse and misuse and associated violence;

- (c) an adverse effect on the health or safety of members of the public;
- (d) an adverse effect on the amenity of the community.

120 Requirements of objection by petition

- (1) An objection purporting to be by petition to the grant of an application is ineffective, and may be disregarded, unless—
 - (a) each sheet of the petition has an identical heading clearly stating the subject matter of the petition and positioned to be clearly legible to every person whose signature on the petition is sought; and
 - (b) each signatory to the petition adds particulars of his or her connection with the locality to which the application relates; and
 - (c) each sheet of the petition states the name of the petition's sponsor with whom all contact between the chief executive and the signatories to the petition is to take place.
- (2) A notice given by the chief executive, or the director, to the sponsor of the petition is taken to be given to all signatories to the petition.

121 Matters the chief executive must have regard to

- (1) In deciding whether to grant the application, the chief executive must have regard to—
 - (a) if the application is an application to which section 116 applies—
 - (i) the matters mentioned in section 116(6); and
 - (ii) the public interest in so far as it relates to—
 - (A) the main purpose of this Act mentioned in section 3(a); or
 - (B) the impact on the amenity of the community; and

[s 121]

- (b) objections made to the grant of the application; and
 - (c) comments from the local government for the area to which the application relates; and
 - (d) for an application for an extended trading hours approval mentioned in section 86(1), an application for an adult entertainment permit or an application relating to a restricted area—comments from the assistant commissioner for the locality to which the application relates; and
 - (e) if the application relates to a community area—comments from the community justice group for the area; and
 - (f) the impact on the amenity of the community concerned; and
 - (g) for an application for an extended trading hours approval mentioned in section 86(1)—
 - (i) the previous conduct of the applicant in discharging any duties under this Act previously placed on the applicant, especially for the premises for which the extension is sought; and
 - (ii) the applicant's ability to control the 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; and
 - (iii) the suitability of the premises and its facilities for the purpose for which the extension is sought; and
 - (h) any relevant conditions imposed on a development approval, given by a local government under the *Sustainable Planning Act 2009*, that relates to premises the subject of the application.
- (2) In this section—
- objection** includes an objection made by the Minister under section 119A.

122 Procedure on receipt of objections

- (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) In this section—

objection includes an objection made by the Minister under section 119A.

123 Chief executive may grant provisional licence

- (1) This section applies if—
 - (a) the chief executive assesses an application for a licence, including, for example, the principal activity of a business to be conducted under the proposed licence and the requirements of sections 107 and 107A in relation to the application; and
 - (b) a development approval has been given under the *Sustainable Planning Act 2009* for the use of the land on which the proposed premises will be situated for licensed premises; and
 - (c) the chief executive would grant the application if a building or structure forming part of the proposed premises—
 - (i) were completed under the law relating to carrying out building work; or
 - (ii) were 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.

[s 123A]

- (2) The chief executive may grant the application provisionally and issue a provisional licence subject to a condition that the applicant produces evidence of the completion of the building work or approval or certification as required by law, as mentioned in subsection (1)(c).
- (3) The provisional licence must state—
 - (a) the evidence the applicant is required to produce; and
 - (b) that if the applicant produces the stated evidence to the satisfaction of the chief executive within the relevant period for the development approval, the applicant is entitled to a stated licence; and
 - (c) that if the applicant does not produce the stated evidence within the relevant period, the applicant's provisional licence will be cancelled.

123A Chief executive may grant authority to trade for staged development

- (1) This section applies if—
 - (a) the chief executive assesses an application for a licence, including, for example, the principal activity of a business to be conducted under the proposed licence and the requirements of sections 107 and 107A in relation to the application; and
 - (b) the construction or alteration of the proposed premises is to be completed in stages and 1 or more of the stages has been completed; and
 - (c) the business to be conducted in a completed stage meets the principal activity under the proposed licence and has been 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; and
 - (d) the chief executive would grant the application if all the stages of the construction or alteration of the premises were completed.

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- (2) The chief executive may grant the application provisionally and issue an approval (a *staged development approval*) subject to a condition that the applicant produces evidence of the completion of the remaining stages of the construction or alteration of the premises.
 - (3) The staged development approval must state—
 - (a) the evidence the applicant is required to produce before the application for the licence will be granted; and
 - (b) the part of the premises in which the applicant is authorised to operate the business the subject of the application until the licence is granted; and
 - (c) that if the applicant produces the stated evidence within a stated reasonable time, not more than 2 years, the applicant is entitled to a stated licence.

123B Provisional licence or staged development approval

- (1) A provisional licence remains in force for the relevant period for the development approval in relation to which the licence is granted.
- (1A) A staged development approval remains in force for the stated reasonable time from the day on which the approval is granted.
- (2) The chief executive may renew a provisional licence, for a period of not more than 1 year, if the chief executive reasonably considers there are special circumstances for the applicant not producing the evidence stated in the licence within the relevant period for the development approval in relation to which the licence is granted, including, for example, delays in completing the proposed premises because of adverse weather conditions.
- (3) A provisional licence can not be renewed more than once.
- (4) The chief executive may, after considering a matter to which the chief executive may have regard in making a decision to grant a licence of the type the subject of a staged development

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approval, renew the approval for a period of not more than 2 years.

- (5) A staged development approval may be renewed a maximum of 4 times.

123C Effect of provisional licence

- (1) A provisional licence in relation to an application for a licence does not give the applicant authority to operate the business the subject of the application until the licence is granted.
- (2) If, while a provisional licence is in force, the holder of the licence produces the evidence stated in the licence to the satisfaction of the chief executive, the chief executive must grant the appropriate licence.
- (3) If the holder of a provisional licence does not produce the evidence stated in the licence while it is in force, the chief executive must cancel the provisional licence.
- (4) The cancellation of a provisional licence takes effect despite another provision of this Act.

124 Effect of staged development approval

- (1) A staged development approval in relation to an application for a licence authorises the applicant to sell and supply liquor as if—
 - (a) the approval were the licence the subject of the application; and
 - (b) the part of the premises stated in the approval in which the applicant is authorised to operate the business the subject of the application were licensed premises; and
 - (c) the applicant were the licensee.
- (2) If, while a staged development approval is in force, the holder of the approval produces the evidence stated in the staged development approval, the chief executive must grant the appropriate licence.

125 Temporary authority

- (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) If the licence for the licensed premises is a commercial hotel licence, the chief executive may grant temporary authority even though part of the business that is the principal activity under the licence can not be conducted in the premises that are the subject of the authority.

Example of subsection (3)—

If a hotel is destroyed by fire but there is a detached bottle shop covered by the licence, the temporary authority may be given for the detached bottle shop even though the hotel is not able to operate or can not be rebuilt for a period of time.

- (4) A temporary authority may be—
 - (a) granted for 1 term stated in the authority, but not longer than 2 years; and
 - (b) extended for a term or terms, each of which is not longer than 2 years, if the chief executive is satisfied there are special circumstances for not restoring the premises within the original term or the most recent extension of the term, including, for example—

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- (i) continuing investigations about the destruction of the premises; or
 - (ii) difficulties in obtaining development approval for rebuilding the premises.
- (5) The chief executive may impose conditions on the temporary authority—
 - (a) to ensure appropriate compliance with this Act; or
 - (b) to give effect to the main purpose of this Act mentioned in section 3(a); or
 - (c) to minimise alcohol-related disturbances, or public disorder, in a locality.
- (6) 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.

126 Variation or transfer to be endorsed on licence

- (1) If a licence is varied, the chief executive must cause an appropriate endorsement to be made on the licence.
- (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 for endorsement under subsection (1) or (2).

127 Duplicate licence or permit

- (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.

128 Liability of licensees in certain cases

If a licence is held—

- (a) by a corporation—each of the directors of the corporation is subject to the same liabilities under this Act as a licensee; or
- (b) for or on behalf of an unincorporated association, and the licensee is absent from the management and supervision of the business conducted under authority of the licence—each of the members of the association's management committee is subject to the same liabilities under this Act as a licensee.

Division 2 Persons managing affairs of licensees

129 Applications to continue trading in certain circumstances

- (1) The following persons may apply to the chief executive to conduct the business of a licensee on licensed premises—
 - (a) if a licensee is dead—a person entitled to be appointed as the legal personal representative of the deceased licensee;

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- (b) if the licensee is bankrupt or has taken advantage of the laws of bankruptcy—a person in possession of the licensed premises who is entitled to administer the affairs of the licensee;
 - (c) if the licensee is a corporation—a person in possession of the licensed premises who has been appointed to manage or wind up the affairs of the licensee;
 - (d) a guardian of a licensee or an administrator or manager of the estate of a licensee.
- (2) If any of the following circumstances happen in relation to a licence or licensed premises, the owner or mortgagee of the licensed premises, or the owner of a financial interest in the trading of the licensed premises, may also apply to the chief executive to conduct the business of the licensee on the licensed premises—
- (a) a licensee ceasing to conduct business on the premises under authority of the licence;
 - (b) the lessee or sublessee of the right to sell liquor ceasing to conduct business on the premises under authority of the licence;
 - (c) a licensee who holds the licence as a member of a partnership ceasing to be a member of the partnership;
 - (d) the chief executive has ordered cancellation of the licence but the order has not taken effect.
- (3) If the application is made in circumstances mentioned in subsection (2)(d), the order for cancellation is stayed until the application is disposed of by the chief executive.
- (4) Also, each of the following persons may apply to the chief executive to conduct the business of a community club licence if the person is in possession of the licensed premises and the application states, in detail, the way in which the person will continue trading under the community club licence for the benefit of the club—

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- (a) an owner or mortgagee of the licensed premises who has, under section 44A(2), given the chief executive particulars of the person's interest in the licence;
 - (b) an owner of a financial interest in the trading of the licensed premises who has, under section 44A(2), given the chief executive particulars of the person's interest in the licence.
- (5) Despite subsections (1), (2) and (4), a person may apply to the chief executive under this section only if the person is a person who may make an application under section 106.

130 Where approval under s 129 not obtained

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.

131A Decision by chief executive on application to continue trading in certain circumstances

- (1) This section applies if an application is made under section 129.
- (2) If an applicant is the occupier or is entitled to possession of the licensed premises, the chief executive may authorise the applicant to conduct business on licensed premises under authority of the licence on an interim basis.
- (3) The chief executive may impose conditions on the authority under subsection (2)—
 - (a) to ensure appropriate compliance with this Act; or

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- (b) to give effect to the main purpose of this Act mentioned in section 3(a); or
 - (c) to minimise alcohol-related disturbances, or public disorder, in a locality.
- (4) Without limiting subsection (3), the chief executive may impose a condition requiring the applicant to successfully complete the licensee's course and approved training course, or either course, within 3 months after the authority is given.
- (5) The authority under subsection (2) continues until the earliest of the following happens—
 - (a) the application on which it is made is disposed of by the chief executive;
 - (b) the authority is revoked by the chief executive because the applicant contravenes this Act or a condition of the licence or authority;
 - (c) the authority expires.
- (6) If the application is made by a person as mentioned in section 129(4), the maximum period for an authority given under subsection (2) is not for more than 6 months after the date of the application.
- (7) While the authority under subsection (2) continues, the applicant is subject to liabilities under this Act as if the applicant were the licensee of the licensed premises.
- (8) If the chief executive is satisfied that the applicant is not a disqualified person and is a fit and proper person to conduct the business under the authority of the licence, the chief executive may authorise the applicant to conduct the business under the authority of the licence.
- (9) If the application was made because of an order for cancellation of the licence and the chief executive authorises the conduct of the business under subsection (8), the order for cancellation is set aside.
- (10) If the chief executive is not satisfied about the matters mentioned in subsection (8), the chief executive must reject the application and may make an order under section 132.

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- (11) On the chief executive's rejection of the application—
- (a) if an authority under subsection (2) is still in force—the authority is revoked; and
 - (b) if the application was made because of an order for cancellation of a licence—the chief executive's order for cancellation of the licence takes effect.

131B Section 129 applicants may apply under s 113

A person who may apply under section 129, may apply under section 113 for the transfer of the licence even though the person is not a person mentioned in section 113.

132 Discharge of licensee or permittee from obligations

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;

the chief executive may, by order, do all or any of the following—

- (c) discharge the licensee prospectively from obligations under this Act in relation to the licensed premises;
- (d) suspend the licence until—
 - (i) the licence has been properly transferred; or
 - (ii) a person has been authorised by the chief executive under section 131A to conduct business under authority of the licence;

as the case may require.

Division 3 Surrender and cancellation of licence or permit

Subdivision 1 Surrender of licences and permits

133 Request to surrender

- (1) An appropriate person 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 made in writing by the appropriate person; and
 - (b) must be accompanied or supported by—
 - (i) the consent of all mortgagees or lessees of the licensed premises, or part of the licensed premises, who have given the chief executive particulars under section 44A; and
 - (ii) enough information to enable the chief executive to decide the request, including the information prescribed under a regulation for this subparagraph; and
 - (c) in the case of surrender of a licence held by a club—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.
- (3A) Despite subsection (3)(b)(i), the request need not be accompanied or supported by a consent mentioned in that subparagraph if, after making reasonable efforts, the appropriate person can not obtain the consent.
- (3B) If subsection (3A) applies to a request under subsection (1), the chief executive must as soon as practicable give written notice of the request to each owner, mortgagee or lessee of the

licensed premises, or part of the licensed premises, under the licence who—

- (a) holds an interest in the licence; and
 - (b) has given the chief executive particulars about the interest under section 44A.
- (3C) However, subsection (3B) does not require the chief executive to give the notice to—
- (a) the appropriate person who made the request; or
 - (b) a person whose consent accompanied or supported the request.
- (4) The chief executive must cause written notice of a request made by an appropriate person under subsection (1) to be given to each secured creditor of the appropriate person—
- (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 (3B) or (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.
- (8) In this section—
- appropriate person***, in relation to the surrender of a licence, means—

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- (a) the licensee, if the licensee is sole owner of the licensed premises; or
- (b) the owner, lessee or mortgagee of the licensed premises, if any of the following apply—
 - (i) the licensee has been lawfully evicted from, or has abandoned, the licensed premises;
 - (ii) the lease, sublease, tenancy or right to occupy the licensed premises of the licensee has been lawfully terminated;
 - (iii) the licensee has ceased to conduct business in the licensed premises and has not agreed to the request; or
- (c) the licensee and the owner of the licensed premises, if paragraph (a) or (b) does not apply.

Subdivision 2 Cancellation, suspension and variation of permits

134 Cancellation, suspension or variation of permits

- (1) The chief executive may, on the chief executive's own initiative, cancel, suspend or vary a permit if the chief executive is satisfied that—
 - (a) the permittee has contravened—
 - (i) this Act or the *Racing Act 2002*, section 321 or 323; or
 - (ii) a condition stated 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 relation to 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.
- (2) Also, the chief executive may vary a permit that relates to premises in a restricted area to make the conditions of the permit consistent with the conditions of licences for licensed premises in the area.
- (3) The chief executive must immediately cancel a permit if the chief executive is satisfied the permittee has become a disqualified person.
- (4) Subsection (5) applies if an adult entertainment permit has been issued for licensed premises or premises to which a community liquor permit or restricted liquor permit relates, and the chief executive—
 - (a) is advised that the licensee has ceased to conduct the business authorised by the licensee’s licence on the premises; or
 - (b) receives an application to transfer the licence because of the sale of the business authorised by the licensee’s licence on the premises; or
 - (c) receives an application to conduct the business of a licensee on licensed premises under section 129; or
 - (d) receives a notice from a corporation under section 150 about a change in the controlling interest in the corporation.
- (5) The chief executive must, by written notice, cancel the adult entertainment permit.
- (6) If subsection (4)(a) applies, the notice must be given to the person controlling, or apparently controlling, the premises and takes effect on giving the notice.
- (7) If subsection (4)(b) applies—

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- (a) if the licensee has ceased to conduct the business—the notice must be given to the person controlling, or apparently controlling, the premises and takes effect from the date of the notice; or
 - (b) if the licensee continues to conduct the business until the date of settlement of the sale—the notice must be given to the licensee and takes effect from the date of settlement.
- (8) If subsection (4)(c) applies, the notice must be given to the person controlling, or apparently controlling, the premises and takes effect 28 days after the date of the notice.
- (9) If subsection (4)(d) applies, the notice must be given to the licensee and takes effect 28 days after the date of the notice.

134A Ground for taking relevant action relating to adult entertainment permit

The chief executive may take a relevant action relating to an adult entertainment permit on the ground that the person who holds the permit is no longer a suitable person to provide adult entertainment.

134B Show cause notice

If the chief executive considers, on reasonable grounds, that a person who holds an adult entertainment permit is no longer a suitable person to provide adult entertainment, the chief executive must give the person a written notice that—

- (a) states the relevant action relating to the adult entertainment permit that the chief executive proposes to take; and
- (b) states the grounds for the relevant action; and
- (c) states an outline of the facts and circumstances forming the basis for the grounds; and

- (d) invites the person to show within a stated period, not less than 14 days after the notice is given to the person, why the relevant action should not be taken.

134C Decision about relevant action relating to adult entertainment permit

- (1) After considering any representations made by the person who holds the adult entertainment permit, the chief executive may—
 - (a) if the chief executive still considers there is a ground to take the relevant action relating to the adult entertainment permit—take the relevant action; or
 - (b) if the chief executive no longer believes a ground exists to take the relevant action—take no further action about the show cause notice.
- (2) Within 7 days after the chief executive makes a decision under subsection (1), the chief executive must give written notice of the decision to the licensee.
- (3) Also, if the chief executive decides to take the relevant action the notice under subsection (2) must comply with the tribunal Act, section 157(2).

135 Summary cancellation, suspension or variation

- (1) Cancellation, suspension or variation of a permit under section 134 takes effect when written notice of the cancellation, suspension or variation is given to the permittee.
- (2) Subsection (1) applies subject to section 134(3) to (9).

135A Compensation not payable for variation

Compensation is not payable to any person for the variation of a permit under section 134(1A).

Subdivision 3 Disciplinary action relating to licences

136 Grounds for disciplinary action

- (1) Each of the following is a ground for taking disciplinary action relating to a licence—
 - (a) the licensee has failed to—
 - (i) comply with this Act; or
 - (ii) conduct a business on the licensed premises that is consistent with the principal activity of the licence; or
 - (iii) comply with a condition stated in the licence or in an extended trading hours approval endorsed on the licence; or
 - (iv) comply with an order of the chief executive or a requisition of an investigator;
 - (b) the licensee is convicted of—
 - (i) an offence against this Act; or
 - (iii) an offence against the *Racing Act 2002*, section 321 or 323; or
 - (iv) an offence the chief executive considers indicates the licensee's unsuitability to hold the licence;
 - (c) the licensee has, at a material time, employed or engaged in the business conducted under authority of the licence a person convicted of an offence against this Act committed in the course of the business being carried on;
 - (d) the licensee has obtained the licence by fraud or false representation;
 - (e) the licensee is not a fit and proper person to conduct business under authority of the licence;

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- (f) the licensee has ceased to conduct business on the licensed premises;
 - (g) 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;
 - (h) the use of the licensed premises, or the behaviour of persons entering or leaving the premises—
 - (i) is causing undue annoyance or disturbance to persons—
 - (A) living, working or doing business in the neighbourhood of the premises; or
 - (B) 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;
 - (i) the licensee is no longer eligible to hold the licence under section 106(3) or (4).

137 Procedure for taking disciplinary action in relation to licence

- (1) If the chief executive, or the commission under section 142AO, considers, on reasonable grounds, there is a ground to take disciplinary action relating to a licence (the *proposed action*), the chief executive must give the licensee a written notice that states the following—
 - (a) the proposed action;
 - (b) the grounds for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) if the proposed action includes suspending the licence—the proposed suspension period;

[s 137A]

- (e) if the proposed action includes closing the licensed premises for a stated period—the proposed closure period;
 - (f) if the proposed action includes varying the licence—the proposed condition to which the licence is to be subject or the other way in which the authority conferred by the licence is to be limited;
 - (g) if the proposed action includes disqualifying the licensee from holding a licence or permit—the proposed disqualification period;
 - (h) if the proposed action includes requiring the licensee to pay the department an amount—the proposed amount;
 - (i) an invitation to the licensee—
 - (i) to show, by a stated day that is at least 28 days after the notice is given (the *last day for representations*), why the proposed action should not be taken; and
 - (ii) to make submissions about the proposed action;
 - (j) how representations by the licensee about the proposed action may be made.
- (2) The chief executive must also give to each interested person relating to the licence, at least 28 days before the show cause period ends, written notice that—
- (a) states the matters mentioned in subsection (1)(a) to (h); and
 - (b) invites the interested person to make representations, in the way stated in the notice, about the proposed action before the last day for representations.

137A Decision about disciplinary action

- (1) If, after considering any representations made, the chief executive, or the commission under section 142AO, still considers there is a ground to take disciplinary action relating

to the licence, the chief executive or the commission may decide to—

- (a) if the proposed action was other than suspension or cancellation—take the proposed action or another form of disciplinary action, other than suspension or cancellation of the licence; or
 - (b) if the proposed action was to suspend the licence—suspend the licence, for not longer than the proposed suspension period or take another form of disciplinary action, other than cancellation of the licence; or
 - (c) if the proposed action was to cancel the licence—either cancel the licence or take another form of disciplinary action.
- (2) If the chief executive, or the commission under section 142AO, decides to take disciplinary action other than the proposed action or part of the proposed action, the chief executive must, as soon as practicable after the decision is made, give the licensee and each interested person to whom notice of the proposed action was given, a further notice stating the following—
- (a) the form of disciplinary action the chief executive or the commission proposes to take;
 - (b) the reasons for the decision;
 - (c) the licensee and interested persons may make submissions to the chief executive or the commission in the way and within the time stated in the notice.
- (3) For subsection (2)(c), the time stated in the notice must not be less than 7 days after the licensee and interested persons are given the notice.
- (4) If, after considering any representations made about the further notice, the chief executive, or the commission under section 142AO, still considers there is a ground to take disciplinary action relating to the licence, the chief executive or the commission may decide to take the disciplinary action.

[s 137B]

- (5) More than 1 type of disciplinary action relating to a licence may be taken against the licensee under this section.
- (6) In this section—
proposed action see section 137(1).

137B Notice to be given about decision of chief executive or commission

- (1) Within 10 days after the chief executive or the commission makes a decision under section 137A(1) or (4) relating to proposed disciplinary action relating to a licence, the chief executive must give written notice of the decision to—
 - (a) the licensee; and
 - (b) each interested person to whom notice of the proposed action was given.
- (2) However, subsection (1) does not apply to a decision made under section 137A(1) if the chief executive or the commission decides to take disciplinary action other than the proposed action or part of the proposed action and the chief executive gives the licensee and each interested person a notice under section 137A(2).
- (3) If the chief executive or the commission decides to take the proposed action under section 137A(1) or other disciplinary action under section 137A(4), the notice must comply with the tribunal Act, section 157(2).
- (4) The decision takes effect on the later of—
 - (a) the day the notice is given to the licensee; or
 - (b) the day of effect stated in the notice.
- (5) However, if disciplinary action is taken relating to the licence because of a conviction—
 - (a) the disciplinary action does not take effect until—
 - (i) the end of the time to appeal against the conviction; or

- (ii) if an appeal is made against the conviction—the appeal is finally decided; and
- (b) the disciplinary action has no effect if the conviction is quashed.

137C Urgent suspension

- (1) This section applies if the chief executive believes, on reasonable grounds—
 - (a) a ground exists for taking disciplinary action in relation to a licence; and
 - (b) harm may be caused to members of the public if urgent action to suspend the licence is not taken.
- (2) The chief executive may immediately suspend the licence (an *urgent suspension*) by written notice which must—
 - (a) be given to the licensee; and
 - (b) state the licence is suspended; and
 - (c) comply with the tribunal Act, section 157(2).
- (3) The urgent suspension takes effect immediately the notice is given to the licensee.
- (4) At the same time as the chief executive gives the licensee the notice, the chief executive must give the licensee a notice under section 137(1).
- (5) The urgent suspension continues until the first of the following happens—
 - (a) the chief executive revokes it;
 - (b) the chief executive, under section 137B(1), gives the licensee notice of the chief executive's decision under section 137A(1) or (4);
 - (c) the end of 60 days after the notice under subsection (2) was given to the licensee.

[s 137D]

137D Amount payable as a debt due to the State

- (1) This section applies if the chief executive or the commission decides to take disciplinary action relating to a licence and the action requires the licensee to pay an amount to the department.
- (2) Any amount unpaid becomes a debt due and payable to the State 28 days after the day notice of the decision is given to the licensee under section 137B.

137E Disciplinary action against former licensee

- (1) Subsection (2) applies if—
 - (a) the chief executive gives a licensee a notice about a proposed action under section 137; and
 - (b) the licensee transfers the licence before the chief executive makes a decision about the proposed action under section 137A.
- (2) Sections 137A, 137B and 137D continue to apply in relation to the proposed action as if the licence is still held by the former licensee.
- (3) Subsection (4) applies if—
 - (a) a licensee transfers the licence; and
 - (b) within 1 year after the transfer, the chief executive considers there is a ground to take relevant disciplinary action relating to the licence for circumstances arising before the transfer.
- (4) Sections 137 to 137B and 137D apply as if the licence is still held by the former licensee.
- (5) However, for subsections (2) and (4), the only disciplinary action that may be taken against the former licensee is a relevant disciplinary action.
- (6) For subsections (2) and (4), this Act applies, with any necessary changes, to the former licensee as if a reference to a licensee included the former licensee.

(7) In this section—

relevant disciplinary action means one of the actions mentioned in paragraphs (f), (g) and (i) of the definition *disciplinary action* in section 4.

Subdivision 4 Effect of suspension of licence or permit and other matter

138 Effect of suspension

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

139 Compensation not payable

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.

Division 4 Closure of premises

140 Closure of unsafe or unhealthy premises

(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

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(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.

(4) In this section—

premises includes part of premises.

141 Order to close premises for unlawful trading

(1) If business is conducted on licensed premises by a person who is not—

(a) the licensee of the premises; or

(b) both an approved manager and an employee of the licensee; or

(c) a person authorised by the chief executive under section 131A;

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 for subsection (2)—25 penalty units.

141A Closure of premises in face of riot or tumult

- (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) If an investigator informs the chief executive that a magistrate or 2 justices are not readily available to deal with an application under subsection (1), the chief executive 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 of not longer than 48 hours stated in the order.
- (3) An order under subsection (2) about licensed premises applying for a period (the *initial period*) does not preclude a magistrate or 2 justices making an order under subsection (1) about the premises applying for a period that includes part of the initial period.
- (4) A person must not knowingly contravene an order under subsection (1) or (2).

Maximum penalty for subsection (4)—25 penalty units.

Division 4A Training course certificate requirements

141B Application of div 4A

This division applies to licensed premises.

141C Conditions about training course certificates for particular persons

- (1) It is a condition of the licensee's licence that each of the following persons must have a current training course certificate—
 - (a) if the licensee is an individual—the licensee;

[s 141D]

- (b) a member of staff of the licensed premises who is involved in the service or supply of liquor at the premises.

Examples of staff involved in the service or supply of liquor—

bartenders, glass collectors, floor hostesses or room service staff

- (2) However, the condition mentioned in subsection (1)(b) does not apply to a licence, in relation to a person who becomes a member of staff of the licensed premises after the commencement of this section, until 30 days after the person becomes a member of the staff.
- (3) Also, it is a condition of the licensee's licence that the licensee—
- (a) must keep a register (a **training register**) containing the information prescribed under a regulation about—
- (i) current training course certificates kept by the licensee under subsection (4); or
- (ii) matters relating to training persons involved in the service or supply of liquor at the licensed premises; and
- (b) must keep the register available for inspection by an investigator at the premises.
- (4) Also, subject to subsection (2), it is a condition of the licensee's licence that the licensee must keep with the licensee's training register a copy of the current training course certificates held by persons mentioned in subsection (1).

141D Application of s 136

For this Act, a reference in section 136(1)(a)(iii) to a condition stated in the licence is taken to include a reference to a condition of the licence imposed under section 141C.

Division 5 Lock out provisions

142AA Application of div 5

- (1) This division applies to licensed premises and premises to which a permit relates if the licensee or permittee is authorised under this Act to sell or supply liquor on the premises during all or any part of the period starting at 3a.m. on a day and ending at 6a.m. on the day (the *trading period*).
- (2) However this division does not apply to—
 - (a) a casino under the *Casino Control Act 1982*; or
 - (b) that part of licensed premises used principally for the residential accommodation of guests staying on the premises; or
 - (c) licensed premises at an airport terminal.
- (3) Also, this division does not apply—
 - (a) on Anzac Day to licensed premises if an extended hours permit for that day has been granted for the premises under section 102C; or
 - (b) on New Year's Day.
- (4) Further, this division does not apply if a condition stated in a licensee's or permittee's licence or permit requires that a patron of the licensed premises or premises to which the permit relates must not be allowed to enter the premises during a period starting at a time earlier than 3a.m. and ending during the trading period following that time.
- (5) For subsection (1), it is immaterial whether or not the trading period is part of another period during which the licensee or permittee is authorised under this Act to sell or supply liquor on the premises mentioned in the subsection.

142AB Licences and permits subject to lock out condition

- (1) It is a condition of the licensee's or permittee's licence or permit that a patron of the licensed premises or the premises

[s 142AC]

to which the permit relates must not be allowed to enter the premises at or after 3a.m. during the trading period.

Example of an entry—

A patron of licensed premises leaves the premises and a short time later re-enters the premises. The re-entry is a separate entry of the premises.

- (2) For licensed premises, the condition does not apply in relation to a resident, or a guest of a resident while in the resident's company, who is entering the premises.
- (3) The licensee or permittee must comply with the condition.

Maximum penalty—100 penalty units.

142AC Application of ss 134 and 136 to lock out condition

For this Act—

- (a) a reference in section 134(1)(a)(ii) to a condition specified in the permit; or
- (b) a reference in section 136(1)(a)(iii) to a condition stated in the licence;

is taken to include a reference to a condition of the permit or licence imposed under section 142AB.

Division 6 Certain provisions about conditions of licences for Brisbane City Council area

Subdivision 1 Preliminary

142AD Definitions for div 6

In this division—

crowd controller means the holder of a current licence issued under the *Security Providers Act 1993* for carrying out the functions of a crowd controller under that Act.

exit, of premises, does not include an exit that is not ordinarily used by patrons of the premises while the premises are open for business.

Example—

an emergency exit

incident register see section 142AI(1)(a).

trading period means the period starting at 8p.m. on any day and ending at 7a.m. on the following day.

training register see section 142AI(2)(a).

142AE Application of div 6

- (1) This division applies in the area of the Brisbane City Council to licensed premises if the licensee is authorised under this Act to sell or supply liquor on the premises at any time after 1a.m. during the trading period.
- (2) However, this division does not apply to—
 - (a) licensed premises if the licensee is authorised, under section 9(13), to sell or supply liquor on the premises only after 1a.m. on New Year's Day; or
 - (b) that part of licensed premises that—
 - (i) is used principally for the residential accommodation of guests staying at the premises; or
 - (ii) is a detached bottle shop.
- (3) Also, this division does not apply on Anzac Day to licensed premises on the premises of an RSL or Services Club.
- (4) In addition—
 - (a) sections 142AG and 142AH do not apply to licensed premises at Brisbane Airport, Airport Drive, Brisbane known as the Brisbane International Terminal building and the Brisbane Domestic terminal building; and
 - (b) section 142AG does not apply to the following—

[s 142AF]

- (i) licensed premises mentioned in section 67A;
 - (ii) licensed premises at Suncorp Stadium, Castlemaine Street, Milton;
 - (iii) licensed premises at the Queensland Sport and Athletics Centre, Kessels Road, Nathan;
 - (iv) licensed premises at the Brisbane Cricket Ground, Vulture Street, Woolloongabba;
 - (v) licensed premises at the Brisbane Convention and Exhibition Centre, corner of Glenelg and Merivale Streets, South Brisbane;
 - (vi) licensed premises at the Brisbane Entertainment Centre, Melaleuca Drive, Boondall;
 - (vii) licensed premises at the Queensland Performing Arts Centre, Queensland Cultural Centre, corner of Grey and Melbourne Streets, South Brisbane; and
- (c) section 142AG does not apply to licensed premises during a trading period in which the premises are not open for business after 1a.m.

142AF Purpose of div 6

- (1) This division has, in relation to the licensee, the same purpose as the purpose mentioned in section 148A(1).
- (2) This division does not limit section 148A.

Subdivision 2 Conditions of licences

142AG Conditions about crowd controllers

It is a condition of the licensee's licence that the licensee—

- (a) must ensure that at least the number of crowd controllers prescribed under a regulation are engaged in maintaining order in and around the licensed premises—

-
- (i) while the premises are open for business after 11p.m. during the trading period; and
 - (ii) for at least 1 hour after the premises close for business during or at the end of the trading period; and
 - (b) must not allow a crowd controller to be engaged under paragraph (a) unless the crowd controller—
 - (i) has a current training course certificate; and
 - (ii) has given the licensee a copy of the certificate and the crowd controller's licence granted under the *Security Providers Act 1993*, section 14(1); and
 - (iii) is dressed in a way that distinguishes the crowd controller from patrons of the premises; and
 - (c) must keep each crowd controller's certificate and licence, given to the licensee under paragraph (b)(ii), with the licensee's training register while the crowd controller is engaged in maintaining order in and around the premises.

142AH Conditions about closed-circuit television equipment

It is a condition of the licensee's licence that the licensee—

- (a) must have closed-circuit television equipment at each entrance and exit of the licensed premises that provides access for patrons of the premises during the trading period; and
- (b) must display signage at the premises in a way that is likely to make the patrons aware that closed-circuit television equipment is installed under paragraph (a); and
- (c) must ensure the equipment—
 - (i) meets the minimum requirements for the equipment prescribed under a regulation; and
 - (ii) is operational and recording for the period starting at 8p.m. in a trading period in which the premises

[s 142AI]

are open for business and ending at least 1 hour after the premises close for business during or at the end of the trading period; and

- (d) must stop selling or supplying liquor on the premises, and close the premises, if the equipment is not operational and recording during the trading period while the premises are open for business at any time between 1a.m. and when the premises would ordinarily otherwise close for business; and
- (e) must not allow the equipment to be operated by anyone other than—
 - (i) the licensee for the licence; or
 - (ii) an approved manager working at the premises; and
- (f) must keep each recording made by the equipment in a secure place, and available for inspection and viewing by an investigator, at the premises until the recording—
 - (i) is erased or destroyed under paragraph (h); or
 - (ii) is earlier given to an investigator; and
- (g) must not allow a recording to be viewed at the premises by anyone other than an investigator or a person mentioned in paragraph (e); and
- (h) must ensure a recording, unless it is earlier given to an investigator, is erased or destroyed by a person mentioned in paragraph (e)—
 - (i) if the recording does not show an incident required to be recorded in the licensee's incident register—not earlier than 28 days after the recording is made (the *retention period*), but within 30 days after the retention period ends; or
 - (ii) otherwise—not earlier than 1 year after the retention period for the recording ends.

142AI Conditions about incident and training registers

- (1) It is a condition of the licensee's licence that the licensee—

- (a) must keep a register (an *incident register*) containing the information prescribed under a regulation about each incident at the licensed premises—
 - (i) in which a person is injured; or
 - (ii) requiring a person to be removed from the premises; and
 - (b) must ensure that, for each incident recorded in the register under paragraph (a), the register is signed as correct by each crowd controller or member of staff involved in the incident; and
 - (c) must keep the register in a secure place, and available for inspection by an investigator, at the premises; and
 - (d) must not allow the register to be inspected at the premises by anyone other than—
 - (i) an investigator; or
 - (ii) the licensee for the licence; or
 - (iii) a crowd controller or member of staff involved in an incident recorded in the register; or
 - (iv) an approved manager working at the premises.
- (2) Also, it is a condition of the licensee's licence that the licensee—
- (a) must keep a register (a *training register*) containing the information prescribed under a regulation about—
 - (i) current training course certificates kept by the licensee under section 142AG(c); or
 - (ii) matters relating to training persons involved in the service or supply of liquor at the licensed premises; and
 - (b) must keep the register available for inspection by an investigator at the premises.

[s 142AJ]

142AJ Conditions about drinking practices

It is a condition of the licensee's licence that the licensee must not conduct on the licensed premises—

- (a) a competition or game in which—
 - (i) contestants or players consume liquor on the premises; or
 - (ii) free or discounted liquor is given as a prize for consumption on the premises; or

Examples of a competition or game—

- 'drink to win'
 - 'last man standing'
 - 'all you can drink'
 - 'skolling competition'
- (b) another activity, prescribed under a regulation, that may encourage the rapid or excessive consumption of liquor or promote intoxication.

142AK Compliance with conditions

The holder of a licence subject to a condition under this subdivision must comply with the condition.

Maximum penalty—100 penalty units.

Subdivision 3 Application of s 136 to conditions under sdiv 2

142AL Application of s 136

For this Act, a reference in section 136(1)(a)(iii) to a condition stated in the licence is taken to include a reference to a condition of the licence imposed under subdivision 2.

Division 7 Decisions of significant community impact to be made by commission

142AM Definition for div 7

In this division—

decision of significant community impact see section 142AO(1).

142AN Purpose of this division

The purpose of this division is to give the commission responsibility for making decisions of significant community impact.

142AO Decisions to be made by commission

- (1) Despite anything else in this Act, each of the following decisions (each a *decision of significant community impact*) must be made by the commission and not the chief executive—
 - (a) a decision whether to grant a commercial hotel licence;
 - (b) a decision whether to grant a subsidiary on-premises licence if the principal activity of the business to be conducted under the licence is the provision of entertainment on the licensed premises;
 - (c) a decision whether to grant a community club licence;
 - (d) a decision whether to grant or vary an extended trading hours approval;
 - (e) a decision, under section 107C, whether to impose a condition on—
 - (i) a commercial hotel licence; or
 - (ii) a subsidiary on-premises licence if the principal activity of the business to be conducted under the

[s 142AO]

- licence is the provision of entertainment on the licensed premises; or
- (iii) a community club licence;
- (f) a decision, under section 111, whether to vary—
- (i) a commercial hotel licence; or
 - (ii) a subsidiary on-premises licence if the principal activity of the business conducted under the licence is the provision of entertainment on the licensed premises; or
 - (iii) a community club licence;
- (g) a decision, under section 123, whether to issue a provisional licence in relation to an application for—
- (i) a commercial hotel licence; or
 - (ii) a subsidiary on-premises licence if the principal activity of the business to be conducted under the licence is the provision of entertainment on the licensed premises; or
 - (iii) a community club licence;
- (h) a decision, under section 123A, whether to grant provisionally an application for any of the following licences, and whether to grant a staged development approval under section 123A(2) in relation to the application—
- (i) a commercial hotel licence;
 - (ii) a subsidiary on-premises licence if the principal activity of the business to be conducted under the licence is the provision of entertainment on the licensed premises;
 - (iii) a community club licence;
- (i) a decision whether to cancel—
- (i) a commercial hotel licence; or

- (ii) a subsidiary on-premises licence if the principal activity of the business conducted under the licence is the provision of entertainment on the licensed premises; or
 - (iii) a community club licence;
 - (j) a decision whether to suspend, other than under section 137C—
 - (i) a commercial hotel licence; or
 - (ii) a subsidiary on-premises licence if the principal activity of the business conducted under the licence is the provision of entertainment on the licensed premises; or
 - (iii) a community club licence;
 - (k) a decision whether, as disciplinary action, to vary—
 - (i) a commercial hotel licence; or
 - (ii) a subsidiary on-premises licence if the principal activity of the business conducted under the licence is the provision of entertainment on the licensed premises; or
 - (iii) a community club licence.
- (2) Subsection (1) does not apply to a licence for premises in a restricted area.
- (3) In making a decision of significant community impact, the commission must have regard to a recommendation made by the chief executive, under section 142AP, about the decision.
- (4) To remove any doubt, it is declared that the commission must make a decision mentioned in subsection (1)(e), (f), (i), (j) or (k) even if the licence in relation to which the commission must make the decision was originally granted by the chief executive.

142AP Recommendation by chief executive in relation to decision to be made by commission

- (1) The chief executive must—
 - (a) consider a decision required, under section 142AO, to be made by the commission; and
 - (b) make a recommendation to the commission about the decision.
- (2) In considering the matter, the chief executive—
 - (a) must conduct investigations the chief executive considers are necessary and reasonable to help the chief executive make a recommendation; and
 - (b) may, by written notice given to the holder of, or the applicant for, the licence to which the decision relates, require the holder or applicant, within the reasonable time stated in the notice, to give the chief executive further information or a document that is necessary and reasonable to help the chief executive make a recommendation.
- (3) In making a recommendation, the chief executive must have regard to—
 - (a) if the decision relates to an application—any supporting material for the application; and
 - (b) any relevant guideline issued by the commission under section 142AR; and
 - (c) any other information the chief executive considers relevant.
- (4) The chief executive must make a recommendation that the chief executive reasonably believes gives effect to the main purpose of this Act mentioned in section 3(a).
- (5) A recommendation to make a decision may be subject to the reasonable conditions the chief executive considers appropriate.

142AQ Functions, limitations and protections of commission

- (1) For the purpose of making a decision of significant community impact—
 - (a) the commission has the same functions and powers that the chief executive would have had, under this Act, if section 142AO had not been enacted and the chief executive was required under this Act to make the decision; and
 - (b) the commission is subject to the same restrictions and limitations to which the chief executive would have been subject, under this Act, if section 142AO had not been enacted and the chief executive was required under this Act to make the decision; and
 - (c) the commission has the same protections that the chief executive would have had, under this Act, if section 142AO had not been enacted and the chief executive was required under this Act to make the decision.
- (2) However, the commission does not have the following administrative functions of the chief executive—
 - (a) notifying an applicant under section 31(1);
 - (b) giving notice under section 32(1), 79(1)(b)(ii), 112(1), 126(3), 137, 137A(2) or 137B(1);
 - (c) endorsing an approval on a licence under section 85(2);
 - (d) endorsing a licence under section 126(1).

142AR Commission may issue guidelines

- (1) The commission may issue guidelines to inform persons about the attitude the commission is likely to adopt on a particular matter.
- (2) A guideline may be replaced or amended by a later guideline issued under this section.
- (3) The chief executive must—

[s 142AS]

- (a) keep copies of the guidelines available for inspection, free of charge, by members of the public at—
 - (i) the department's head office; and
 - (ii) other places the chief executive considers appropriate; and
 - (b) publish the guidelines on the department's website on the internet.
- (4) Also, the chief executive must, if asked by a person, give the person a copy of a guideline, or an extract from a guideline, free of charge.

142AS Delegation

- (1) The commission may delegate a function or power of the commission under this Act to the chief executive.
- (2) The chief executive may subdelegate a function or power delegated to the chief executive under subsection (1) to an appropriately qualified public service employee.
- (3) In this section—

appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

Example of standing—

for a public service employee, the employee's position in a department

Part 5A Trainers for licensee's course and approved training course

Division 1 Appointment of public service officers as trainers

142A Appointment of public service officer as trainer

- (1) The chief executive may appoint a public service officer to be a trainer for a training course approved by the chief executive about a licensee's or a permittee's obligations under this Act (the *licensee's course*).
- (2) However, the chief executive may appoint the officer only if satisfied the officer has the necessary expertise or experience to conduct the course.
- (3) Divisions 2 to 5 do not apply to an appointment under this section.

Division 2 Obtaining approval as trainer

142B Applying for approval as trainer

- (1) A person may apply to the chief executive for approval as a trainer for the licensee's course or approved training course.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by—
 - (i) any documents, identified in the approved form, the chief executive reasonably requires to decide the application; and
 - (ii) the fee prescribed under a regulation.

[s 142C]

- (3) The applicant also must provide any other relevant information reasonably required by the chief executive to decide the application.

142C Deciding application

- (1) The chief executive must consider the application and either grant or refuse to grant the application as soon as practicable after the last of the following events happens—
 - (a) the chief executive receives the application;
 - (b) the chief executive receives all necessary information to decide the application.
- (2) The chief executive may grant the application only if satisfied the applicant has the necessary expertise or experience to conduct the licensee's course or approved training course.
- (3) Without limiting subsection (2), in deciding the application the chief executive may have regard to each of the following—
 - (a) the applicant's knowledge of the Act;
 - (b) the applicant's experience in the liquor industry;
 - (c) if the applicant is, or has been, a licensee, a permittee or a nominee for a licence—the applicant's conduct in discharging the applicant's duties under this Act as a licensee, a permittee or a nominee.

142D Grant of application

- (1) If the chief executive decides to grant the application, the chief executive must as soon as practicable give the applicant written notice of the decision.
- (2) The notice must state the term of the approval.
- (3) An approval remains in force, unless sooner cancelled, for the period, of not more than 3 years, stated by the chief executive in the notice given under subsection (1).

142E Refusal of application

If the chief executive decides to refuse the application, the chief executive must as soon as practicable give the applicant an information notice for the decision.

Division 3 Renewal

142F Applying for renewal

- (1) A person may apply to the chief executive for renewal of the person's approval.
- (2) The application may only be made within 3 months before the last day of the period of the approval.
- (3) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by—
 - (i) any documents, identified in the approved form, the chief executive reasonably requires to decide the application; and
 - (ii) the fee prescribed under a regulation.
- (4) The applicant also must provide any other relevant information reasonably required by the chief executive to decide the application.

142G Deciding application

- (1) The chief executive must consider the application and either renew or refuse to renew the approval as soon as practicable after the last of the following events happens—
 - (a) the chief executive receives the application;
 - (b) the chief executive receives all necessary information to decide the application.

[s 142H]

- (2) The chief executive may renew the approval only if satisfied the applicant has the necessary expertise or experience to conduct the licensee's course or approved training course.
- (3) Without limiting subsection (2), in deciding the application the chief executive may have regard to—
 - (a) the same matters the chief executive may have regard to under section 142C(3); and
 - (b) the applicant's previous conduct in discharging the applicant's duties as a trainer for the licensee's course or approved training course.

142H Renewal of approval

- (1) If the chief executive decides to renew the approval, the chief executive must as soon as practicable give the applicant written notice of the decision.
- (2) The notice must state the period of the renewed approval.

142I Refusal to renew approval

If the chief executive decides to refuse to renew the approval, the chief executive must as soon as practicable give the applicant an information notice for the decision.

142J Approval continues pending decision about renewal

- (1) If a person applies for renewal of an approval under section 142F, the approval is taken to continue in force from the day it would, apart from this subsection, have ended until the day on which any of the following first happens—
 - (a) the chief executive renews the approval;
 - (b) if the chief executive decides to refuse to renew the approval, the chief executive gives the person an information notice for the decision;
 - (c) the person withdraws the application for renewal;
 - (d) the application lapses under section 142K.

- (2) If the chief executive renews the approval, the approval is taken to have been renewed from the day it would, apart from subsection (1), have ended.
- (3) This section does not apply if the approval is cancelled.

Division 4 Lapsing of applications

142K Lapsing of application

- (1) This section applies if an application for an approval, or renewal of an approval, is made under this part.
- (2) The chief executive may make a requirement under section 142B(3) or 142F(4) for information to decide the application by giving the applicant a written notice stating—
 - (a) the required information; and
 - (b) the time by which the information must be given to the chief executive; and
 - (c) that, if the information is not given to the chief executive by the stated time, the application will lapse.
- (3) The stated time must be reasonable and, in any case, at least 21 days after the requirement is made.
- (4) The chief executive may give the applicant a further notice extending or further extending the time if the chief executive is satisfied it would be reasonable in all the circumstances to give the extension.
- (5) A notice may be given under subsection (4) even if the time to which it relates has lapsed.
- (6) If the applicant does not comply with the requirement within the stated time, or any extension, the application lapses.

Division 5 Cancellation of approvals

142L Grounds for cancellation

The chief executive may cancel a person's approval if the chief executive believes on reasonable grounds—

- (a) the approval was granted in error or because of a materially false or fraudulent document, statement or representation; or
- (b) the person—
 - (i) is not conducting the licensee's course or approved training course in an appropriate way; or
 - (ii) no longer has the necessary expertise to conduct the licensee's course or approved training course.

142M Procedure for cancellation

- (1) If the chief executive proposes to cancel a person's approval, the chief executive must give the person a written notice stating the following—
 - (a) the chief executive proposes to cancel the approval;
 - (b) the grounds for the proposed cancellation;
 - (c) the facts and circumstances that are the basis for the grounds;
 - (d) that the person may make, within a stated period, written representations to show why the approval should not be cancelled.
- (2) The stated period must end at least 21 days after the person is given the notice.
- (3) If, after considering all written representations made within the stated period, the chief executive still believes a ground exists to cancel the approval, the chief executive may cancel the approval.

- (4) The chief executive must, as soon as practicable after making a decision under subsection (3), give the person an information notice for the decision.
- (5) The decision takes effect on—
 - (a) the day the notice is given; or
 - (b) if a later day is stated in the notice—the stated day.

Part 5B Review of decisions

142N Application for review

- (1) Each of the following persons may apply to the chief executive for a review of the decision (the *original decision*) stated for the person—
 - (a) a person whose application for an approval is refused under section 142C;
 - (b) a person whose application for renewal of an approval is refused under section 142G;
 - (c) a person whose approval is cancelled under section 142M(3).
- (2) The application must be made within 28 days after the information notice for the original decision is given to the person.
- (3) The application must be in the approved form and supported by enough information to enable the chief executive to decide the application.

142O No stay of operation of decision

An application under section 142N for review of an original decision does not stay the decision.

[s 142P]

142P Review decision

- (1) This section applies to an application under section 142N for review of an original decision.
- (2) Unless the chief executive made the original decision personally, the chief executive must ensure the application is not dealt with by—
 - (a) the person who made the original decision; or
 - (b) a person in a less senior office than the person who made the original decision.
- (3) As soon as practicable after receiving the application, the chief executive must review the original decision and make a decision (the *review decision*)—
 - (a) confirming the original decision; or
 - (b) substituting another decision for the original decision.
- (4) The chief executive must make the review decision on the material that led to the original decision and any other material the chief executive considers relevant.
- (5) Immediately after making the review decision, the chief executive must give the person written notice of the review decision.
- (6) The written notice must comply with the tribunal Act, section 157(2).

Part 5C Approval as approved manager

Division 1 Obtaining approval

142Q Applying for approval

- (1) A person may apply to the chief executive for an approval as an approved manager.

-
- (2) The applicant—
 - (a) must be an individual; and
 - (b) can not be a licensee; and
 - (c) must be the holder of a current training course certificate and a current licensee's course certificate (the *relevant certificates*).
 - (3) The application must—
 - (a) be in the approved form; and
 - (b) be accompanied by—
 - (i) copies of the relevant certificates; and
 - (ii) the fee prescribed under a regulation.
 - (4) The applicant also must provide any other relevant information reasonably required by the chief executive to decide the application.

142R Deciding application

- (1) The chief executive must consider the application and either grant, or refuse to grant, the application as soon as practicable after the last of the following events happens—
 - (a) the chief executive receives the application;
 - (b) the chief executive receives all necessary information to decide the application.
- (2) The chief executive may grant the application only if the chief executive is satisfied the applicant is a suitable person to hold the approval.
- (3) In deciding whether the applicant is a suitable person to hold the approval, the chief executive may have regard to the following—
 - (a) the applicant's knowledge of this Act;
 - (b) the applicant's understanding of an approved manager's obligations and responsibilities under this Act;

[s 142S]

- (c) 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 approval.
- (4) The chief executive may obtain a report from the commissioner in relation to the applicant's criminal history.
- (5) A report under subsection (4) must include reference to or disclosure of convictions mentioned in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.

142S Grant of application

- (1) If the chief executive decides to grant the application, the chief executive must as soon as practicable give the applicant written notice of the decision.
- (2) An approval for an approved manager remains in force, unless sooner cancelled, for the period of 5 years after the grant of the application for the approval.

142T Refusal to grant application

- (1) If the chief executive decides to refuse to grant the application, the chief executive must as soon as practicable give the applicant written notice of the decision.
- (2) The written notice must comply with the tribunal Act, section 157(2).

Division 2 Renewal

142U Applying for renewal

- (1) A person may apply to the chief executive for renewal of the person's approval as an approved manager.
- (2) The application may only be made at least 2 months, but not more than 4 months, before the last day of the period of the approval.

- (3) The application must—
 - (a) be in the approved form; and
 - (b) be accompanied by the fee prescribed under a regulation.
- (4) The applicant also must provide any other relevant information reasonably required by the chief executive to decide the application.

142V Deciding application

- (1) The chief executive must consider the application and either renew, or refuse to renew, the approval as soon as practicable after the last of the following events happens—
 - (a) the chief executive receives the application;
 - (b) the chief executive receives all necessary information to decide the application.
- (2) In deciding whether to grant the application, the chief executive may have regard to the matters to which the chief executive may have regard, under section 142R(3), in deciding whether a proposed holder of an approval as an approved manager is a suitable person to hold the approval.

142W Renewal of approval

If the chief executive decides to renew the approval, the chief executive must as soon as practicable give the applicant written notice of the decision.

142X Refusal to renew approval

- (1) If the chief executive decides to refuse to renew the approval, the chief executive must as soon as practicable give the applicant written notice of the decision.
- (2) The written notice must comply with the tribunal Act, section 157(2).

[s 142Y]

142Y Approval continues pending decision about renewal

- (1) If a person applies for renewal of an approval as an approved manager under section 142U, the approval is taken to continue in force from the day it would, apart from this subsection, have ended until the day on which any of the following first happens—
 - (a) the chief executive renews the approval;
 - (b) if the chief executive decides to refuse to renew the approval—the chief executive gives the person notice for the decision under section 142I;
 - (c) the person withdraws the application for renewal;
 - (d) the application lapses under section 142Z.
- (2) If the chief executive renews the approval, the approval is taken to have been renewed from the day it would, apart from subsection (1), have ended.
- (3) This section does not apply if the approval is cancelled.

Division 3 Lapsing of applications

142Z Lapsing of application

- (1) This section applies if an application for an approval as an approved manager, or renewal of an approval as an approved manager, is made under this part.
- (2) The chief executive may make a requirement under section 142Q(4) or 142U(4) for information to decide the application by giving the applicant a written notice stating—
 - (a) the required information; and
 - (b) the time by which the information must be given to the chief executive; and
 - (c) that, if the information is not given to the chief executive by the stated time, the application will lapse.

- (3) The stated time must be reasonable and, in any case, at least 21 days after the requirement is made.
- (4) The chief executive may give the applicant a further notice extending or further extending the time if the chief executive is satisfied it would be reasonable in all the circumstances to give the extension.
- (5) A notice may be given under subsection (4) even if the time to which it relates has lapsed.
- (6) If the applicant does not comply with the requirement within the stated time, or any extension, the application lapses.

Division 4 Suspension and cancellation of approvals

142ZA Grounds for suspension or cancellation

- (1) The chief executive may suspend or cancel a person's approval as an approved manager if the chief executive believes on reasonable grounds—
 - (a) the approval was granted in error or because of a materially false or fraudulent document, statement or representation; or
 - (b) the holder of the approval is not, or is no longer, a suitable person to hold the approval; or
 - (c) the holder has been convicted of an offence against this Act; or
 - (d) the holder has contravened a provision of this Act (being a provision a contravention of which is not an offence against this Act).
- (2) For forming a belief that the ground mentioned in subsection (1)(b) exists, the chief executive may have regard to the matters, mentioned in section 142R(3), to which the chief executive may have regard in deciding whether a proposed holder of an approval as an approved manager is a suitable person to hold the approval.

[s 142ZB]

142ZB Show cause notice

- (1) If the chief executive believes a ground exists to suspend or cancel an approval as an approved manager, the chief executive must give the holder of the approval a written notice under this section (a *show cause notice*).
- (2) The show cause notice must state the following—
 - (a) the action (the *proposed action*) the chief executive proposes taking under this division;
 - (b) the grounds for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) if the proposed action is suspension of the approval—the proposed suspension period;
 - (e) an invitation to the holder to show within a stated period (the *show cause period*) why the proposed action should not be taken.
- (3) The show cause period must be a period ending not less than 21 days after the show cause notice is given to the holder.

142ZC Representations about show cause notices

- (1) The holder of the approval may make representations about the show cause notice to the chief executive in the show cause period.
- (2) The chief executive must consider all written representations (the *accepted representations*) made under subsection (1).

142ZD Ending show cause process without further action

- (1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive no longer believes a ground exists to suspend or cancel the approval.
- (2) The chief executive must not take any further action about the show cause notice.

- (3) Notice that no further action is to be taken about the show cause notice must be given to the holder of the approval by the chief executive.

142ZE Suspension or cancellation

- (1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive—
 - (a) still believes a ground exists to suspend or cancel the approval; and
 - (b) believes suspension or cancellation of the approval is warranted.
- (2) This section also applies if there are no accepted representations for the show cause notice.
- (3) The chief executive may—
 - (a) if the proposed action stated in the show cause notice was to suspend the approval for a stated period—suspend the approval for not longer than the stated period; or
 - (b) if the proposed action stated in the show cause notice was to cancel the approval—either cancel the approval or suspend it for a period.
- (4) The chief executive must as soon as practicable give the holder of the approval a written notice of the decision.
- (4A) The written notice must comply with the tribunal Act, section 157(2).
- (5) The decision takes effect on—
 - (a) the day the notice is given to the holder; or
 - (b) if a later day of effect is stated in the notice—the later day.

Division 5 Approved managers

142ZF Responsibility of approved manager etc.

- (1) This section applies if an approved manager is in control of licensed premises or premises to which a permit relates.
- (2) In the conduct of business on the premises, the approved manager is responsible for ensuring that—
 - (a) liquor is supplied or possessed on the premises only in accordance with the authority conferred by the licence or permit; and
 - (b) for an adult entertainment permit—the conduct of entertainment under the permit is in accordance with this Act and the conditions of the permit.
- (3) The approved manager'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.

Part 6 Obligatory provisions and offences

Division 1 Provisions binding licensees, permittees, approved managers, employees and agents

143 Particulars to be displayed on premises

- (1) A licensee must at all times display, on a conspicuous place on the exterior of the licensed premises, in legible character at least 15mm in height—
 - (a) the name of the licensee; 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.

143A Particulars to be displayed for approved area for adult entertainment

- (1) A permittee who holds an adult entertainment permit must, at all times when adult entertainment is being provided in the approved area for the entertainment, display a sign stating—
 - (a) that adult entertainment is being provided in the area; and
 - (b) that minors must not enter the area; and
 - (c) anything else prescribed under a regulation.

Maximum penalty—25 penalty units.

- (2) The permittee must ensure that—
 - (a) the sign is conspicuously displayed at every entrance to the area; and
 - (b) characters on the sign are legible and not less than 50mm high.

Maximum penalty—25 penalty units.

144 Change of name requires approval

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

Maximum penalty—25 penalty units.

145 Keeping licence or permit at licensed premises

A licensee or permittee must keep the licence or permit at the premises to which the licence or permit relates, unless the licensee or permittee has a reasonable excuse for not doing so.

Maximum penalty—25 penalty units.

145A Production of licence or permit on request

(1) An investigator may ask the person who appears to the investigator to be in control of premises to which a licence or permit relates to produce for inspection the licence or permit for the premises.

(2) The person must produce the licence or permit immediately for inspection by the investigator unless the person has a reasonable excuse for not producing it.

Maximum penalty—25 penalty units.

(3) A person does not commit an offence against subsection (2) if at the time the investigator asked the person to produce the licence or permit under subsection (1), the person was not, in fact, in control of the premises.

146 Supply contrary to licence or permit

(1) A licensee or permittee, or an employee or agent of a licensee or permittee, must not supply liquor—

- (a) at an unauthorised time; or
- (b) in an unauthorised quantity; or
- (c) in an unauthorised way; or
- (d) for an unauthorised purpose.

Maximum penalty—100 penalty units.

- (2) In subsection (1)—

supply includes sell.

unauthorised means not authorised by the licence or permit.

147 Consumption or removal contrary to licence or permit

- (1) In this section—

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

- (2) A licensee or permittee, or an employee or agent of the 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.

148 Gratuitous supply of liquor

A licensee or permittee, or an employee or agent of the 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

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- (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 for a particular event or occasion, in any part of the licensed premises.

148A Obligations of licensees and permittees relating to the service, supply and promotion of liquor

- (1) This section imposes obligations on licensees and permittees in the conduct of business on licensed premises or premises to which a permit relates for—
 - (a) maintaining a safe environment for patrons and staff of the premises; and
 - (b) ensuring liquor is served, supplied and promoted in a way that is compatible with minimising harm from the use of liquor and preserving the peace and good order of the neighbourhood of the premises.
- (2) The licensee or permittee must not engage in a practice or promotion that may encourage rapid or excessive consumption of liquor.
Maximum penalty—100 penalty units.
- (3) The licensee or permittee must engage in practices and promotions that encourage the responsible consumption of liquor.
Maximum penalty—100 penalty units.
- (4) The licensee or permittee must provide and maintain a safe environment in and around the premises.
Maximum penalty—100 penalty units.
- (5) A regulation may prescribe examples of what are acceptable or unacceptable practices or promotions for subsections (2) to (4).
- (6) A practice or promotion prescribed under a regulation for a subsection does not limit the subsection.

148B Control of certain advertising by licensees or permittees

- (1) This section has the same purpose as the purpose mentioned in section 148A(1).
- (2) A licensee or permittee must not advertise or cause to be advertised—
 - (a) the availability of the following for consumption on the licensee's licensed premises or the premises to which the permittee's permit relates (each the *advertised premises*)—
 - (i) free liquor;
 - (ii) multiple quantities of liquor; or

Example—

2 drinks for the price of 1

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

Examples of promotions for paragraph (c)—

- 'happy hours'
- 'all you can drink'
- 'toss the boss'

Maximum penalty—100 penalty units.

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

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conducted under the licence is the principal activity mentioned in section 67A.

(5) This section does not limit section 148A.

(6) In this section—

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

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

149 Employment on licensed premises

A licensee must not, other than with the chief executive's prior approval, knowingly permit to be employed on the licensee's behalf on the licensed premises a person who, because of misconduct or bad character—

- (a) has had a licence, permit or other authority relating to the sale or supply of liquor cancelled; or
- (b) 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.

149A Providing adult entertainment without adult entertainment permit

A licensee or permittee must not provide adult entertainment on licensed premises or premises to which a community liquor permit or restricted liquor permit relates unless the licensee or permittee provides the entertainment under an adult entertainment permit.

Maximum penalty—200 penalty units.

149B Supervising adult entertainment

- (1) At all times when adult entertainment is being provided under an adult entertainment permit, the entertainment must be supervised by the licensee or permittee, or a controller, to ensure that it is provided in accordance with this Act and the conditions of the permit.

Maximum penalty—100 penalty units.

- (2) If subsection (1) is contravened, the following persons each commit an offence—
- (a) the licensee or permittee;
 - (b) a controller whose duty it was to supervise the entertainment at the relevant time.

150 Notification of change in controlling interest in licensee

- (1) A licensee that is a corporation must give to the chief executive written notice of every change in the beneficial ownership of the controlling interest in the corporation, within 14 days after the change.

Maximum penalty—100 penalty units.

- (2) The holder of a commercial special facility licence, that is the subject of an approval by the chief executive as mentioned in section 153(3), must give the chief executive written notice of the following changes within 14 days after the change—
- (a) a change in the letting or subletting of part of the licensed premises;
 - (b) a change in the letting or subletting of the right to sell liquor;
 - (c) a change in the franchise or management agreement for part of the licensed premises;
 - (d) a change in the beneficial ownership of the controlling interest in any lessee, sublessee, franchisee or holder of

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management rights, under the chief executive's approval.

Maximum penalty for subsection (2)—100 penalty units.

151 Unlawful betting or gaming

- (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 wagering by a general operator under the *Wagering Act 1998*; 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
 - (iii) for conducting a game authorised under the *Charitable and Non-Profit Gaming Act 1999*; or
 - (iv) for conducting or playing a keno game conducted by a keno licensee under a keno licence; 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) In subsection (1)—

keno game means a game for which rules are made under the *Keno Act 1996*, section 138.

keno licence means a licence to conduct keno games issued under the *Keno Act 1996*.

keno licensee means a person who holds a keno licence.

151A Betting on licensed premises

- (1) A licensee or permittee must not allow the premises to which the licence or permit relates to be used for betting.

Maximum penalty—

- (a) for a first offence—100 penalty units or 6 months imprisonment; and
 - (b) for a second offence—200 penalty units or 1 year's imprisonment; and
 - (c) for a third or subsequent offence—400 penalty units or 2 years imprisonment.
- (2) It is a defence to a charge of an offence against subsection (1) if the person proves that—
- (a) the person has issued proper instructions and used all reasonable means to secure observance of the subsection; and
 - (b) the offence in question was committed without the person's knowledge; and
 - (c) the person could not, by the exercise of reasonable diligence, have prevented the commission of the offence.
- (3) Subsection (1) does not apply to licensed premises if—
- (a) the licensed premises are located inside a licensed venue under the *Racing Act 2002* and the betting takes place during times that betting may be conducted under that Act; or
 - (b) the betting is conducted under any of the following Acts—
 - (i) the *Casino Control Act 1982*;
 - (ii) the *Charitable and Non-Profit Gaming Act 1999*;
 - (iii) the *Gaming Machine Act 1991*;
 - (iv) the *Interactive Gambling (Player Protection) Act 1998*;

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- (v) the *Keno Act 1996*;
- (vi) the *Lotteries Act 1997*;
- (vii) the *Wagering Act 1998*.

152 Prohibition on other use of premises

- (1) A licensee 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 for which the licensee is a wagering agent under the *Wagering Act 1998*; 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.

Maximum penalty—25 penalty units.

- (2) A licensee 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.

152A Change in principal activity of business conducted under a licence

A licensee must not, without the chief executive's approval, change the principal activity of a business conducted under a

licence.

Maximum penalty—100 penalty units.

153 Letting or subletting of licensed premises

(1) A licensee must not, without the chief executive's approval—

- (a) let or sublet all of the licensed premises; or
- (b) enter into a franchise or management agreement for all of the licensed premises.

Maximum penalty—40 penalty units.

(2) A licensee must not—

- (a) let or sublet part of the licensed premises; or
- (b) enter into a franchise or management agreement for part of the licensed premises.

Maximum penalty—40 penalty units.

(3) Subsections (1) and (2) do not apply to the holder of a commercial special facility licence who, with the chief executive's approval—

- (a) lets or sublets part of the licensed premises; or
- (b) lets or sublets the right to sell liquor; or
- (c) enters into a franchise or management agreement for part of the licensed premises.

(4) If the holder of a commercial special facility licence does anything mentioned in subsection (3)(a) to (c) with the chief executive's approval, section 149(1)(b) does not apply to the holder in relation to the part of the licensed premises for which the thing is done.

153A Sale, supply or consumption of liquor in car park

(1) This section applies if licensed premises include a car park.

(2) The licensee must not, without the chief executive's approval—

[s 154]

- (a) sell or supply liquor in the car park; or
- (b) allow liquor to be consumed in the car park.

Maximum penalty—25 penalty units.

154 Alteration etc. and maintenance of licensed premises

- (1) The owner, licensee or other person in control of licensed premises must not, without the chief executive's approval, alter, rebuild, change or increase the area of the licensed premises.

Examples for subsection (1)—

- 1 The licensee of a detached bottle shop in a shopping centre changes the relevant leasing arrangements by reducing the overall area the shop is to occupy. Therefore the licensee must apply for the chief executive's approval to alter the licensed premises permanently.
- 2 An RSL club is the licensee of a licensed club and wishes to erect a tent next to its licensed premises to provide liquor on Anzac Day. Therefore the licensee must apply for the chief executive's approval to increase the area of the licensed premises for that occasion.

Maximum penalty—25 penalty units.

- (2) For subsection (1)—
- (a) in giving an approval, the chief executive must have regard to the business that is the principal activity conducted under the licence; and
 - (b) a change in the area includes not using a part of the licensed premises as if the part were not licensed premises.
- (3) Before giving an approval, the chief executive may ask the applicant to give the chief executive a management plan relating to the proposed alteration, rebuilding, change or increase.
- (4) The management plan must include information the chief executive considers appropriate having regard to—
- (a) the business that is the principal activity conducted under the licence; and

-
- (b) the nature of the alteration, rebuilding, change or increase.
 - (5) If the chief executive asks the applicant for a management plan under subsection (3), the chief executive must not give the approval unless the applicant complies with the request.
 - (6) The licensee of licensed premises must keep the premises clean and in good repair.

Maximum penalty—25 penalty units.

154A Relocation of detached bottle shops

- (1) This section applies if—
 - (a) under a commercial hotel licence the licensee has authority to sell or supply liquor on a detached bottle shop; and
 - (b) the licensee proposes to relocate the detached bottle shop.
- (2) The licensee must apply to the chief executive for approval for the relocation.
- (3) In deciding the application, the chief executive must have regard to whether or not the applicant should be required to advertise the application under section 118.
- (4) The chief executive may approve the application only if the chief executive is satisfied the detached bottle shop is to be relocated to another place within the same shopping precinct.
- (5) If the detached bottle shop is to be relocated more than the distance prescribed under a regulation from the main licensed premises, the chief executive must refuse the application.
- (6) Subsection (5) does not apply if the detached bottle shop—
 - (a) operates under an approval granted by the chief executive before 2 December 1994; or
 - (b) operates under an approval granted by the chief executive on or after 2 December 1994 that authorises the detached bottle shop to be located more than the

[s 154B]

distance prescribed under a regulation from the main licensed premises.

- (7) If the chief executive approves the application, the chief executive must adjust the licence to ensure it describes the licensed premises after the relocation of the detached bottle shop.

154B Transfer of certain premises

- (1) This section applies if—
 - (a) the licensee under a commercial hotel licence (the *first licensee*) has authority to sell or supply liquor on a detached bottle shop; and
 - (b) the first licensee proposes to transfer the detached bottle shop to another licensee of a commercial hotel licence (the *second licensee*).
- (2) The first and second licensees must make a joint application to the chief executive for approval of the transfer.
- (3) The chief executive must refuse the application if—
 - (a) the detached bottle shop is more than the distance prescribed under a regulation from the main licensed premises of the second licensee; or
 - (b) there are 3 detached bottle shops under the authority of the commercial hotel licence of the second licensee.
- (4) In deciding the joint application, the chief executive must have regard to the matters prescribed under a regulation.
- (5) If the chief executive approves the joint application, the chief executive must adjust the licences of the first licensee and second licensee to ensure each licence describes its licensed premises after the transfer of the detached bottle shop.

154C Inclusion or amendment of other premises as part of authority of community club licence

- (1) A licensee under a community club licence may apply for—

-
- (a) the inclusion of a statement in the licence that the licensed premises include other premises; or
 - (b) a change of a statement in the licence that the licensed premises include other premises.
- (2) If the chief executive approves the application, the chief executive must adjust the licence to ensure it describes the licensed premises after the inclusion of the other premises or change of the other premises.
 - (3) Section 111 must not be used to do something that can be done under this section.
 - (4) A regulation may prescribe the requirements for an application under this section.
 - (5) In this section—
other premises see section 85(1A).

155 Minors on premises

- (1) This section applies to all minors other than an exempt minor.
 - (2) A licensee, permittee or person in control of the premises to which the licence or permit relates must ensure that a minor is not on the premises.
 - (3) Also, an employee or agent of the licensee or permittee must not allow a minor to enter the premises to which the licence or permit relates.
- (3A) If a minor is on the premises, each of the following persons commits an offence—
- (a) the licensee or permittee;
 - (b) if another person is in control of the premises—the other person;
 - (c) if an employee or agent of the licensee or permittee allowed the minor to enter the premises—the employee or agent.

Maximum penalty—100 penalty units.

(4) In this section—

exempt minor means a minor on premises to which a licence or permit relates if—

- (a) the minor is a resident on the premises; or
- (b) the minor is on the premises to—
 - (i) perform duties as an employee of the owner, or occupier, of the premises or a part of the premises; or
 - (ii) perform duties in the conduct of a lawful business; or
 - (iii) perform duties while 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 premises to which a community club licence or restricted liquor permit relates and the minor's presence does not contravene the club's rules or a condition of the licence or permit; or
- (e) the minor is on the premises for a purpose, and in circumstances, approved by the chief executive or stated in a condition of the licence or permit; or
- (f) the minor—
 - (i) is eating a meal on the premises; or
 - (ii) is accompanied by a responsible adult who is responsibly supervising the minor.

(5) However, a minor is not an exempt minor merely because the minor is eating a meal on the premises or accompanied by a responsible adult if—

- (a) the minor is on premises after 5p.m.; and
- (b) the premises are being used for the conduct of business for the principal activity of providing entertainment on the premises.

155AA Minors must not be in approved area when adult entertainment being provided

- (1) This section applies despite section 155, if the licensee or permittee of, or an approved manager working at, the premises to which a licence or permit relates to which a community liquor permit or restricted liquor permit relates holds an adult entertainment permit.
- (2) The licensee or permittee, an approved manager working at the premises, or the licensee's or permittee's controller, if any, must ensure that a minor is not in an approved area when adult entertainment is being provided.

Maximum penalty—200 penalty units.

- (3) To remove doubt, it is declared that a minor can not be in an approved area in the capacity of a performer of adult entertainment.

155AB Supervision of volunteers—community club licence, community other licence or restricted liquor permit

- (1) A licensee for a community club licence or community other licence, or permittee for a community liquor permit or restricted liquor permit, must take reasonable steps to ensure that a relevant volunteer is under the general supervision of a person holding a current training course certificate while the relevant volunteer is serving or supplying liquor at the licensed premises or premises to which the permit relates.

Maximum penalty—10 penalty units.

- (2) In this section—

relevant volunteer means a volunteer involved in the service or supply of liquor at the premises who does not hold a current training course certificate.

[s 155AC]

Division 1A Provisions binding particular licensees and permittees

155AC Application of div 1A

This division applies to—

- (a) licensed premises, other than licensed premises to which a community club licence or community other licence relates if liquor is served or supplied at the premises only by volunteers; and
- (b) premises to which a permit relates, other than premises to which a community liquor permit or restricted liquor permit relates if liquor is served or supplied at the premises only by volunteers.

155AD Who must be present or reasonably available at licensed premises etc.

- (1) This section applies while the licensed premises or premises to which the permit relates are open for business.
- (2) If the licensee or permittee is a corporation, the licensee or permittee must take reasonable steps to ensure that an approved manager—
 - (a) is present or reasonably available during the following times at the licensed premises or premises to which the permit relates—
 - (i) ordinary trading hours;
 - (ii) approved extended trading hours between 7a.m. and 10a.m.; and
 - (b) is present during approved extended trading hours between 12 midnight and 5a.m. at the licensed premises or premises to which the permit relates.

Maximum penalty—50 penalty units.

- (3) If the licensee or permittee is an individual, the licensee or permittee must—

-
- (a) be present or reasonably available, or take reasonable steps to ensure that an approved manager is present or reasonably available, during the following times at the licensed premises or premises to which the permit relates—
 - (i) ordinary trading hours;
 - (ii) approved extended trading hours between 7a.m. and 10a.m.; and
 - (b) be present, or take reasonable steps to ensure that an approved manager is present, during approved extended trading hours between 12 midnight and 5a.m. at the licensed premises or premises to which the permit relates.

Maximum penalty—50 penalty units.

- (4) Subsection (3) applies subject to section 155AF.
- (4A) Despite subsections (2)(a) and (3)(a), the chief executive may, under section 107C, impose a condition on a licensee's licence or a permittee's permit requiring—
 - (a) if the licensee or permittee is a corporation—the licensee or permittee to take reasonable steps to ensure an approved manager is present during the times mentioned in subsection (2)(a) at the licensed premises or premises to which the permit relates; and
 - (b) if the licensee or permittee is an individual—the licensee or permittee to be present, or take reasonable steps to ensure an approved manager is present, during the times mentioned in subsection (3)(a) at the licensed premises or premises to which the permit relates.
- (4B) Subsection 4A applies if the chief executive is satisfied the condition is necessary for a purpose mentioned in section 107C(1).
- (5) For this section, the licensee or permittee or an approved manager is *reasonably available* in relation to the licensed premises or premises to which the permit relates if both of the following apply—

[s 155AE]

- (a) the licensee, permittee or approved manager is readily contactable by each person involved in the service or supply of liquor at the premises;
 - (b) the time reasonably needed for the licensee, permittee or approved manager to travel from any place at which the licensee, permittee or approved manager may be present to the premises is not more than 1 hour or, if the chief executive has decided to extend the period of time for a particular licensee, permittee or approved manager, the extended period of time.
- (6) In deciding whether to extend the period of time for a particular licensee, permittee or approved manager, the chief executive must have regard to—
- (a) the principal activity, and the nature and extent of the business, conducted under the licence or permit; and
 - (b) the location of the premises; and
 - (c) the availability of trained staff for the premises.

155AE Approved managers register

- (1) The licensee or permittee—
- (a) must keep a register stating the following for each approved manager rostered on duty for the licensed premises or premises to which the permit relates—
 - (i) the name of the approved manager;
 - (ii) the date on which, and the starting time and finishing time of each shift for which, the approved manager is rostered on duty; and
 - (b) must keep the register available for inspection by an investigator at the premises.

Maximum penalty—100 penalty units.

- (2) The licensee or permittee—
- (a) must keep with the register copies of the current training course certificates and current licensee's course

certificates held by approved managers rostered on duty for the premises; and

- (b) must make the copies available for inspection by an investigator at the premises.

Maximum penalty—100 penalty units.

- (3) An approved manager rostered on duty for the premises must—

- (a) at the start of each shift for which the approved manager is rostered on duty—

- (i) record in the register the approved manager's name, and the date and starting time of the shift; and

- (ii) sign the register; and

- (b) at the end of each shift for which the approved manager is rostered on duty—

- (i) record in the register the date and finishing time of the shift; and

- (ii) sign the register.

Maximum penalty—100 penalty units.

155AF Exemption from obligation under s 155AD(3)

- (1) Subsection (2) applies if—
 - (a) the licensee or permittee is an individual; and
 - (b) the licensee or permittee wishes to be absent from the management and supervision of the business conducted under authority of the licence or permit for a continuous period (the *relevant period*) of not longer than 3 months.
- (2) The licensee or permittee may apply to the chief executive for an exemption from the obligation to comply with section 155AD(3) during the relevant period.
- (3) The chief executive may grant the application only if the chief executive is satisfied—

[s 155A]

- (a) the licensee or permittee has made reasonable efforts, but has been unsuccessful, in engaging 1 or more approved managers to be present or reasonably available, during the hours in the relevant period the licensed premises or premises to which the permit relates will be open for business, at or in relation to the premises; and
 - (b) during the relevant period—
 - (i) liquor will be supplied or possessed on the premises only in accordance with the authority conferred by the licence or permit; and
 - (ii) the risk-assessed management plan for the premises will be complied with.
- (4) In this section—
reasonably available see section 155AD(5).

Division 2 Provisions binding all persons

155A Prohibition on sale to a minor

A person must not sell liquor to a minor.

Maximum penalty—

- (a) if the person is the licensee or permittee of, or an approved manager working at, the premises to which a licence or permit relates—250 penalty units; or
- (b) in any other case—80 penalty units.

156 Liquor prohibited to certain persons

- (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, or in a public place 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.

Maximum penalty for subsections (1) to (3)—

- (a) for an offence committed by the licensee or permittee of, or an approved manager working at, the premises—
 - (i) if the person to whom the offence relates is a minor—250 penalty units; or
 - (ii) if the person to whom the offence relates is unduly intoxicated or disorderly—500 penalty units; or
 - (b) for an offence committed other than by the licensee or permittee of, or an approved manager working at, the premises—
 - (i) if the person to whom the offence relates is a minor—80 penalty units; or
 - (ii) if the person to whom the offence relates is unduly intoxicated or disorderly—80 penalty units.
- (4) Subsection (2) does not apply to the supply of liquor to a minor in a public place, designated under section 173C, if the minor is accompanied by a responsible adult who is responsibly supervising the minor.

[s 156A]

156A Irresponsible supply of liquor to a minor at a private place etc.

- (1) An adult must not supply liquor to a minor at a private place, unless the adult is a responsible adult for the minor.

Maximum penalty—80 penalty units.

- (2) A responsible adult for a minor must not supply liquor to the minor at a private place, unless the supply is consistent with the responsible supervision of the minor.

Maximum penalty—80 penalty units.

- (3) For subsection (2), in considering whether the supply is consistent with the responsible supervision of the minor, relevant factors include the following—

- (a) whether the adult is unduly intoxicated;
- (b) whether the minor is unduly intoxicated;
- (c) the age of the minor;
- (d) whether the minor is consuming the liquor supplied with food;
- (e) whether the adult is responsibly supervising the minor's consumption of the liquor supplied;
- (f) the quantity of liquor supplied and the period over which it was supplied.

156B Prohibition on sale of undesirable liquor product

- (1) A regulation may declare a particular liquor product, or class of liquor products, to be an undesirable liquor product.

- (2) A person must not sell or supply a liquor product, or liquor product that is part of a class of liquor products, declared under subsection (1) to be an undesirable liquor product.

Maximum penalty—

- (a) if the person is the licensee or permittee of, or an approved manager working at, the premises to which a licence or permit relates—100 penalty units; or

- (b) in any other case—25 penalty units.
- (3) The Minister may recommend the making of a regulation under subsection (1) about a liquor product or class of liquor products only if, in the opinion of the Minister—
 - (a) the name, design of packaging of the liquor product or class of liquor products is likely to be attractive to minors or young people; or
 - (b) the liquor product or class of liquor products is likely to be confused with soft drinks or confectionery; or
 - (c) the liquor product or class of liquor products, for any other reason, is likely to have a special appeal to minors or young people; or
 - (d) it is otherwise in the public interest to declare the liquor product or class of liquor products to be an undesirable liquor product.
- (4) The Minister must, before recommending the making of a regulation under subsection (1), make every reasonable effort to consult with—
 - (a) relevant liquor industry representatives; and
 - (b) the manufacturer and distributor of the liquor product or class of liquor products proposed to be declared to be an undesirable liquor product;about the proposed declaration.
- (5) However, failure to comply with subsection (4) does not affect the validity of the regulation.

156C Interim prohibition on sale of undesirable liquor product

- (1) The Minister may make an interim order declaring a particular liquor product, or class of liquor products, to be an undesirable liquor product.
- (2) In deciding whether to make the interim order, the Minister must have regard to the matters mentioned in section 156B(3).

[s 157]

- (3) To give effect to the interim order, the Minister must publish the order on the department's website on the internet.
- (4) The interim order stops having effect at the end of 42 days after it is published under subsection (3).
- (5) While the interim order is in force, a person must not sell or supply the liquor product, or a liquor product that is part of the class of liquor products, declared to be an undesirable liquor product.

Maximum penalty—

- (a) if the person is the licensee or permittee of, or an approved manager working at, the premises to which a licence or permit relates—100 penalty units; or
- (b) in any other case—25 penalty units.

157 Prohibitions affecting minors

- (1) A minor who is not an exempt minor must not be on premises to which a licence or permit relates.

Maximum penalty—25 penalty units.

- (2) A minor must not, on premises to which a licence or permit relates or in a public place—
 - (a) consume liquor; or
 - (b) be in possession of liquor.

Maximum penalty—25 penalty units.

- (3) Subsection (2) does not apply to a minor in a public place, designated under section 173C, if the minor is accompanied by a responsible adult who is responsibly supervising the minor.
- (4) Subsection (2)(b) does not apply to a minor who is on the premises for a purpose mentioned in section 155(4)(b) if the minor is in possession of liquor in the course of performing the duties mentioned in the paragraph.

158 False representation of age

- (1) A person must not falsely represent himself or herself to have attained 18 years for a wrongful purpose.

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; or

(b) in the case of an adult—40 penalty units.

- (3) A person must not falsely represent to an entity that the person has reached 18 years to obtain a proof of age card, or adult proof of age card, mentioned in section 6(1) knowing the representation to be false.

Maximum penalty—25 penalty units.

- (4) In subsection (1)—

wrongful purpose, of a minor, means—

(a) intending to be supplied with liquor; or

(b) entering into premises to which a licence or permit relates.

159 Wrongful dealing with genuine evidence of age

- (1) A person must not knowingly give a document that is evidence of age of the person mentioned in the document (the *specified person*) to someone else, if the person giving the document knows or has reasonable grounds to suspect that the document may be used—

[s 160]

- (a) as evidence of age, under this Act, of someone other than the specified person; or
- (b) to obtain a proof of age card, or adult proof of age card, mentioned in section 6(1) for someone other than the specified person.

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.

160 Seizure of document wrongly used as evidence of age

- (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.

161 Consumption or removal of liquor outside trading hours

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.

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

- (1) A person must not take liquor onto premises to which a subsidiary on-premises licence relates for consumption on the premises, unless the premises are premises mentioned in section 67A.

Maximum penalty—25 penalty units.

- (2) Subject to subsections (3) to (5), a person must not take liquor from premises to which a subsidiary on-premises licence relates.

Maximum penalty—25 penalty units.

- (3) Subsection (2) does not apply if—
- (a) the premises are premises mentioned in section 67A; and
 - (b) either of the following applies—
 - (a) if the liquor is wine—the wine was supplied to the person on the premises lawfully under the licence as authorised under section 67A(2)(b);
 - (b) the person brought the liquor onto the premises.
- (4) Subsection (5) applies to premises to which a subsidiary on-premises licence relates that is used for the conduct of a business selling wine by a person who also holds a licence (the *wine licence*) under the *Wine Industry Act 1994*.

[s 163]

- (5) Despite subsection (2), a person may take wine sold to the person under the authority of the wine licence off the premises.

163 False representation of intention to dine

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.

164 Conduct causing public nuisance

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.

165 Removal of persons from premises

- (1) An authorised person for premises to which a licence or permit relates may require a person to leave the premises if—
- (a) the person is unduly intoxicated; or
 - (b) the person is disorderly; or
 - (c) the person is creating a disturbance; or
 - (d) the person is a minor, other than an exempt minor; or
 - (e) the person has entered the premises despite being refused entry under section 165A; or

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- (f) the person refuses to state particulars, or to produce evidence, as to age when required to do so under section 167.
- (2) A person must immediately leave premises when required to do so under subsection (1).
Maximum penalty—25 penalty units.
- (3) If a person fails to leave when required under subsection (1), the authorised person may use necessary and reasonable force to remove the person.
- (4) A person must not resist an authorised person who is removing the person under subsection (3).
Maximum penalty—25 penalty units.
- (5) In this section—
authorised person, for premises to which a licence or permit relates, means—
- (a) the licensee or permittee; or
 - (b) an employee or agent of the licensee or permittee.

165A Refusing entry to premises

- (1) An authorised person for premises to which a licence or permit relates may refuse to allow a person to enter the premises if—
- (a) the person is unduly intoxicated; or
 - (b) the person is disorderly; or
 - (c) the person is a minor, other than an exempt minor; or
 - (d) the authorised person suspects on reasonable grounds the person is a minor and the person fails to—
 - (i) produce acceptable evidence that the person is not a minor; or
 - (ii) show that, if admitted to the premises, the person will be an exempt minor; or

[s 165B]

Editor's note—

See sections 6 (Acceptable evidence of age) and 155 (Minors on premises).

- (e) part 5, division 5, applies to the premises and it would be a breach of the condition imposed under section 142AB if the person were allowed to enter the premises.
- (2) A person must not enter, or attempt to enter, premises to which the person is refused entry under subsection (1).

Maximum penalty—25 penalty units.

- (3) If a person attempts to enter premises despite being refused entry to the premises under subsection (1), an authorised person may use necessary and reasonable force to prevent the person from entering the premises.
- (4) A person must not resist an authorised person who is preventing the person from entering premises under subsection (3).

Maximum penalty—25 penalty units.

- (5) In this section—

authorised person, for premises to which a licence or permit relates, means—

- (a) the licensee or permittee; or
(b) an employee or agent of the licensee or permittee.

165B Preservation of other rights to prevent entry to premises or remove persons from premises

Sections 165 and 165A do not limit any rights a person has under another law to prevent entry to premises to anyone or remove anyone from premises.

Example—

A licensee decides on a dress standard for persons in the licensed premises. The licensee may exercise the licensee's rights apart from this Act to stop anyone who does not comply with the standard from entering the premises.

166 Obstruction generally

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.

167 Ascertainment of age

(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) In this section—

authorised person includes—

- (a) a licensee or permittee; and
- (b) an employee or agent of a licensee or permittee.

168 Interference with licence or permit

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.

168A Advertising adult entertainment

(1) A person must not publish an advertisement for adult entertainment that describes the sexually explicit nature of the acts performed in the entertainment.

[s 168B]

Maximum penalty—40 penalty units.

- (2) A person must not publish an advertisement for adult entertainment that is not in the form approved by the chief executive either generally or for a particular advertisement.

Maximum penalty—40 penalty units.

- (3) A person must not publish any advertisement for adult entertainment through radio or television or by film or video recording.

Maximum penalty—40 penalty units.

- (4) Evidence that an advertisement has been published in relation to adult entertainment provided at licensed premises or premises to which a community liquor permit or restricted liquor permit relates, is evidence that a person who is the licensee or permittee published the advertisement.

- (5) In this section—

advertisement includes the following—

- (a) notice;
- (b) sign;
- (c) circular;
- (d) matter that is not in writing, but that conveys a message because of the form or context in which it appears.

publish an advertisement means publish, or cause to be published, in any way including in a newspaper, periodical, notice, sign or circular or through radio or television or by film or video recording.

168B Prohibition on possession of liquor in restricted area

- (1) A person must not, in a restricted area to which this section applies because of a declaration under section 173H, have in possession more than the prescribed quantity of a type of liquor for the area, other than under the authority of a restricted area permit.

Maximum penalty—

- (a) for a first offence—375 penalty units; or
 - (b) for a second offence—525 penalty units or 6 months imprisonment; or
 - (c) for a third or later offence—750 penalty units or 18 months imprisonment.
- (2) However, subsection (1) does not apply to the possession of liquor in the ordinary course of lawful business by—
- (a) a licensee or permittee in the licensee's or permittee's licensed premises; or
 - (b) a carrier, licensee or permittee who—
 - (i) has collected it from, and is delivering it to, licensed premises in the area; or
 - (ii) has collected it from licensed premises outside the area and is delivering it to licensed premises in the area; or
 - (iii) has collected it from licensed premises in the area and is delivering it to licensed premises outside the area; or
 - (c) if the liquor was seized under part 7, division 1—a carrier who is carrying it, under the direction of an investigator, in a restricted area; or
 - (d) a licensee or permittee who has collected it from licensed premises outside the area and is delivering it, via the area, by means of a vehicle to a person at premises outside the area.
- (3) Also, subsection (1) does not apply to the possession of liquor in the ordinary course of lawful business by a carrier if—
- (a) the carrier collected the liquor from a person, and is delivering it by means of a vehicle to another person, at premises outside the restricted area; and
 - (b) the package or container in which the liquor is to be delivered is labelled in writing on the outside with—

[s 168B]

- (i) the name and address of each of the consignor and the consignee of the liquor; and
 - (ii) if the consignment of the liquor is for the purpose of sale and the seller of the liquor is not the consignor, the name and address of the seller; and
 - (iii) if the consignment of the liquor is for the purpose of sale and the purchaser of the liquor is not the consignee, the name and address of the purchaser; and
 - (c) the liquor is not removed from the vehicle while the vehicle is in the restricted area; and
 - (d) the liquor is securely stored in—
 - (i) a locked container fixed to the vehicle; or
 - (ii) a part of the vehicle that is locked; and
 - (e) neither the liquor, nor the package or container mentioned in paragraph (b), is visible from outside the vehicle.
- (3A) Also, subsection (1) does not apply to the possession of liquor by a person, other than a carrier, licensee or permittee in possession of the liquor in the ordinary course of lawful business, travelling in a vehicle on a public road prescribed under a regulation if—
- (a) the person collected the liquor from a place outside the area; and
 - (b) the person is travelling with the liquor, via the area, to a destination outside the area; and
 - (c) the travel is uninterrupted, other than—
 - (i) for the person to use a public facility prescribed under a regulation; or
 - (ii) because of an emergency; and
 - (d) the liquor is not removed from the vehicle while the vehicle is in the area; and
 - (e) the liquor is stored in—

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- (i) a container that is fixed to the vehicle and locked while the vehicle is left unattended; or
 - (ii) the vehicle, that is locked while it is left unattended; and
 - (f) the liquor is not visible from outside the vehicle.
- (3B) In a proceeding for a contravention of subsection (1), for subsection (3A), the burden of proving that the liquor was collected from a place outside the area and the person is travelling with it, via the area, to a destination outside the area is on the person alleged to have contravened subsection (1).
- (3C) For subsection (3B), the burden of proof is on the balance of probabilities.
- (3D) Also, subsection (1) does not apply to the possession of permitted liquor by a person at residential premises.
- (4) In a proceeding for an offence against subsection (1), proof that liquor was, at the material time, in or on a vehicle is conclusive evidence that the operator of the vehicle had in possession all the liquor in or on the vehicle unless the operator proves that, at the time, he or she neither knew nor had reason to suspect that the liquor was in or on the vehicle.
- (5) For subsection (4), it is immaterial that another person claims to have had in possession any of the liquor at the material time.
- (6) In this section—
- carrier** means a carrier, delivery person or other person engaged in the ordinary course of lawful business of delivering liquor.
- licensed premises** includes premises to which a permit relates.
- operator**, of a vehicle, includes—
- (a) the person in command or control, or who appears to be in command or control, of the vehicle; and
 - (b) for a vehicle registered in a State or Territory under a law of the State or Territory providing for the

[s 168C]

registration of vehicles—the person in whose name the vehicle is so registered.

permitted liquor means liquor of a type that may, under the regulation that makes the declaration mentioned in subsection (1), be possessed in the area, other than under the authority of a restricted area permit.

public facility means a facility for use by the public.

public road means a road ordinarily used by the public.

residential premises see the *Residential Tenancies and Rooming Accommodation Act 2008*, section 10.

vehicle includes a boat and an aircraft.

168C Attempt to take liquor into restricted area

- (1) A person must not attempt to enter a relevant restricted area if the person has in possession more than the prescribed quantity of a type of liquor for the area.

Maximum penalty—375 penalty units.

- (2) Subsection (1) does not apply to—
- (a) a carrier, licensee or permittee who, in the ordinary course of lawful business, has collected the liquor from licensed premises outside the area and is delivering it to licensed premises in the area; or
 - (b) a carrier who, in the ordinary course of lawful business, has collected the liquor from a person outside the area and is delivering it, via the area, by means of a vehicle to another person at premises outside the area; or
 - (c) a licensee or permittee who, in the ordinary course of lawful business, has collected the liquor from licensed premises outside the area and is delivering it, via the area, by means of a vehicle to a person at premises outside the area; or
 - (d) a person, other than a carrier, licensee or permittee in possession of the liquor in the ordinary course of lawful business, who has collected it from a place outside the

area and is travelling with it, via the area, to a destination outside the area; or

- (e) a person who is a permittee under a restricted area permit that authorises the permittee to possess in the area more than the prescribed quantity of the type of liquor for the area if the quantity of that type of liquor possessed by the person is not more than that allowed under the permit.
- (3) In a proceeding for a contravention of subsection (1), for subsection (2)(d), the burden of proving that the liquor was collected from a place outside the area and the person is travelling with it, via the area, to a destination outside the area is on the person alleged to have contravened subsection (1).
- (4) For subsection (3), the burden of proof is on the balance of probabilities.
- (5) In this section—

carrier see section 168B(6).

relevant restricted area means a restricted area to which section 168B applies because of a declaration under section 173H.

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

169 Authority required for sale

A person must not sell liquor unless—

- (a) if the liquor is wine—the sale is made under the authority of a licence or permit under this Act or the *Wine Industry Act 1994*; or
- (b) otherwise—the sale is made under the authority of a licence or permit.

[s 170]

Maximum penalty—

- (a) for a first offence—500 penalty units; or
- (b) for a second offence—700 penalty units or 6 months imprisonment; or
- (c) for a third or later offence—1000 penalty units or 18 months imprisonment.

170 Sale of liquor on premises to which licence or permit relates

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.

171 Carrying or exposing liquor for sale

(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.

Maximum penalty—

- (a) for a first offence—500 penalty units; or
 - (b) for a second offence—700 penalty units or 6 months imprisonment; or
 - (c) for a third or later offence—1000 penalty units or 18 months imprisonment.
- (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.

172 Offer to purchase liquor made elsewhere than at licensed premises

- (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) Subsection (1) does not apply to the holder of a producer/wholesaler licence for orders taken to supply liquor by wholesale to a person mentioned in section 75(1).
- (3) 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.

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

- (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 allowed the sale of liquor on the premises if—
 - (a) during the 2 years before the sale, liquor has been sold on the premises on at least 3 other occasions; and
 - (b) someone has been convicted of an offence against this division relating to the sale on each of the other occasions; and
 - (c) the owner was owner of the premises when the offences to which the convictions relate were committed; and
 - (d) a copy of a certificate of each such conviction was given to the owner by personal service or by prepaid 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) A conviction of the occupier of unlicensed premises for selling liquor on the premises is 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 can not 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.

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- (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

173A Definitions

In this division—

designated public place means a public place designated under section 173C.

road means—

- (a) a road within the meaning of the *Local Government Act 2009*; or
- (b) a State-controlled road under the *Transport Infrastructure Act 1994*.

173B Consumption of liquor in certain public places prohibited

- (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 government (other than a conservation park or

[s 173B]

resources reserve under the *Nature Conservation Act 1992*); or

- (iii) relevant land prescribed under a regulation; 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 government concerned has not complied with section 173E in relation to the place; or
 - (d) if the place is, at the relevant time, designated as a public place under section 173L, and the designation is not suspended under section 173N.
- (3) Also, a person does not commit an offence against subsection (1) in relation to a place mentioned in subsection (1)(a)(iii) if the consumption of liquor in the place is authorised or permitted by the State or relevant statutory authority.

- (4) In this section—

relevant land means land owned by, or under the control of, the State or a statutory authority.

173C Local government, other than particular local governments, may designate public places where liquor may be consumed

- (1) A local government, other than a relevant local government, may 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 government may specify the period or times during which the designation is to have effect.
- (3) If the local government specifies a period or times under subsection (2), the public place is a designated public place only during that period or those times.
- (4) In this section—

relevant local government means a local government whose area is, or part of whose area is in, a restricted area that is declared under a regulation under section 173H to be an area to which section 168B applies.

173D Local government must advertise designation and place signs

- (1) A local government that designates a public place under section 173C must advertise, or cause someone else to 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 government must also erect, or cause someone else to 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.

[s 173E]

- (4) The local government 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.
- (5) A local government does not have to comply with subsections (1) to (3) if the designation is for a public place adjacent to premises used for the primary purpose of eating meals prepared, served and intended to be eaten on the premises.
- (6) However, written local government approval for the use of the public place mentioned in subsection (5) must be conspicuously displayed in the place.

173E Local government must advertise repeal or amendment of designation and remove or alter signs

- (1) If a local government repeals or amends a designation under section 173C, the local government must advertise, or cause someone else to 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 government 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

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- (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 6A Restricted areas

Division 1 Preliminary

173F Purpose of pt 6A

The purpose of this part is to provide for the declaration of areas for minimising—

- (a) harm caused by alcohol abuse and misuse and associated violence; and
- (b) alcohol-related disturbances, or public disorder, in a locality.

Division 2 Declaration of, and prohibition of possession of liquor in, restricted areas

173G Declaration of restricted area

- (1) A regulation may declare an area to be a restricted area.
- (2) Without limiting subsection (1), a community area, or part of a community area, may be declared to be a restricted area.
- (3) In recommending the Governor in Council make the regulation, the Minister must be satisfied the declaration is necessary to achieve the purpose of this part.

[s 173H]

173H Declaration of prohibition of possession of liquor in restricted area

- (1) A regulation may declare that a restricted area is an area to which section 168B applies.
- (2) A regulation under subsection (1) must state the quantity of a type of liquor that a person may have in possession in the restricted area (the *prescribed quantity*) without a restricted area permit.
- (3) Subject to any conditions imposed under this Act about the quantity of a type of liquor that a person may have in possession at licensed premises, or premises to which a permit relates, in the restricted area, the prescribed quantity does not apply to the premises.

173I Consultation with community justice groups for declarations

- (1) This section applies if a community area is, or a community area or part of a community area is in—
 - (a) an area to be declared under a regulation under section 173G to be a restricted area; or
 - (b) a restricted area to be declared under a regulation under section 173H to be an area to which section 168B applies.
- (2) The Minister may recommend the Governor in Council make the regulation only if the Minister has consulted with the community justice group for the community area about the declaration or, if the group made a recommendation about the declaration, the Minister has considered the recommendation.
- (3) Also, the Minister must consider a recommendation made by the community justice group about changing the declaration.
- (4) However, failure to comply with subsection (2) or (3) does not affect the validity of a regulation made for the subsection.

173J Notice about prohibition of possession of liquor in restricted area

- (1) As soon as practicable after a declaration under section 173H for a restricted area, the chief executive must—
 - (a) give written notice about the declaration to the following—
 - (i) the local government that may exercise jurisdiction in the area;
 - (ii) each assistant commissioner for a locality in the area;
 - (iii) if the area is, or is in, a community area—the community justice group for the area; and
 - (b) publish a notice about the declaration in a newspaper circulating in the area; and
 - (c) erect or display and maintain a notice about the declaration at the places where public roads enter the area.
- (2) A notice under subsection (1)(c) must—
 - (a) sufficiently identify the area; and
 - (b) state in general terms the effect of section 168B and the penalty for an offence against the section; and
 - (c) be easily visible to persons entering the area.
- (3) A failure of the chief executive to erect, display or maintain a notice under subsection (1)(c) does not affect a person's liability to be prosecuted for an offence against section 168B.
- (4) In this section—

public road means a road ordinarily used by the public.

[s 173K]

Division 3 Designation of public places where liquor may be consumed

173K Definition for div 3

In this division—

designated public place means a public place designated under section 173L.

173L Regulation may designate public place in restricted area where certain type of liquor may be consumed

- (1) This section applies if a restricted area is declared under a regulation under section 173H to be an area to which section 168B applies.
- (2) A regulation may designate a public place in the area as a public place where permitted liquor may be consumed.
- (3) The regulation may state the period or times during which the designation is to have effect.
- (4) If the regulation states a period or times under subsection (3), the place is a designated public place only during that period or those times.
- (5) In this section—

permitted liquor means liquor of a type that may, under the regulation mentioned in subsection (1), be possessed in the area, other than under the authority of a restricted area permit.

173M Notice of designation

- (1) If a regulation designates a public place in a restricted area under section 173L, the local government for the area must display a notice about the designation at or near each entrance to the place.
- (2) The notice must—

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

173N Suspension of designation

- (1) This section applies if a regulation designates a public place in a restricted area under section 173L.
- (2) The local government for the area may by resolution, or the chief executive may, suspend the designation for a period of not more than 10 days if the local government or chief executive reasonably believes it is in the best interests of the area's residents to do so.
- (3) The local government or chief executive must display a notice detailing the suspension on each of the notices about the designation for the public place displayed under section 173M while the suspension is in force.
- (4) Also, the local government or chief executive must give the Queensland Police Service written notice of the suspension.
- (5) The suspension takes effect once the notices detailing the suspension are first displayed under subsection (3).
- (6) A failure to continue to display, under subsection (3), the notices detailing the suspension does not affect a person's liability to be convicted of an offence against section 173B(1).

Part 6B Drink safe precincts

1730 Purpose of pt 6B

The purpose of this part is to provide for the prescribing of areas (each a *drink safe precinct*) for the purpose of—

[s 173P]

- (a) minimising harm, and the potential for harm, from alcohol abuse and misuse and associated violence; and
- (b) minimising alcohol-related disturbances, or public disorder, in a locality.

173P Drink safe precinct may be prescribed under regulation

- (1) A regulation may prescribe an area to be a drink safe precinct.
- (2) Without limiting subsection (1), any or all of the following may be prescribed to be a drink safe precinct—
 - (a) a single licensed premises;
 - (b) multiple licensed premises;
 - (c) an area in the vicinity of licensed premises or multiple licensed premises.
- (3) In recommending that the Governor in Council make the regulation, the Minister must be satisfied the declaration is necessary to achieve the purpose of this part.

Part 6C Civil banning orders

Division 1 Preliminary

173Q Definitions for pt 6C

In this part—

authorised person means—

- (a) the chief executive; or
- (b) a police officer.

civil banning order see section 173S(1).

drink safe precinct see section 173O.

interim civil banning order see section 173Y(2).

respondent see section 173S(1).

173R Purpose of pt 6C

The purpose of this part is to provide for the making of civil banning orders to minimise—

- (a) harm, and the potential for harm, from alcohol abuse and misuse and associated violence; and
- (b) alcohol-related disturbances, or public disorder, in drink safe precincts.

Division 2 Orders

173S What is a *civil banning order*

- (1) A *civil banning order* is an order made in relation to a person who is an adult (the *respondent*) that prohibits the respondent, until a stated date, from doing, or attempting to do, any of the following—
 - (a) entering or remaining in stated licensed premises, or a stated class of licensed premises, located within a drink safe precinct;
 - (b) entering or remaining in, during stated hours, a stated area that is—
 - (i) designated by its distance from, or location in relation to, the stated licensed premises or stated class of licensed premises mentioned in an order made under paragraph (a); and
 - (ii) located within a drink safe precinct;

Examples of orders for paragraph (b)—

- an order that prohibits a person from entering or remaining in, between the hours of 10p.m. and 6a.m., an area that is within 10m of stated licensed premises mentioned in an order made under paragraph (a)

[s 173T]

- an order that prohibits a person from entering or remaining in, between the hours of 11p.m. and 5a.m., a stated street, or an area abutting several stated streets, that is located near stated licensed premises mentioned in an order made under paragraph (a)
- (c) entering or remaining in, during stated hours, a drink safe precinct;
 - (d) attending or remaining at a stated event, to be held in a public place located within a drink safe precinct, at which liquor will be sold for consumption.
- (2) The stated date in the civil banning order must be a date no later than 12 months after—
- (a) if an interim civil banning order is made—the day on which the interim civil banning order is made; or
 - (b) otherwise—the day on which the civil banning order is made.
- (3) A civil banning order takes effect—
- (a) if the respondent or a legal or other representative of the respondent is present at the hearing of the application—when it is made; or
 - (b) otherwise—when the order is served on the respondent.

173T Who may apply for a civil banning order

An authorised person may apply to a Magistrates Court for a civil banning order to be made in relation to a respondent.

173U Application for a civil banning order

- (1) An application for a civil banning order in relation to a respondent must state the following—
- (a) the name of the respondent;
 - (b) the details of the order sought;
 - (c) the information necessary to satisfy the court of the matters mentioned in section 173X(1);

- (d) the details of any previous application for a civil banning order for the respondent and the outcome of the application;
 - (e) that affidavits in response to the application may be filed under section 173V;
 - (f) that the application may, under section 173W(2), be decided in the respondent's absence.
- (2) The application must be accompanied by any affidavit the authorised person intends to rely on at the hearing of the application.
- (3) The application, with any accompanying affidavit, must—
- (a) be filed in the court; and
 - (b) after being filed, be served on the respondent within 10 business days after the filing.

173V Response by respondent

- (1) The respondent may file affidavits to be relied on by the respondent for the hearing of the application.
- (2) The respondent must file the affidavits within 28 business days after the day the application is filed.

173W Hearing of application

- (1) If a respondent appears before the court that is to hear and decide an application for a civil banning order, the court may—
 - (a) hear and decide the application; or
 - (b) adjourn the application, whether or not it makes an interim civil banning order; or
 - (c) dismiss the application.
- (2) If a respondent fails to appear before the court that is to hear and decide the application for a civil banning order and the

[s 173X]

court is satisfied that a copy of the application has been served on the respondent, the court may—

- (a) proceed to hear and decide the application in the absence of the respondent; or
- (b) adjourn the application, whether or not it makes an interim civil banning order; or
- (c) dismiss the application.

173X Making a civil banning order

- (1) The court may make a civil banning order for a respondent if satisfied that—
 - (a) the respondent committed an act of violence, against another person or property, of such a nature that the act of violence would cause a person in the vicinity to reasonably fear bodily harm to any person or damage to property; and
 - (b) the act of violence was committed within 12 months before the day the application was filed; and
 - (c) the act of violence was committed in licensed premises, or in an area in the vicinity of licensed premises, located within a drink safe precinct; and
 - (d) the respondent did not have a reasonable excuse for committing the act of violence; and
 - (e) unless the order is made, the respondent would pose an unacceptable risk to—
 - (i) the good order of licensed premises, and areas in the vicinity of licensed premises, located within a drink safe precinct; or
 - (ii) the safety and welfare of persons attending licensed premises, and areas in the vicinity of licensed premises, located within a drink safe precinct.

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- (2) In considering whether to make the order, the court must have regard to all of the circumstances of the case, including, for example, the following—
- (a) whether the respondent is, or has been, subject to another civil banning order;
 - (b) whether the respondent is, or has been, subject to—
 - (i) a special condition mentioned in the *Bail Act 1980*, section 11(3); or
 - (ii) a banning order imposed under the *Penalties and Sentences Act 1992*, section 43J;
 - (c) whether the respondent, or any other person, was charged with an offence arising out of the act of violence mentioned in subsection (1)(a) and the result of any proceeding in relation to the charge;
 - (d) the respondent's criminal history;
 - (e) the respondent's personal circumstances and the likely effect of the order on those circumstances;
 - (f) anything else the court considers relevant.
- (3) The court may impose any conditions it considers necessary on a civil banning order.
- (4) A civil banning order does not stop the respondent from—
- (a) entering or remaining in any of the following—
 - (i) the respondent's residence;
 - (ii) the respondent's place of employment;
 - (iii) a place at which the respondent is receiving formal education;
 - (iv) a mode of transport required to be used by the respondent;
 - (v) any other place that the court considers necessary in order to prevent undue hardship to the respondent or a member of the respondent's family; or

[s 173X]

- (b) entering any place that it is reasonably necessary for the respondent to enter for the purpose of entering or remaining in a place or mode of transport mentioned in paragraph (a).
- (5) If a place mentioned in subsection (4) is located within the drink safe precinct to which the civil banning order applies, the civil banning order must—
- (a) describe the place in sufficient detail to identify the place; and
 - (b) state that the respondent is not stopped from entering or remaining in the place.

Example for subsection (5)—

If a respondent's residence is located within the drink safe precinct, the civil banning order must state the address of the residence and state that the respondent is not stopped from entering or remaining in the residence.

- (6) If a mode of transport mentioned in subsection (4) operates within the drink safe precinct to which the civil banning order applies, the civil banning order must—
- (a) describe the mode of transport in sufficient detail to identify the mode of transport; and
 - (b) state that the respondent is not stopped from entering or remaining in the mode of transport.

Example for subsection (6)—

If a bus route required to be used by the respondent operates within the drink safe precinct, the civil banning order must describe the bus route and state that the respondent is not stopped from entering or remaining in a bus on that route.

- (7) The respondent bears the onus of proving the following—
- (a) for subsection (4)(a)(i)—that a place is the respondent's residence;
 - (b) for subsection (4)(a)(ii)—that a place is the respondent's place of employment;
 - (c) for subsection (4)(a)(iii)—that the respondent is receiving formal education at a place;

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- (d) for subsection (4)(a)(iv)—that a mode of transport is required to be used by the respondent;
 - (e) for subsection (4)(a)(v)—that undue hardship would be caused to the respondent or a member of the respondent’s family if the respondent was prevented from entering or remaining in a place.
- (8) The court may make a civil banning order whether or not the respondent has been charged with, convicted of, acquitted of, or sentenced for, an offence arising out of the act of violence mentioned in subsection (1)(a).
- (9) In this section—
act of violence includes an attempted or threatened act of violence.

173Y Interim civil banning order

- (1) This section applies if an authorised person has made an application, under section 173U, for a civil banning order for a respondent.
- (2) The authorised person may apply to a Magistrates Court for an order (an *interim civil banning order*) for the respondent to be in force until—
 - (a) the court finally decides the application for the civil banning order; or
 - (b) the application for the interim civil banning order otherwise ends.
- (3) The application for the interim civil banning order must state—
 - (a) the information necessary to satisfy the court of the matters mentioned in subsection (7); and
 - (b) that affidavits in response to the application may be filed under subsection (5); and
 - (c) that the application may, under subsection (8), be decided in the respondent’s absence.

[s 173Z]

- (4) The application, with any accompanying affidavit, must—
 - (a) be filed in the court; and
 - (b) after being filed, be served on the respondent within 5 business days after the filing.
- (5) The respondent may file affidavits to be relied on by the respondent for the hearing of the application.
- (6) The respondent must file the affidavits within 15 business days after the day the application is filed.
- (7) The court may make the interim civil banning order if the court is satisfied—
 - (a) the application has been served on the respondent; and
 - (b) there are reasonable grounds for believing there is sufficient basis to make a civil banning order.
- (8) The interim civil banning order may be made whether or not the respondent appears before the court or makes submissions.
- (9) An interim civil banning order may prohibit the respondent from doing, or attempting to do, anything that a person may be prohibited from doing by a civil banning order.
- (10) An interim civil banning order takes effect—
 - (a) if the respondent or a legal or other representative of the respondent is present at the hearing of the application—when it is made; or
 - (b) otherwise—when the order is served on the respondent.

173Z Amending or revoking civil banning order

- (1) The following persons may apply to a Magistrates Court to amend or revoke a civil banning order—
 - (a) an authorised person;
 - (b) the respondent.
- (2) However, the respondent may not, without the leave of the court, apply to amend or revoke a civil banning order until at least 6 months after the order is made.

- (3) The applicant must give a copy of the application to—
 - (a) if the applicant is the respondent—the authorised person; or
 - (b) if the applicant is an authorised person—the respondent.
- (4) The applicant must give the copy within 14 business days after the application is filed.
- (5) The authorised person and respondent are each entitled to be heard at the hearing of the application.
- (6) The court may amend or revoke a civil banning order only if satisfied there has been a material change in the circumstances of the respondent that justifies the amendment or revocation.
- (7) In considering whether to make an order to amend or revoke a civil banning order, the court must have regard to—
 - (a) whether the respondent, or any other person, was charged with an offence arising out of the act of violence on which the civil banning order was based; and
 - (b) the result of any proceeding in relation to the charge.

173ZA Court may make civil banning order by consent

- (1) The Magistrates Court may make a civil banning order in a form agreed to by an authorised person and the respondent.
- (2) The order may include only matters that may be dealt with under this part.

173ZB Orders must be explained

- (1) Subsection (2) applies if a respondent appears before a court hearing an application for a civil banning order or an interim civil banning order for the respondent.
- (2) Before making the order, the court must explain, or cause to be explained, to the respondent—
 - (a) the purpose and effect of the order; and

[s 173ZC]

- (b) the consequences of contravening the order; and
 - (c) for a civil banning order—that the order may be amended or revoked on the application of the respondent or an authorised person.
- (3) Subsection (4) applies if a respondent did not appear before a court when the court made a civil banning order or an interim civil banning order for the respondent.
- (4) Before serving the order on the respondent, the person serving the order must explain, or cause to be explained, to the respondent—
- (a) the purpose and effect of the order; and
 - (b) the consequences of contravening the order; and
 - (c) for a civil banning order—that the order may be amended or revoked on the application of the respondent or an authorised person.
- (5) The explanation under subsection (2) or (4) must be made in language or in a way likely to be readily understood by the respondent.

173ZC No costs to be awarded

The Magistrates Court must not award costs on proceedings under this division unless the court dismisses the application as frivolous or vexatious or another abuse of process.

173ZD No filing fee is payable

A fee is not payable for making an application, or filing another document, under this part.

173ZE Standard of proof

A question of fact in proceedings under this part, other than proceedings for an offence, is to be decided on the balance of probabilities.

173ZF General application of rules of court

The *Uniform Civil Procedure Rules 1999* apply in relation to applications made to the court under this part to the extent the rules are consistent with this part.

173ZG Interaction with criminal proceedings

- (1) An application under this part may be made, and a court may, as authorised by this Act, dispose of the application even if a person concerned in the application has been charged with an offence arising out of the act of violence on which the application is based.
- (2) Subsection (4) applies if the person against whom—
 - (a) a civil banning order has been made; or
 - (b) a court has refused to make a civil banning order; or
 - (c) proceedings are current in which a civil banning order is sought;is charged with an offence mentioned in subsection (1).
- (3) Also, subsection (4) applies if the person is charged with an offence mentioned in subsection (1) and the court has done either of the following relating to a civil banning order naming the person as the respondent—
 - (a) revoked, or refused to revoke, the civil banning order;
 - (b) amended, or refused to amend, the civil banning order, including the conditions imposed on the order.
- (4) A reference to—
 - (a) making, or refusing to make, the order, or a revocation or amendment; or
 - (b) the existence of current proceedings mentioned in subsection (2)(c); or
 - (c) the fact that evidence of a particular nature or content was given in—

[s 173ZH]

- (i) the proceedings in which the order, revocation or amendment was made or refused; or
- (ii) the current proceedings;

is inadmissible in the trial of the person for an offence arising out of the act of violence on which the application for the order, revocation, or amendment, or relevant to the current proceedings, is based.

- (5) To remove any doubt, it is declared that, subject to this section, an application, proceeding or order under this part in relation to the conduct of the person does not affect any proceeding against the person for an offence arising out of the same conduct.
- (6) The person may be punished for the offence mentioned in subsection (5) despite any order made against the person under this part.
- (7) In this section—
civil banning order includes an interim civil banning order.

173ZH Contravention of civil banning order or interim civil banning order

A person must not, without reasonable excuse, contravene—

- (a) a civil banning order; or
- (b) an interim civil banning order.

Maximum penalty—40 penalty units or 6 months imprisonment.

Division 3 Appeals

173ZI Appeals

An authorised person or a respondent in relation to whom a decision of the Magistrates Court under this part has been made may appeal against the decision to the District Court.

173ZJ Time for appeal

- (1) An appeal must be started within 1 month after the decision is made (the *appeal period*).
- (2) On application, the District Court may extend the appeal period.

173ZK Starting appeal

- (1) A person starts an appeal by filing a notice of appeal with the registrar.
- (2) The notice must—
 - (a) be signed by the person or the person’s lawyer; and
 - (b) state, briefly and precisely, the grounds of the appeal.
- (3) If the notice is not filed in the appeal period, the person must also file with the registrar a notice of application for extension of time for filing the notice.

173ZL Registrar to give respondent copies of particular documents

The registrar must give the respondent to an appeal copies of any of the following documents filed with the registrar for the appeal—

- (a) the notice of appeal;
- (b) a notice of application for extension of time for filing a notice mentioned in paragraph (a).

173ZM Stay of operation of decision

An appeal does not stay the operation of the decision.

173ZN District Court’s powers on appeal

- (1) An appeal is by way of rehearing.
- (2) The District Court—

[s 173ZO]

- (a) has all the powers and duties of the court that made the decision appealed from; and
 - (b) may draw inferences of fact, not inconsistent with the findings of the court; and
 - (c) may, on special grounds, receive further evidence as to questions of fact, either orally in court, by affidavit or in another way; and
 - (d) may order that the matter be remitted for rehearing to the court in which the decision appealed from was made.
- (3) Subsection (2)(a) does not limit the powers that the District Court has in its civil jurisdiction.
 - (4) The decision of the District Court upon an appeal is final and conclusive.

173ZO No costs on appeal

The District Court must not award costs on an appeal under this division unless the court dismisses the appeal as frivolous or vexatious or another abuse of process.

Division 4 Miscellaneous

173ZP Service of documents

- (1) This section applies if a provision of this part requires a respondent to be served with a document.
- (2) The document must be served personally on the respondent.
- (3) However, if, despite reasonable attempts being made, a document is unable to be personally served on a respondent, an authorised person may apply to the Magistrates Court to authorise substituted service under subsection (4).
- (4) If it appears to the court that it is not reasonably practicable to serve the document personally on the respondent, the court may authorise another way of serving it (*substituted service*).

Example of substituted service—

by personal service of the document on a relative, guardian or other person with whom the respondent is known to associate

- (5) When serving a document that requires the appearance of a respondent in a court, the person serving the document must explain the contents of the document to the respondent in language likely to be understood by the respondent, having regard, for example, to the respondent's age and cultural, educational and social background.

173ZQ Commissioner must provide information relevant to applications

- (1) The chief executive may ask the commissioner to give the chief executive the information the chief executive requires to make, or to consider making, an application for a civil banning order in relation to a person.
- (2) Without limiting subsection (1), the information may include the following—
 - (a) the criminal history of the person;
 - (b) police statements in relation to any act of violence committed by the person;
 - (c) statements of witnesses or victims of any act of violence committed by the person;
 - (d) other evidentiary material relating to any act of violence committed by the person.
- (3) Subject to subsection (4), the commissioner must provide the information requested.
- (4) The obligation of the commissioner to comply with the chief executive's request applies only to information in the possession of the commissioner or to which the commissioner has access.

[s 173ZR]

173ZR Chief executive may give copy of order to commissioner

- (1) This section applies if the chief executive, as an authorised person, obtains an order under this part.
- (2) The chief executive may give a copy of the order to the commissioner.

173ZS Police officer may give copy of order to chief executive

- (1) This section applies if a police officer, as an authorised person, obtains an order under this part.
- (2) The police officer may give a copy of the order to the chief executive.

173ZT Authorised person may give copy of order to licensee

An authorised person may give a copy of an order made under this part to—

- (a) the licensee of any licensed premises stated in the order;
or
- (b) the licensee of any licensed premises within a class of licensed premises stated in the order; or
- (c) the holder of a licence or permit to sell liquor at an event stated in the order; or
- (d) an approved manager working at the licensed premises mentioned in paragraph (a) or (b) or the event mentioned in paragraph (c).

Part 7 Investigators and their powers

Division 1 Exercise of powers

174 Investigators

- (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.

174A Powers of community police officers

- (1) An investigator who is a community police officer may only exercise a power under this part for the administration and enforcement of sections 168B, 169 and 171 in a restricted area that is, or is in, the community area for which the officer holds appointment.

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- (2) Subsection (3) applies for a community police officer exercising an investigator's powers under this part for the administration and enforcement of a prescribed provision by the officer.
- (3) This part applies to the officer as if—
 - (a) a reference to an investigator were a reference to a community police officer; and
 - (b) the prescribed provision were a provision of this Act.

Examples for subsection (3)—

- 1 A community police officer may exercise a power under section 175 if the officer has a reasonable suspicion that a vehicle is being used in the commission of an offence against a prescribed provision.
- 2 A community police officer may exercise the power of entry under section 176 for finding out whether a prescribed provision is being complied with.
- 3 A community police officer may exercise a power of seizure under section 177(4) if the officer has the reasonable belief mentioned in the subsection.

175 Power to stop and search vehicles etc.

- (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 or 1 year's imprisonment.
- (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 1 year's imprisonment.
- (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) and (b) apply to the thing.

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- (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, section 177(2)(a) and (b) apply to the vehicle, boat or aircraft.

176 Entry and search—monitoring compliance

- (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.

177 Entry and search—evidence of offences

- (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) 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

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- (b) 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.

178 General powers of investigator in relation to places

- (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, measure, test, 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 a sample of or from a thing at the place for analysis to find out whether or not the thing is liquor;
 - (e) 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;
 - (f) 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 (e);
 - (g) the powers mentioned in sections 182 to 184.
- (2) A person must not, without reasonable excuse, fail to comply with a requirement made under subsection (1)(f).

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 damages anything when exercising or purporting to exercise a power under this part must, as soon as practicable after damaging the thing, give written notice of particulars of the damage to the person who appears to the investigator to be the owner.
- (5) On the hearing of a proceeding for an offence against a prescribed provision or this Act or in a proceeding brought for the recovery of compensation under this subsection, a court may order the payment of compensation to a person for any loss resulting from the unreasonable exercise of powers under this part.
- (6) This section does not limit any power that an investigator has apart from this section.

179 Monitoring warrants

- (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.

180 Offence-related warrants

- (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—

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- (i) to enter the place; and
 - (ii) to exercise the powers set out in section 178(1)(a) to (f); 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.

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

- (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;

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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

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- (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.

182 Requirement to give name, address and age

- (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

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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.

183 Power to require answers to questions

- (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.

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

183A Other powers of seizure

- (1) If an investigator knows, or suspects on reasonable grounds, that liquor is being sold, consumed, possessed or carried for sale in contravention of this Act, or has been sold in contravention of this Act, the investigator may seize any of the following—
- (a) the liquor;
 - (b) bottles or other containers in which the liquor is contained;
 - (c) if it is known or suspected that liquor is being or has been consumed or is possessed in contravention of a prescribed provision or section 168B or 168C—other property that the investigator believes, on reasonable grounds, it is necessary to seize to prevent—
 - (i) its concealment, loss or destruction; or
 - (ii) the continuation or repetition of the contravention or suspected contravention;
 - (d) if it is known or suspected that liquor is being or has been sold in contravention of section 169—other property (including other liquor) that the investigator believes, on reasonable grounds, it is necessary to seize to prevent its use in continuing or repeating the contravention or suspected contravention;
 - (e) if it is known or suspected that liquor is being carried for sale in contravention of section 171—
 - (i) utensils suitable for measuring or consuming the liquor; or
 - (ii) a vehicle, boat, aircraft, animal or other thing being used to carry the liquor.

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Examples of property that may be seized under paragraph (c)—

a vehicle, boat, aircraft, animal or other thing used to carry the liquor

Examples of property that may be seized under paragraph (d)—

refrigerators, glasses, glass washers, keg lines, measures, pourers, liquor, display cabinets, shelving, signage, dry bars, bar stools, bar servery

- (2) In deciding for subsection (1)(c) or (d) whether it is necessary to seize property, the investigator must consider the following—
- (a) any previous occasions on which an investigator knows, or suspects on reasonable grounds, a prescribed provision or section 168B, 168C or 169 has been contravened—
 - (i) by the person from whom the property is being seized; or
 - (ii) in the premises from which the property is being seized;
 - (b) any representations made to the investigator, by a person from whom the property is being seized, about the operational needs of a lawful business conducted by the person;
 - (c) any other matter that may reasonably be taken to indicate whether or not a contravention of a prescribed provision or section 168B, 168C or 169 is likely to be continued or repeated if the property is not seized.
- (3) In this section—

liquor includes anything suspected on reasonable grounds to be liquor.

183B Powers supporting seizure

- (1) Having seized property under this part, an investigator may—
- (a) move the property from the place where it was seized; or

- (b) leave the property at the place of seizure but take reasonable action to restrict access to it.

Examples for paragraph (b)—

- 1 sealing the seized property and marking it to show access to it is restricted
 - 2 sealing the entrance to a room where the seized property is situated and marking it to show access to it is restricted
- (2) If the investigator restricts access to the seized property, a person must not tamper, or attempt to tamper, with the property or something restricting access to the property without an investigator's approval.

Maximum penalty—60 penalty units.

- (3) To enable the property to be seized, the investigator may require the person in control of it—
- (a) to take it to a stated reasonable place by a stated reasonable time; and
 - (b) if necessary, to remain in control of it at the stated place for a stated reasonable time.
- (4) The requirement—
- (a) must be made by written notice; or
 - (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by written notice as soon as practicable.
- (5) The person must comply with the requirement unless the person has a reasonable excuse for not complying with it.

Maximum penalty—60 penalty units.

- (6) A further requirement may be made under this section in relation to the same property if it is necessary and reasonable to make the further requirement.

184 Other powers of investigators

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

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- (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) the powers of an authorised person under sections 165, 165A and 167;
 - (f) 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.

185 Obstruction of investigators

- (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—

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- (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 1 year's imprisonment.

186 Seizure of material associated with representation of age

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

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- (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.

187 Abatement of nuisance or dangerous activity

- (1) This section applies if an investigator believes on reasonable grounds that—
 - (a) noise coming from licensed premises or a utility area for licensed premises is—
 - (i) an unreasonable noise; or
 - (ii) in contravention of an order under section 46; or
 - (b) because of activity in or near the licensed premises, there is a danger to persons or property that is likely to be aggravated by the continued supply of liquor in the locality.
- (1A) However, this section does not apply if the noise is from amplified music played at licensed premises—
 - (a) in a special entertainment precinct established by a local government under the *Local Government Act 2009*; and
 - (b) for which the local government has issued a licence, permit or other authority under the local law made by the local government under the *Local Government Act 2009*, including licence, permit or other authority that has expired or been revoked or cancelled by the local government.
- (2) The investigator may give written notice to the licensee, permittee, or person who appears to be in charge of the premises, requiring that—
 - (a) the noise stop or be reduced to, and kept at, a level so that it is no longer an unreasonable noise; or
 - (b) the premises be closed immediately.
- (2A) In deciding whether to give a written notice under subsection (2), the investigator must have regard to the following—

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- (a) the order of occupancy between the licensee or permittee and any complainant;
 - (b) any changes in the licensed premises and the premises occupied by any complainant, including, for example, structural changes to the premises;
 - (c) any changes in the activities conducted on the licensed premises over a period of time.
- (3) If the notice is contravened, the investigator may take all steps necessary and reasonable to ensure compliance, or continued compliance, with the notice.
 - (4) A person who contravenes a requisition under subsection (2) commits an offence.

Maximum penalty—25 penalty units.

- (5) In this section—

licensed premises includes premises to which a restricted liquor permit relates.

unreasonable noise means noise that exceeds limits prescribed under a regulation.

utility area, for licensed premises, includes an area containing plant or equipment that is not part of the licensed premises, but is used for the benefit of the licensed premises.

Example—

An area containing an airconditioning plant for licensed premises may be a utility area.

Division 2 Provisions relating to seizure

187A Application

- (1) Sections 187B to 187G apply if an investigator who is not a police officer seizes property under this part.
- (2) If an investigator who is a police officer seizes property under this part—

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- (a) the *Police Powers and Responsibilities Act 2000*, other than chapter 21, part 3, division 7, applies as if the property were seized as evidence under that Act; and
- (b) sections 187F and 187G of this Act apply to the property.

187B Receipts for seized property

- (1) As soon as practicable after the investigator seizes the property, the investigator must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the investigator must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
- (3) The receipt must describe generally each thing seized and its condition.
- (4) This section does not apply to property if it is impracticable or would be unreasonable to give the receipt, given its nature, condition and value.

187C Return of seized property

- (1) This section applies to the seized property if it is not forfeited under section 187E, 187EA, 187EB or 187F.
- (2) The investigator must return the property to the person from whom it was seized not later than the following times—
 - (a) if a proceeding for an offence involving the property is started within 6 months after the seizure—at the end of the proceeding and any appeal from the proceeding;
 - (b) otherwise—6 months after the seizure.
- (3) Despite subsection (2), if the property was seized only as evidence, the investigator must immediately return the property if the investigator stops being satisfied its continued retention as evidence is necessary.

187D Access to seized property

- (1) Until the seized property is forfeited or returned, the investigator must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

187E Forfeiture of unreturned property

- (1) The seized property is forfeited to the State if—
 - (a) the investigator can not find the person from whom it was seized, after making reasonable inquiries; or
 - (b) the investigator can not find the person from whom it was seized and it would be unreasonable to make inquiries to find the person; or
 - (c) the investigator can not return it, after making reasonable efforts; or
 - (d) it would be unreasonable to make efforts to return the property.

Examples for paragraph (d)—

- 1 The person from whom the property was seized has migrated to another country.
 - 2 The seized property consists a small amount of liquor that does not have a high value.
- (2) Regard must be had to the nature, condition and value of property in deciding—
 - (a) whether it is reasonable to make inquiries or efforts; and
 - (b) if making inquiries or efforts—what inquiries or efforts, including the period over which they are made, are reasonable.

187EA Forfeiture of seized property to prevent commission of particular offences—investigator

- (1) This section applies if—

[s 187EA]

- (a) the seized property was seized in relation to the contravention of a prescribed provision or section 168B, 168C, 169 or 171; and
 - (b) the investigator believes on reasonable grounds the property is liquor having a value of less than \$50; and
 - (c) the investigator is satisfied it is necessary to retain the property to prevent it being used in the commission of another contravention of a prescribed provision or section 168B, 168C, 169 or 171.
- (2) The investigator may exercise the following powers—
- (a) decide to forfeit the property;
 - (b) destroy or dispose of the property in the way the investigator considers reasonably appropriate.

Examples for subsection (2)(b)—

- 1 The investigator may empty an opened can of beer found by the investigator being consumed by a person in contravention of section 168B.
 - 2 The investigator may retain a carton of beer found in a person's possession in contravention of section 171.
- (3) If the investigator exercises the power under subsection (2)(a)—
- (a) the investigator must immediately tell the person who owned the property immediately before its seizure of the forfeiture; and
 - (b) the property is forfeited to, and becomes the property of, the State immediately after the investigator exercises the power; and
 - (c) compensation is not recoverable against any person for the forfeiture.
- (4) However, subsection (3)(a) does not apply if—
- (a) the investigator can not find the person, after making reasonable inquiries; or
 - (b) it is impracticable or would be unreasonable to comply with the paragraph.

187EB Forfeiture of seized property to prevent commission of particular offences—chief executive

- (1) This section applies if—
 - (a) the seized property was seized in relation to the contravention of a prescribed provision or section 168B, 168C, 169 or 171; and
 - (b) the chief executive is satisfied it is necessary to retain the property to prevent it being used in the commission of another contravention of a prescribed provision or section 168B, 168C, 169 or 171.
- (2) However, this section does not apply if the property is forfeited under section 187EA.
- (3) The chief executive may, under this section, order the forfeiture of the property to the State.
- (4) The chief executive may make the order only if the chief executive gives written notice to—
 - (a) the person who owned the property immediately before its seizure; and
 - (b) if another person appeared to have possession of it before its seizure—the other person.
- (5) However, if the person mentioned in subsection (4)(a) is not known—
 - (a) the notice may be given by advertisement in a newspaper circulating in the locality where the property was seized; or
 - (b) if the property was seized in a community area—the notice may be given by displaying a notice in a conspicuous place in—
 - (i) if the community area is an IRC division area under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*—the IRC division area’s office; or
 - (ii) otherwise—the council’s office for the area.

[s 187EC]

- (6) Subsection (5)(a) does not apply if the cost of giving the notice is more than the value of the property.
- (7) The notice must—
 - (a) sufficiently describe the property; and
 - (b) state the following—
 - (i) the date and place the property was seized;
 - (ii) the property may be forfeited to the State;
 - (iii) an application may be made to a Magistrates Court under section 187EC for an order for the return of the property;
 - (iv) if an application is not made to a Magistrates Court within 14 days after the notice is given—the chief executive may order that the property be forfeited to the State.
- (8) If a person applies under section 187EC to a Magistrates Court, the chief executive may not order the forfeiture of the property, unless the court refuses to order the delivery of the property to the applicant or the application is withdrawn, whichever happens first.

187EC Application for return of seized property

- (1) This section applies to seized property described in a notice given under section 187EB(4) or (5).
- (2) A person who claims to have a legal or equitable interest in the property may apply to a Magistrates Court for an order that the property be delivered to the person.
- (3) The application must—
 - (a) be in the approved form; and
 - (b) if the applicant reasonably believes another person has a legal or equitable interest in the property—state the name and address of the person; and
 - (c) be filed in the court.

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- (4) Within 7 days after the application is filed, the registrar of the court must give a copy of the application to—
 - (a) the chief executive; and
 - (b) the persons mentioned in subsection (3)(b).
 - (5) The registrar of the court must give 7 days written notice of the hearing of the application to the applicant and the persons given a copy of the application under subsection (4).
 - (6) Each of the persons given notice of the hearing under subsection (4) is entitled to be heard at the hearing of the application.
 - (7) The court may order that the property be delivered to a person on the conditions, if any, the court considers appropriate if satisfied—
 - (a) the person may lawfully possess the property; and
 - (b) it is appropriate that the property be delivered to the person.
 - (8) However, the court must not order the delivery of the property to the person if the court is reasonably satisfied the property may be evidence in a proceeding started in relation to the property.

187F Forfeiture on conviction

- (1) On the conviction of a person for an offence against this Act involving the seized property, the court may order the forfeiture to the State of the property.
- (2) The court may make the order whether or not the property has been returned to the person from whom it was seized.
- (3) The court may make any order to enforce the forfeiture it considers appropriate.
- (4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

[s 187G]

187G Dealing with forfeited property

- (1) On the forfeiture of property to the State, the property becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.
- (2) Without limiting subsection (1), the chief executive may destroy or dispose of the property.
- (2A) Subsection (1) does not affect an investigator's powers under section 187EA.
- (3) If the property is sold, the proceeds of sale are to be paid—
 - (a) first, in meeting expenses of the sale; and
 - (b) second, in meeting the expenses of, or relating to, the seizure and storage of the seized property; and
 - (c) third, to the consolidated fund.

Part 9 Financial provisions

199 Definitions for pt 9

In this part—

community investment fund means the fund by that name established under the *Gaming Machine Act 1991*, section 314(1).

licence does not include a provisional licence.

200 Licence period

The licence period for a licence is a financial year.

201 Duration of licence

- (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.

202 Fees payable for licences and permits

- (1) The licence fee payable for a licence for a licence period is to be assessed in the way prescribed under a regulation.
- (2) If the licence fee is self-assessed by the licensee under subsection (1), a regulation may—
- (a) prescribe the information the licensee is to provide to the chief executive about the self-assessment; and
 - (b) provide for the reassessment of the fee by the chief executive.
- (3) Fees payable in respect of a permit are as prescribed by regulation.

203 Filing of returns

- (1) A licensee must, within 21 days after the end of a licence period, file with the chief executive a return in relation to all liquor purchased, or otherwise obtained, for the licensed premises during the licence period.
- Maximum penalty—25 penalty units.
- (2) However, subsection (1) does not apply to a licensee if the chief executive is satisfied, and gives written notice to the licensee that, the licensee need not file a return under subsection (1), having regard to the principal activity, and the nature and extent, of the business conducted under the licence.
- (3) Also, the licensee under a producer/wholesaler licence must, within 21 days after the end of a licence period, file with the chief executive a return in relation to all liquor sold or supplied under authority of the licence during the licence period.

[s 208]

Maximum penalty—25 penalty units.

- (4) A return under subsection (1) or (3) must contain the particulars, and be accompanied by the documents, prescribed under a regulation.
- (5) If the chief executive is not satisfied a return filed by a licensee under subsection (1) or (3) is accurate, the chief executive may, by written notice given to the licensee, require the licensee to file with the chief executive a further return of the same type, certified to be accurate by the person responsible for auditing the accounting records of the business conducted under the licence.
- (6) A person given a notice under subsection (5) must comply with the notice within the time stated in the notice.

Maximum penalty for subsection (6)—25 penalty units.

208 Payment of fees

- (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) A fee payable in relation to a licence is payable to the department on the day prescribed under a regulation.
- (3) A regulation may make provision for—
 - (a) the consequences of failing to pay a fee mentioned in subsection (2); and
 - (b) the application by a person to the tribunal, and the powers of the tribunal, in relation to the failure to pay the fee.

209 Payment of fees by instalments

- (1) Subsection (2) applies if the chief executive is satisfied a licensee is unable to pay in full, on the day prescribed under a regulation, the fee payable in relation to a licence because—
 - (a) the business conducted under authority of the licence has been adversely affected by a natural disaster; or

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- (b) the licensee has suffered a personal hardship.
 - (2) Despite section 208(2), the chief executive may accept payment of the fee under a schedule of instalments decided by the chief executive.
 - (3) If the licensee pays the fee in accordance with the schedule of instalments—
 - (a) the licensee is taken to have paid the fee by the day prescribed for section 208(2); and
 - (b) the consequences of failing to pay the fee, provided for under a regulation, do not apply to the licensee.
 - (4) Financial hardship is not a personal hardship for subsection (1).

215 Refund of fee

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 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.

216 Unpaid fees a debt to State

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.

217 Records to be kept by licensee

- (1) A licensee must make and maintain a true and up-to-date record of all transactions (the *transactions record*) made by or on behalf of the licensee that involve—

[s 217]

- (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 transactions record—
 - (a) must be in a language and form acceptable to the chief executive; and
 - (b) must contain—
 - (i) the particulars prescribed by regulation; or
 - (ii) such of the prescribed particulars as are decided 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 6 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) A licensee must establish accounting records of a business conducted under authority of the licence that correctly record and explain the transactions and financial position of the business.

Maximum penalty—350 penalty units.

- (4) The following persons must keep accounting records on the licensed premises to which they relate, or in some other place approved by the chief executive, for 6 years after the day on which the record is made—
 - (a) the licensee by or for whom the records are made;
 - (b) if the licence has since been transferred—the licensee to whom it was last transferred.
- (5) A licensee commits an offence if—

- (a) the licensee's transactions record is not kept as required by subsection (2); or
- (b) the licensee's accounting records are not kept as required by subsection (4).

Maximum penalty—350 penalty units.

- (6) 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.

- (7) 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.

218 Powers of examination by investigator

- (1) This section applies to—
 - (a) a licensee or a former licensee; and
 - (b) if a licensee is, or former licensee was, a corporation—the directors and shareholders, and former directors and shareholders, of the corporation.
- (2) An investigator may, on reasonable notice, require a person to whom this section applies—
 - (a) to produce to the investigator, at a reasonable place stated in the notice, the following records of which the person has control—
 - (i) a record made and kept under section 217; or
 - (ii) an accounting record or other record about the business conducted under authority of the licence; and
 - (b) to permit the investigator to examine the record and—

[s 219]

- (i) to make copies of, or take extracts from, the record; or
 - (ii) if the investigator considers, on reasonable grounds, that it is necessary to remove the record to examine or copy it—to remove the record from the person's control.
- (3) A person must comply with a requirement under subsection (2) unless the person has a reasonable excuse.
Maximum penalty—25 penalty units.
- (4) While an investigator has custody or control of a record removed under subsection (2)—
 - (a) section 217(2)(c) is taken to be complied with; and
 - (b) the investigator must permit, at all reasonable times—
 - (i) inspection of the record; and
 - (ii) the making of 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.
- (5) The investigator who has removed a record under subsection (2) must, as soon as is practicable after the removal—
 - (a) examine, and if the investigator considers it necessary, copy the record; and
 - (b) return it to the person from whom it was removed.

219 Community investment fund

- (1) Each month, the Minister must pay into the community investment fund all licence fees received by the chief executive during the previous month.
- (2) The amounts paid into the fund under this Act are administered receipts.
- (3) In this section—

administered receipt see the *Financial Administration and Audit Act 1977*, section 4(1).

Editor's note—

Financial Administration and Audit Act 1977—now see the Financial Accountability Act 2009, section 93.

220 Disbursement of fees etc.

- (1) All fees and charges payable under this Act, other than a payment mentioned in subsection (2), received by the chief executive must be paid into the consolidated fund.
- (2) A payment for a licence fee must on its receipt be paid into one of the accounts of the departmental accounts of the department that is used only for the purpose of holding the payments until the disbursement of the amounts of the payments under section 219(1).
- (3) The Minister may cause amounts to be paid out of the community investment fund for—
 - (a) alcohol consumption research, and dealing with social issues arising from alcohol abuse and misuse; and
 - (b) funding that part of the department through which this Act is administered.
- (4) Amounts may be paid under subsection (3) without further appropriation.
- (5) In this section—

departmental accounts, of a department, means the accounts of the department under the *Financial Administration and Audit Act 1977*, section 12.

Editor's note—

Financial Administration and Audit Act 1977—now see the Financial Accountability Act 2009, section 93.

Part 10 Miscellaneous provisions

224 Liquor accord

(1) Any 2 or more interested persons may be parties to a liquor accord for a locality in which licensed premises are situated.

(2) In this section—

liquor accord, for a locality, means an agreement, memorandum of understanding or other arrangement entered into for the purposes of—

- (a) promoting responsible practices in relation to the sale and supply of liquor at licensed premises situated in the locality; and
- (b) minimising harm caused by alcohol abuse and misuse and associated violence in the locality; and
- (c) minimising alcohol-related disturbances, or public disorder, in the locality.

225 Additional time for consumption or removal of liquor

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.

226 Contravention of conditions of licences etc.

A person who contravenes a condition specified in—

- (a) a licence or permit; or
- (b) a temporary authority granted under section 125(1)(b);
or
- (c) an authority given under section 131A(2);

commits an offence against this Act.

Maximum penalty—

- (a) if the licensed premises or premises to which the licence, permit, temporary authority or authority relates is in a restricted area—
 - (i) for a first offence—500 penalty units; or
 - (ii) for a second offence—700 penalty units or 6 months imprisonment; or
 - (iii) for a third or later offence—1000 penalty units or 18 months imprisonment; or
- (b) if paragraph (a) does not apply—40 penalty units.

227 Payment of penalties to consolidated fund

Amounts recovered by way of penalty for an offence must be paid to the consolidated fund.

228 Suspension of licence for offences concerning minors and other persons

- (1) 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(3A); 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

[s 228A]

offences was committed, if it is still held by, or under the control of, the licence holder, is suspended.

- (2) As soon as practicable after the second conviction is recorded, the chief executive must give the holder of the licence written notice of the suspension.
- (3) The suspension—
 - (a) takes effect immediately the notice is given to the holder of the licence; and
 - (b) continues until—
 - (i) the end of 60 days after the day the notice is given; or
 - (ii) if an earlier day is stated in the notice—the end of the earlier day.
- (4) The notice must state the reasons for the suspension.

228A Disqualification from holding licence or permit on conviction of certain offences

- (1) A person is disqualified from holding a licence or permit on the person's second or later conviction of an unlicensed sales offence.
- (2) The person remains disqualified for the following period—
 - (a) if the conviction was the person's second conviction of an unlicensed sales offence—5 years from the date of the conviction;
 - (b) if the conviction was the person's third or later conviction of an unlicensed sales offence—10 years from the date of the conviction.
- (3) To remove doubt, it is declared that, in deciding for this section whether a conviction is a second, third or later conviction of an unlicensed sales offence, an expired conviction of an unlicensed sales offence must not be counted.
- (4) In this section—

expired conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired; and
- (b) that has not been revived under that Act.

unlicensed sales offence means an offence against section 169 or 171.

229 Liability for certain offences against Act

- (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.

230 Defence to charge if age material

- (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;

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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.

231 False or misleading statements

- (1) A person must not—
 - (a) state anything for this Act that the person knows is false or misleading in a material particular; or
 - (b) omit from a statement made for this Act anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—100 penalty units or 6 months imprisonment.

- (2) It is enough for a complaint against a person for an offence against subsection (1)(a) or (b) to state that the statement made was false or misleading to the person's knowledge.

231A False, misleading or incomplete documents

- (1) A person must not give a document for this Act containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—100 penalty units or 6 months imprisonment.

Example—

a minor knowingly using a forged driver licence or a licence belonging to someone else

- (2) Subsection (1) does not apply to a person who, when giving the document—

- (a) informs the person to whom the document is given, to the best of the person's ability, how it is false, misleading or incomplete; and
 - (b) if the person giving the document has, or can reasonably obtain, the correct information—gives the correct information.
- (3) It is enough for a complaint against a person for an offence against subsection (1) to state that the document was false, misleading or incomplete to the person's knowledge.

231B Impersonation of investigator

A person must not pretend to be an investigator.

Maximum penalty—200 penalty units.

232 Summary proceedings for offences

Proceedings for an offence against this Act are to be taken in a summary way under the *Justices Act 1886*.

232B Commissioner to give information to chief executive

- (1) This section applies to a conviction of a person in relation to premises to which a licence or permit relates for an offence against—
- (a) section 151A(1); or
 - (b) the *Racing Act 2002*, section 321 or 323.
- (2) The commissioner must give the chief executive written notice of the particulars of the conviction.

233 Evidentiary provisions

- (1) In a proceeding under this Act, a signature purporting to be the signature of the chief executive is evidence of the signature it purports to be.
- (2) Also, in a proceeding under this Act—

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- (a) a copy of, or extract from, an entry in the register, 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) 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; or
 - (iv) the offence was committed on Good Friday;is sufficient proof of the truth of the averment or allegation until the contrary is proved; and
- (d) if a statement of the results of the analysis of a fluid includes a certificate purporting to be the certificate of an analyst that the statement is a true statement of the results of the analysis—the statement that the fluid is liquor is evidence of the results of the analysis; and
- (e) if in a statement in a complaint for an offence against this Act it is claimed that the offence happened on licensed premises and a fluid was liquor—the statement is evidence that the fluid was liquor; and
- (f) if in a statement in a complaint for an offence against this Act it is claimed that the offence happened off

licensed premises and a fluid was packed in a container of a type that usually holds liquor—the statement is evidence that the fluid was liquor.

- (3) In addition, in a proceeding under this Act, a certificate signed by the chief executive stating any of the following matters is evidence of the matter—
- (a) on a stated date, a stated person was or was not the holder of a licence or permit;
 - (b) on a stated date, a stated place was or was not, in a restricted area;
 - (c) the conditions of a restricted area permit;
 - (d) a notice complying with section 173J(2) was, at a stated time, erected or displayed at a place mentioned in section 173J(1)(c).
- (4) In this section—

analyst means a person who is appointed as a State analyst under the *Health Act 1937*, section 153Z.

233A Use of code in proceedings

- (1) This section applies in a proceeding for an offence against this Act or another Act.
- (2) A document purporting to be the code is admissible as evidence of the code.

234 Service of documents

- (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 or permittee 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.

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- (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.

235 Regulation-making power

- (1) The Governor in Council may make regulations under 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, or holders of particular licences or permits; and
 - (c) fees, including the refunding of fees, for this Act; and
 - (d) particulars to be given for the purposes of this Act; and
 - (e) the consumption or possession of liquor in a public place; and
 - (f) the circumstances in which the chief executive may grant a community liquor permit; and
 - (g) the circumstances in which, and purposes for which, the chief executive may grant a restricted area permit; and
 - (h) the circumstances in which the chief executive may approve premises mentioned in section 60(1)(d) and the conditions the chief executive may impose on the approval; and
 - (i) the monitoring by local governments of the use of sections 173A to 173E; and
 - (j) encouraging responsible practices in the service, supply and promotion of liquor; and
 - (k) advertising in relation to adult entertainment; and
 - (l) the requirements for event management plans for the conduct of public events; and

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- (m) the requirements for management plans for the conduct of an establishment under an adult entertainment permit; and
 - (n) the limits for noise coming from licensed premises.
- (3) A regulation may be made—
- (a) creating offences against the regulation; and
 - (b) fixing a maximum penalty of a fine of 40 penalty units for an offence against the regulation.

Part 11 Transitional provisions

Division 1 General

236 Object of part

The object of this part is to provide for transition from the repealed Act to the current Act.

237 Interpretation

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.

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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

238 Completion of proceedings in the Court

- (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) A proceeding to which subsection (1) applies may, with the applicant's consent, be finished by the chief executive as if the chief executive were the Court.
- (3) 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.
- (4) If, in a proceeding to which subsection (1) applies, a decision or an order is to be made for issue of a licence or permit, the decision 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.
- (5) A proceeding mentioned in subsection (3) may be continued before the chief executive, who may grant or withhold approval as if the chief executive were the Court.

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- (6) A proceeding continued before the chief executive is subject to part 2, division 3.
 - (7) This section stops applying on 30 June 2003.

238A Disposal of applications for removal

- (1) An application for removal of a licence under section 49A of the repealed Act, that had not been disposed of before the proclaimed day, may be continued and disposed of as if the chief executive were the Commission.
- (2) To remove any doubt, it is declared that—
 - (a) since the proclaimed day, the chief executive has had power to perform the functions performed by the Commission under the repealed Act; and
 - (b) the Court's power under the repealed Act to order that a licence be removed has continued under this part.

Example of subsection (2)(a)—

The chief executive has power to decide whether there is a public need in the locality to which it is proposed to remove a licence on application for removal of the licence under the repealed Act.

- (3) This section stops applying on 30 June 2003.

239 Termination of Court

- (1) On completion of all proceedings to which section 238(1) or 238A applies, the Court ceases to exist.
- (2) If the Court has not ceased to exist under subsection (1) by 30 June 2003, it ceases to exist on that day.

241 Disposal of applications made to Commission

- (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.

[s 242]

- (2) A proceeding before the chief executive on an application mentioned in subsection (1) is subject to part 2, division 3.
- (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.
- (4) This section stops applying on 30 June 2003.

242 Table of corresponding licences

A licence specified in the following table, column 1 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

Column 1 Corresponding licence	Column 2 Licence or permit under repealed Act
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
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

243 Continuance of existing licences

- (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.

[s 243A]

- (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.

243A Variation of general licence (previously spirit merchant's (retail) licence)

If the holder of a general licence, that before the proclaimed day was held as a spirit merchant's (retail) licence, applies to the chief executive to vary the conditions of the licence, the chief executive may require the applicant to satisfy the requirements of sections 116 and 219 of the current Act as if the applicant were an applicant for a general licence.

244 Continuance of existing permits

- (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.
- (3) A permit continued in force under subsection (1)(a) remains in force only until the review of the licence under section 247.
- (4) An extended hours permit that extends hours beyond 3a.m., or an extension of hours for a licence beyond 3a.m., in force on the day the *Liquor Amendment Act (No. 2) 1994* commenced, expires on 31 March 1995.

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- (5) Subsection (4) does not apply to a special facility licence or a limited licence.

246 Continuance of business of spirit merchant

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.

247 Review of licences

- (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) If the chief executive considers that the conditions of a resort licence issued under the repealed Act, and taken to be a residential licence under section 243, are more appropriate to a general licence or special facility licence under the current Act, the licence is taken to be the licence under the current

[s 248]

Act to which the chief executive considers its conditions are more appropriate.

- (3) Subsection (1)(a) does not apply to a term or condition varying or extending hours under section 17A of the *Liquor Regulation 1955*.
- (4) 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.
- (5) A person must not, without reasonable excuse, contravene a direction under subsection (4).

Maximum penalty for subsection (5)—25 penalty units.

248 Enforcement of orders etc. under repealed Act

- (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 for subsection (2)—25 penalty units.

249 Recovery of outstanding amounts

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.

249A Apportionment of licence fees under s 18B of repealed Act

- (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

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- (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.

250 Compensation for certain surrendered general licences

This Act, as in force immediately before the commencement of the *Liquor Amendment Act (No. 2) 1993*, continues to apply to a request to the chief executive to accept the surrender of a general licence if, before the commencement—

- (a) the request was received; and
- (b) section 250 as then in force applied to the request; and
- (c) matters under the Act about the request were not finalised.

251 References to Liquor Act 1912

In an Act or document, a reference to the *Liquor Act 1912* is taken to be a reference to this Act.

Part 12 Further transitional provisions

Division 1 Transitional provisions about restricted club licences for the Liquor Amendment Act (No. 2) 1994

252 Object of division

The object of this division is to provide a transition from restricted club licences to restricted club permits.

253 Continuance of existing licences

- (1) A restricted club licence granted under repealed section 90, that has not expired or been surrendered or cancelled before the commencement, continues in force until it expires or is earlier surrendered or cancelled.

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- (2) The chief executive may, in writing, require the holder of a restricted club licence that has expired or been surrendered or cancelled to produce the licence to the chief executive.

Division 2 Transitional provisions for Liquor (Evictions, Unlicensed Sales and Other Matters) Amendment Act 1999

254 Meaning of *amending Act*

In this division—

amending Act means the *Liquor (Evictions, Unlicensed Sales and Other Matters) Amendment Act 1999*.

255 Transitional provision for amendment of s 169

- (1) This section applies for deciding the penalty for an offence against section 169 committed by a person after the commencement.
- (2) Another offence against section 169 committed by the person before the commencement must not be counted in deciding whether the offence mentioned in subsection (1) is a first, second, third or later offence against section 169.
- (3) In this section—

commencement means the commencement of section 11 of the amending Act.

256 Transitional provision for amendment of s 171

- (1) This section applies for deciding the penalty for an offence against section 171(1) committed by a person after the commencement.
- (2) Another offence against section 171(1) committed by the person before the commencement must not be counted in

deciding whether the offence mentioned in subsection (1) is a first, second, third or later offence against section 171.

(3) In this section—

commencement means the commencement of section 12 of the amending Act.

257 Transitional provision for amendment of s 173

(1) This section applies to a sale of liquor on unlicensed premises after the commencement.

(2) In deciding under section 173(2)(a) whether, during the 2 years before the sale, liquor has been sold on the premises on at least 3 other occasions, an occasion before the commencement must not be counted.

(3) In this section—

commencement means the commencement of section 13 of the amending Act.

258 Transitional provision for amendment of s 228A

(1) A person may be disqualified under section 228A only on conviction of an unlicensed sales offence committed after the commencement.

(2) However, a conviction of an unlicensed sales offence committed before the commencement, whether the conviction happens before or after the commencement, must be counted in deciding whether the conviction mentioned in subsection (1) is a second, third or later conviction of an unlicensed sales offence.

(3) Subsection (2) applies subject to section 228A(3).

(4) In this section—

commencement means the commencement of section 19 of the amending Act.

Division 3 Transitional provisions for Liquor Amendment Act 2001

259 Transitional provision for tribunal

- (1) This section applies to an appeal started, but not decided, before the commencement of this section.
- (2) The appeal is to be heard in the same way as it would have been if the *Liquor Amendment Act 2001* had not commenced.

260 Transitional provision for certain general licences

- (1) This section applies to a licence that—
 - (a) immediately before the commencement of section 243 was a spirit merchant's (retail) licence and after the commencement of that section continued as a general licence that authorised only the sale of liquor for consumption off the premises; and
 - (b) was in force immediately before the commencement of this section.
- (2) For section 58A(1), the primary purpose of the business conducted under the general licence is taken to be only selling liquor for consumption off the premises.
- (3) Subsection (2) applies despite section 58A(3).

261 Transitional provision for applications under pt 5

- (1) This section applies to an application made under part 5, but not decided, before the commencement of this section.
- (2) Subject to subsections (3) and (4), the application must be decided as if the *Liquor Amendment Act 2001* had not commenced.
- (3) Section 105(2) to (4) applies to the application as if the application had been made after the commencement of that section.

- (4) If the application is an application for an extended hours permit that includes trading between 5a.m. and 7a.m., section 102B or 102C applies to the application as if the application had been made after the commencement of that section.

262 Transitional provision for temporary authority

- (1) This section applies to a temporary authority granted before the commencement of this section that continues after the commencement.
- (2) To remove doubt, it is declared that the temporary authority may be extended under section 125(4)(b) as if the authority were an authority granted after the commencement.

263 Continuation of notices under s 187

- (1) This section applies if, immediately before the commencement of this section, a written notice under section 187(2) was in force for licensed premises in relation to noise coming from the premises or a utility area for the premises.
- (2) On and after the commencement, the notice continues to have effect as if the noise were unreasonable noise under section 187(5) and the notice had been issued after the commencement.

264 Effect of s 85(1C) in relation to club licences

Section 85(1C) has effect in relation to a club licence even if, before the commencement of this section, the holder of the licence could lawfully sell or supply liquor from a facility ordinarily known as a drive-in or drive-through bottle shop.

265 Review of licences

- (1) The chief executive must review every licence that is in force on the commencement of this section to ensure that—
 - (a) the conditions to which the licence is subject are not inconsistent with the current Act; and

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- (b) the licence is endorsed with all conditions considered by the chief executive as appropriate to be decided and stated in the licence consequent on the enactment of the *Liquor Amendment Act 2001*.
- (2) For reviewing a licence under subsection (1), the chief executive may, by written notice to a licensee, direct the licensee to give the licence to the chief executive within a stated reasonable time.
- (3) The licensee must comply with the notice unless the licensee has a reasonable excuse.

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

Division 4 Transitional provision for Indigenous Communities Liquor Licences Act 2002

266 Licence applications for community areas

- (1) This section applies if—
 - (a) before the commencement of this section, an application was made for a licence or permit for premises in a community area of a council; and
 - (b) immediately before the commencement, the application had not been finalised.
- (2) On and from the commencement, sections 188 to 191 continue to apply to the application as if they had not been repealed.

Division 5 Transitional provision for Liquor Amendment Act 2003

267 Dealing with particular application or nomination

- (1) This section applies to an application for a licence or permit,

and a nomination made under section 109(9), if the application or nomination is made, but not decided or accepted, before the commencement.

(2) Despite sections 107A, 107B and 109A, the application must be decided, and the nomination dealt with, under this Act as in force immediately before the commencement.

(3) In this section—

commencement means the commencement of this section.

Division 6 Transitional provisions for Liquor and Other Acts Amendment Act 2005

268 Definitions for div 6

In this division—

commencement means the day the provision in which the term is used commences.

post-amended Act means this Act as in force after the commencement.

pre-amended Act means this Act as in force before the commencement.

269 Dealing with nomination of nominee

(1) Subsection (2) applies if, on the commencement—

(a) a person has been nominated under section 109 or 115 of the pre-amended Act to be nominee for a licence; and

(b) the person—

(i) is not taken to be or has not become, under section 109, the nominee for the licence; and

(ii) is the holder of a licence for which there is no nominee under this Act.

[s 270]

- (2) For the purposes of this Act—
 - (a) the person's nomination as nominee for the licence mentioned in subsection (1)(a) is taken to have been withdrawn; and
 - (b) section 109 of the post-amended Act applies in relation to the licence, including, for example, to the nomination of a person to be nominee for the licence.
- (3) Subsection (4) applies if, on the commencement—
 - (a) a person has been nominated under section 131 of the pre-amended Act to be nominee for a licence; and
 - (b) the application, under section 129, for which the nomination was made has not been granted by the chief executive; and
 - (c) the person is the holder of a licence for which there is no nominee under this Act.
- (4) For the purposes of this Act—
 - (a) the person's nomination as nominee for the licence mentioned in subsection (3)(a) is taken to have been withdrawn; and
 - (b) section 131 of the post-amended Act applies in relation to the licence, including, for example, to the nomination of a person to be nominee for the licence.

270 Particular person ceases to be nominee

- (1) This section applies to a person who, on the commencement—
 - (a) is the nominee under this Act for a licence; and
 - (b) is the holder of a licence for which there is no nominee.
- (2) On the commencement, the person ceases to be the nominee for the licence mentioned in subsection (1)(a).

271 Application for variation of particular licence

Despite section 118 of the post-amended Act, section 118 of the pre-amended Act continues to apply to an application for variation of a special facility licence or limited licence made and not decided before the commencement.

272 Application for renewal of extended hours permit

Despite section 121A of the post-amended Act, section 121A of the pre-amended Act continues to apply to an application for renewal of an extended hours permit made under section 121(6) of the pre-amended Act and not decided before the commencement.

273 Provisional licences continue in force

- (1) This section applies to a provisional licence in force immediately before the commencement.
- (2) The provisional licence remains in force for the relevant period for the development approval in relation to which the licence was granted.
- (3) The provisional licence may be renewed under section 123B(2) of the post-amended Act whether or not it has been renewed under section 123B(2) of the pre-amended Act.
- (4) This section applies despite—
 - (a) section 123B(3); and
 - (b) a time stated in the provisional licence under section 123(3)(b) of the pre-amended Act.

274 Provision about current training course certificates

- (1) For the purposes of this Act, a person is taken to have a current training course certificate from the commencement if the person has a statement of attainment given to the person by a registered training organisation within 3 years before the commencement for successfully completing the unit of competency called THHBFB09B (Provide responsible service

[s 275]

of alcohol) from the Hospitality (THH02) training package endorsed by ANTA.

(2) However, subsection (1) applies to a particular statement of attainment mentioned in the subsection only for 3 years after it was given to the person.

(3) In this section—

ANTA means the Australian National Training Authority established under the *Australian National Training Authority Act 1992* (Cwlth).

registered training organisation means a registered training organisation under the *Vocational Education, Training and Employment Act 2000*.

statement of attainment means a statement of attainment under the *Vocational Education, Training and Employment Act 2000*.

275 When particular conditions under pt 5, div 6 apply

(1) A condition mentioned in a following section does not apply to a licence or permit until 30 days after the commencement—

(a) section 142AG(b)(i) or (ii) or (c);

(b) section 142AK(1)(a) or (b).

(2) The condition mentioned in section 142AK(1)(c) does not apply to a licence or permit, in relation to a person who is a member of staff of the licensed premises or premises to which the permit relates on the commencement, until 30 days after the commencement.

(3) This section applies despite part 5, division 6.

Division 7 **Transitional provisions for
Aboriginal and Torres Strait Islander
Communities (Justice, Land and
Other Matters) and Other Acts
Amendment Act 2008**

Subdivision 1 **General licence held by a local
government, corporatised
corporation or relevant public
sector entity, other than the Torres
Strait Island Regional Council**

276 **Definitions for sdiv 1**

In this subdivision—

change day means 1 July 2008.

relevant licence see section 277.

277 **Application of sdiv 1**

This subdivision applies to a general licence (the *relevant licence*) held immediately before the change day by a local government, corporatised corporation or relevant public sector entity, other than the Torres Strait Island Regional Council.

278 **Lapsing of relevant licence**

- (1) The relevant licence lapses at the beginning of the change day.
- (2) However, subsection (1) does not apply if the chief executive decides, under section 279(1), that the licence is to continue in force from the change day.
- (3) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsection (1).

279 Continuation of relevant licence

- (1) The chief executive must before the change day—
 - (a) decide whether the relevant licence is to continue in force from the change day; and
 - (b) if the chief executive decides that the licence is to continue in force from the change day—decide the day (the *relevant day*), not later than 31 December 2008, until which the licence is to continue in force.
- (2) In making the decisions mentioned in subsection (1), the chief executive must have regard to the following—
 - (a) any health and social impact on the relevant community of the licence continuing, or not continuing, in force;
 - (b) the availability of health and social services to deal with any health and social impact on the relevant community of the licence continuing, or not continuing, in force.
- (3) If the chief executive decides that the licence is to continue in force, the chief executive must as soon as practicable give the licensee written notice of the decision and relevant day.
- (4) If the chief executive decides that the licence is to continue in force, the licence continues in force until the relevant day and lapses at the end of that day.
- (5) However, subsection (4) stops applying if the licence is surrendered or cancelled under this Act.
- (6) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsections (1) and (4).
- (7) In this section—

relevant community means the community of the locality in which the premises to which the licence relates are situated.

280 Application for the transfer of a relevant licence

- (1) This section applies to an application, under section 113, for the transfer of a relevant licence that is not decided before the change day.
- (2) The application lapses at the beginning of the change day.
- (3) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsection (2).

281 No further application for the transfer of a relevant licence

- (1) This section applies if the chief executive decides, under section 279(1), that a relevant licence is to continue in force.
- (2) An application may not be made, under section 113, for the transfer of the licence.
- (3) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsection (2).

Subdivision 2 General licence held by the Torres Strait Island Regional Council

282 Definitions for sdiv 2

In this subdivision—

change day means 1 July 2009.

relevant licence see section 283.

283 Application of sdiv 2

This subdivision applies to a general licence (the *relevant licence*) held immediately before the change day by the Torres Strait Island Regional Council.

284 Lapsing of relevant licence

- (1) The relevant licence lapses at the beginning of the change day.
- (2) However, subsection (1) does not apply if the chief executive decides, under section 285(1), that the licence is to continue in force from the change day.
- (3) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsection (1).

285 Continuation of relevant licence

- (1) The chief executive must before the change day—
 - (a) decide whether the relevant licence is to continue in force from the change day; and
 - (b) if the chief executive decides that the licence is to continue in force from the change day—decide the day (the *relevant day*), not later than 31 December 2009, until which the licence is to continue in force.
- (2) In making the decisions mentioned in subsection (1), the chief executive must have regard to the following—
 - (a) any health and social impact on the relevant community of the licence continuing, or not continuing, in force;
 - (b) the availability of health and social services to deal with any health and social impact on the relevant community of the licence continuing, or not continuing, in force.
- (3) If the chief executive decides that the licence is to continue in force, the chief executive must as soon as practicable give the licensee written notice of the decision and relevant day.
- (4) If the chief executive decides that the licence is to continue in force, the licence continues in force until the relevant day and lapses at the end of that day.
- (5) However, subsection (4) stops applying if the licence is surrendered or cancelled under this Act.

-
- (6) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsections (1) and (4).
 - (7) In this section—
relevant community means the community of the locality in which the premises to which the licence relates are situated.

286 Application for the transfer of a relevant licence

- (1) This section applies to an application, under section 113, for the transfer of a relevant licence that is not decided before the change day.
- (2) The application lapses at the beginning of the change day.
- (3) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsection (2).

287 No further application for the transfer of a relevant licence

- (1) This section applies if the chief executive decides, under section 285(1), that a relevant licence is to continue in force.
- (2) An application may not be made, under section 113, for the transfer of the licence.
- (3) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsection (2).

Division 8 Transitional provisions for Liquor and Other Acts Amendment Act 2008

288 Definitions for div 8

In this division—

[s 289]

column 1 licence see section 289(1).

column 1 permit see section 290(1).

column 2 licence see section 289(2).

column 2 permit see section 290(2).

commencement means commencement of this section.

post-amended Act means this Act as in force immediately after the commencement.

pre-amended Act means this Act as in force before the commencement.

289 Existing licences

- (1) This section applies to a person who, immediately before the commencement, held under the pre-amended Act a licence mentioned in column 1 of the following table (a *column 1 licence*)—

Table

Column 1	Column 2
general licence	commercial hotel licence
special facility licence	commercial special facility licence
residential licence	subsidiary on-premises licence
on-premises licence	subsidiary on-premises licence
producer/wholesaler licence	producer/wholesaler licence
limited licence relating to an activity, matter or service under section 94A of the pre-amended Act that is a canteen	industrial canteen licence

Column 1

limited licence relating to an activity, matter or service under section 94A of the pre-amended Act other than a canteen
club licence

Column 2

subsidiary off-premises licence

community club licence.

- (2) The person is taken to be the holder of a licence mentioned in column 2 of the table (a *column 2 licence*) shown opposite the column 1 licence.
- (3) If the column 1 licence held by the person immediately before the commencement was subject to a condition, the column 2 licence the person is taken to hold is taken to be subject to the condition.
- (4) Subsections (5) and (6) applies to a person who, immediately before the commencement held, under the pre-amended Act, a restricted club permit that was granted for a period of 1 year.
- (5) The person is taken to be the holder of a community other licence.
- (6) If the restricted club permit held by the person immediately before the commencement was subject to a condition, the column 2 licence the person is taken to hold is taken to be subject to the condition.

290 Existing permits

- (1) This section applies to a person who, immediately before the commencement, held under the pre-amended Act a permit mentioned in column 1 of the following table (a *column 1 permit*)—

Table

Column 1	Column 2
general purpose permit	community liquor permit
catering away permit	commercial public event permit
restricted club permit granted for a period of less than 1 year	restricted liquor permit
extended trading hours permit for 1 occasion that extends trading hours to include trading for hours other than between 5a.m. and 7a.m.	extended hours permit for the same hours as mentioned in the corresponding column 1 permit.

- (2) The person is taken to be the holder of a permit mentioned in column 2 of the table (a *column 2 permit*) shown opposite the column 1 permit.
- (3) If the column 1 permit held by the person immediately before the commencement was subject to a condition, the column 2 permit the person is taken to hold is taken to be subject to the condition.

291 Extended hours permit that includes trading between 5a.m. and 7a.m. or between 7a.m. and 10a.m.

- (1) If a licensee holds an extended hours permit under the pre-amended Act that extends trading hours on a regular basis, or for 1 occasion, to include trading between 5a.m. and 7a.m. or between 7a.m. and 10a.m., the permit lapses on the commencement.
- (2) Subsection (3) applies if—
 - (a) a licensee has made an application under the pre-amended Act for an extended hours permit that would extend trading hours on a regular basis, or for 1 occasion, to include trading between 5a.m. and 7a.m. or between 7a.m. and 10a.m.; and

-
- (b) the application has not been decided before the commencement.
 - (3) The application lapses on the commencement.
 - (4) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of this section.

292 Existing application for column 1 licence etc.

- (1) An application for, or relating to, a column 1 licence made under the pre-amended Act and not decided before the commencement must be decided under the pre-amended Act.
- (2) The application mentioned in subsection (1) is taken to be about the column 2 licence shown opposite the column 1 licence.
- (3) An application for, or relating to, a restricted club permit that for a period of 1 year made under the pre-amended Act and not decided before the commencement must be decided under the pre-amended Act.
- (4) The application mentioned in subsection (2) is taken to be about a community other licence.
- (5) An application for, or relating to, a column 1 permit made under the pre-amended Act and not decided before the commencement must be decided under the pre-amended Act.
- (6) The application mentioned in subsection (5) is taken to be about the column 2 permit shown opposite the column 1 permit.

293 Nominee for a licence or permit

A person who is a nominee for a licence or permit immediately before the commencement is taken to hold an approval as an approved manager until 30 June 2010, unless the approval is cancelled or surrendered before that day.

294 Training course certificate requirement

- (1) Subsection (2) applies to a member of staff of licensed premises who immediately before the commencement—
 - (a) is involved in the service or supply of liquor at the premises; and
 - (b) does not hold a current training course certificate.
- (2) If the person wishes to continue to be a staff member of the premises and be involved in the service or supply of liquor at the premises until after 30 June 2010, the person must be issued with a training course certificate before that day.

295 Risk-assessed management plan conditions

- (1) Subsection (2) applies to a person who, immediately before the commencement, held under the pre-amended Act—
 - (a) a licence; or
 - (b) restricted club permit granted for a period of less than 1 year.
- (2) Section 54 does not apply to the person in relation to the licence or permit.
- (3) Subsection (4) applies to an application under the pre-amended Act for a licence, or restricted club permit for a period of less than 1 year, that has not been decided before the commencement.
- (4) If the chief executive grants the application, section 54 does not apply to the licence or permit holder in relation to the licence or permit.

Division 9 **Transitional provision for Resorts
and Other Acts Amendment Act
2009**

296 **Approved hours for commercial special facility licence**

- (1) This section applies to a commercial special facility licence if—
 - (a) the licence does not relate to an airport or a casino; and
 - (b) immediately before the commencement of this section, the licensee was authorised under the licence to sell liquor on the licensed premises between 5a.m. and 10a.m.
- (2) Despite section 64(1), the licence does not authorise the sale of liquor between 5a.m. and 10a.m.
- (3) However, subsection (2) does not apply to the licence to the extent that the licensee is authorised to sell liquor between 7a.m. and 10a.m. under an extended trading hours approval or an extended hours permit.
- (4) Despite any other Act or law, no compensation is payable by the State to any person because of the operation of subsection (2).

Division 10 **Transitional provisions for
Gambling and Other Legislation
Amendment Act 2009**

297 **Definitions for div 10**

commencement means the commencement of this section.

pre-amended Act means this Act as in force before the commencement.

[s 298]

298 Existing permit for trading on a regular basis between 12 midnight and 5a.m.

- (1) This section applies to a person who, immediately before the commencement, held under the pre-amended Act an extended hours permit that extended trading hours on a regular basis to include trading at any time between midnight and 5a.m.
- (2) On the commencement—
 - (a) the permit, to the extent it extends trading hours on a regular basis to include trading at any time between midnight and 5a.m., lapses; and
 - (b) the person is taken to hold an extended trading hours approval for the hours mentioned in paragraph (a) and on the same conditions as mentioned in the permit.

Division 11 Transitional provisions for Liquor and Other Legislation Amendment Act 2010

299 Definitions for div 11

In this division—

licence means any of the following but does not include a licence for premises in a restricted area—

- (a) a commercial hotel licence;
- (b) a subsidiary on-premises licence if the principal activity of a business conducted under the licence is the provision of entertainment on the licensed premises;
- (c) a community club licence.

licensee means a person who holds 1 or more of the following licences—

- (a) a commercial hotel licence;

- (b) a subsidiary on-premises licence if the principal activity of a business conducted under the licence is the provision of entertainment on the licensed premises;
- (c) a community club licence.

300 Application for licence made before commencement

- (1) This section applies to an application for a licence made but not decided at the commencement of this section.
- (2) The chief executive must decide the application under this Act as in force immediately before the commencement.

301 Application for extended trading hours approval made before commencement

- (1) This section applies to an application for an extended trading hours approval made but not decided at the commencement of this section.
- (2) The chief executive must decide the application under this Act as in force immediately before the commencement.

302 Application for variation of licence made before commencement

- (1) This section applies to an application, under section 111(1), to vary a licence made but not decided at the commencement of this section.
- (2) The chief executive must decide the application under this Act as in force immediately before the commencement.

303 Variation of licence started but not dealt with at commencement

- (1) This section applies if—
 - (a) before the commencement of this section, the chief executive, under section 112(1)(a), caused written notice

[s 304]

to be given to a licensee because the chief executive seeks to vary the licensee's licence; and

- (b) at the commencement, the chief executive has not decided whether to vary the licence.
- (2) The chief executive must decide whether to vary the licence under this Act as in force immediately before the commencement.

304 Disciplinary action started but not dealt with at commencement

- (1) This section applies if—
- (a) before the commencement of this section, the chief executive took steps to vary, suspend or cancel, as disciplinary action, a licence; and
 - (b) at the commencement, the chief executive has not decided whether to vary, suspend or cancel, as disciplinary action, the licence.
- (2) The chief executive must decide whether to vary, suspend or cancel, as disciplinary action, the licence under this Act as in force immediately before the commencement.

305 Extended trading hours already authorised

- (1) This section applies if a prescribed licensee, at the commencement of this section, is authorised to sell takeaway liquor between 9a.m. and 10a.m. or between 10p.m. and midnight (the *authorised hours*).
- (2) The prescribed licensee is taken to have been granted an extending trading hours approval, under section 86, for the authorised hours.
- (3) In this section—
- prescribed licensee* means the holder of—
- (a) a commercial hotel licence; or

- (b) a community club licence; or
- (c) a commercial special facility licence.

306 Application of civil banning orders

Part 6C, as inserted by the *Liquor and Other Legislation Amendment Act 2010*, applies only in relation to an act of violence committed after the commencement of this section.

307 Amendment of regulation

The amendment of the *Liquor Regulation 2002* by the *Liquor and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

Schedule Rules of clubs

sections 79, 83 and 103M

Rules of a club—

- (a) must provide that a person can not 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) 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
- (c) 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
- (d) 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
- (e) 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 reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2011. Future amendments of the Liquor Act 1992 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	1 July 1992	1 October 1992
2	1992 Act No. 50	30 November 1992	1 December 1992
3	1993 Act No. 10	20 May 1993	8 June 1993
4	1993 Act No. 62	23 November 1993	17 December 1993
5	1994 Act No. 80	2 December 1994	24 January 1995
5A	1995 Act No. 57	28 November 1995	12 July 1996
5B	1996 Act No. 47	1 December 1996	11 February 1997
5C	1999 Act No. 54	1 December 1999	3 December 1999
5D	2000 Act No. 5	1 July 2000	21 July 2000
5E	2000 Act No. 51	1 December 2000	8 December 2000
5F	2001 Act No. 40	1 July 2001	13 July 2001
6	2001 Act No. 40	1 July 2001	3 October 2001
6A	2002 Act No. 13	24 April 2002	8 May 2002

Reprint No.	Amendments included	Effective	Notes
6B	2001 Act No. 78	1 August 2002	
6C	2002 Act No. 47	24 September 2002	
6D	2002 Act No. 51	6 December 2002	
6E	2002 Act No. 47	30 December 2002	
6F	2002 Act No. 58	1 July 2003	
	2003 Act No. 30		
6G	2002 Act No. 47	25 September 2003	
6H	—	1 October 2003	provs exp 30 September 2003
6I	2003 Act No. 60	13 October 2003	
6J	2003 Act No. 92	3 December 2003	
6K rv	2003 Act No. 60	1 January 2004	R6K rv withdrawn, see R7 rv
7 rv	—	1 January 2004	Revision notice issued for R7
7A	2004 Act No. 53	29 November 2004	
7B	2004 Act No. 39	3 December 2004	
7C	2004 Act No. 37	1 January 2005	
7D	2005 Act No. 4	21 March 2005	
7E	2005 Act No. 14	22 April 2005	
7F	2005 Act No. 10	29 April 2005	
	2005 Act No. 13		
7G	2005 Act No. 54	18 November 2005	
7H rv	2005 Act No. 61	1 January 2006	
7I rv	2005 Act No. 61	1 March 2006	
7J rv	2006 Act No. 11	30 March 2006	
7K rv	2005 Act No. 61	1 April 2006	
7L rv	2006 Act No. 27	1 July 2006	
7M rv	2000 Act No. 5 (amd 2006 Act No. 26)	21 July 2006	R7M rv withdrawn, see R8
8	—	21 July 2006	
8A	2007 Act No. 11	20 March 2007	
8B	2005 Act No. 48	18 June 2007	
8C	2007 Act No. 36	29 August 2007	
8D	2007 Act No. 59	15 March 2008	
8E	2008 Act No. 30	21 May 2008	
8F	2008 Act No. 36	20 June 2008	
8G	2007 Act No. 15	1 July 2008	
	2008 Act No. 30		
8H	2008 Act No. 48	19 September 2008	
8I	2008 Act No. 48 (amd 2008 Act No. 75) 2008 Act No. 66 2008 Act No. 75	1 January 2009	
8J	2008 Act No. 73	1 July 2009	R8J withdrawn, see R9
9	—	1 July 2009	
9A	2009 Act No. 26	11 August 2009	
9B	2009 Act No. 41	15 October 2009	

Endnotes

Reprint No.	Amendments included	Effective	Notes
9C	2009 Act No. 24	1 December 2009	
9D	2009 Act No. 36	18 December 2009	
9E	2009 Act No. 17 2010 Act No. 14	1 July 2010	
9F	2008 Act No. 72	24 July 2010	
9G	2010 Act No. 51	1 December 2010	
10	2010 Act No. 51	1 July 2011	

5 Tables in earlier reprints

Name of table	Reprint No.
Changed names and titles	5
Corrected minor errors	3, 6, 7, 9

6 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)

amending legislation—

Nature Conservation Act 1992 No. 20 ss 1–2, 159 sch 2 (this Act is amended, see amending legislation below)

date of assent 22 May 1992

commenced 19 December 1994 (1994 SL No. 472)

amending legislation—

Nature Conservation Amendment Act 1994 No. 42 ss 1–2 sch (amends 1992 No. 20 above)

date of assent 14 September 1994

commenced on date of assent

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

Liquor Amendment Act (No. 2) 1993 No. 57

date of assent 20 November 1993
commenced on date of assent

Licensing Fees Legislation (Liquor and Tobacco Products) Amendment Act 1993 No. 62 pts 1–2

date of assent 23 November 1993
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 2

date of assent 10 May 1994
commenced on date of assent

Liquor Amendment Act 1994 No. 28

date of assent 28 June 1994
commenced on date of assent

Liquor Amendment Act (No. 2) 1994 No. 59

date of assent 4 November 1994
ss 1–2 commenced on date of assent
s 8(3), (4) and (7) commenced 1 December 1994 (see s 2(1))
ss 67(4), 81–2 commenced 1 July 1992 (see s 2(2))
remaining provisions commenced 2 December 1994 (1994 SL No. 409)

Wine Industry Act 1994 No. 80 ss 1–2, 67 sch 1

date of assent 1 December 1994
ss 1–2 commenced on date of assent
remaining provisions commenced 31 March 1995 (1995 SL No. 70)

Statute Law (Minor Amendments) Act 1995 No. 50 ss 1, 3 sch

date of assent 22 November 1995
commenced on date of assent

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 2

date of assent 28 November 1995
commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Keno Act 1996 No. 47 ss 1, 244 sch 3

date of assent 15 November 1996
commenced on date of assent

Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3) sch pt 3

date of assent 2 September 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 1999 (see s 2(1))

Liquor (Evictions, Unlicensed Sales and Other Matters) Amendment Act 1999 No. 54

date of assent 18 November 1999
commenced on date of assent

Prostitution Act 1999 No. 73 ss 1, 2(2)–(3), pt 9

date of assent 14 December 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2000 (see s 2(2)–(3))

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373)

date of assent 23 March 2000
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

Gambling Legislation Amendment Act 2000 No. 51 pts 1, 7

date of assent 17 November 2000
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 2000 (see s 2)

Liquor Amendment Act 2001 No. 39

date of assent 7 June 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2001 (2001 SL No. 98)

Wine Industry Amendment Act 2001 No. 40 pts 1, 3

date of assent 7 June 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2001 (2001 SL No. 97)

Health Legislation Amendment Act 2001 No. 78 ss 1–2, 237 sch 4

date of assent 15 November 2001
ss 1–2, 237 commenced on date of assent
remaining provisions commenced 1 August 2002 (2002 SL No. 183)

Tourism, Racing and Fair Trading (Miscellaneous Provisions) Act 2002 No. 13 s 1, pt 14

date of assent 24 April 2002
commenced on date of assent

Indigenous Communities Liquor Licences Act 2002 No. 47 ss 1–2, pt 6

date of assent 24 September 2002
ss 1–2 commenced on date of assent
s 45 commenced 30 December 2002 (see s 2(1) and 2002 SL No. 380)
s 62 commenced 25 September 2003 (automatic commencement under AIA s 15DA(2))
remaining provisions commenced on date of assent

Tribunals Provisions Amendment Act 2002 No. 51 pts 1–2, s 101 sch

date of assent 24 September 2002
ss 1–2 commenced on date of assent
remaining provisions commenced 6 December 2002 (2002 SL No. 325)

Racing Act 2002 No. 58 ss 1–2(1), 398(1) sch 2 pt 1

date of assent 14 November 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (2003 SL No. 141)

Commercial and Consumer Tribunal Act 2003 No. 30 ss 1–2, 169 sch 1

date of assent 23 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (see s 2)

Liquor Amendment Act 2003 No. 60

date of assent 13 October 2003

ss 1–2 commenced on date of assent

ss 4(3), (6), 6–7, 9–13, 18, sch commenced 1 January 2004 (see s 2)

remaining provisions commenced on date of assent

Police Powers and Responsibilities and Other Legislation Amendment Act 2003 No. 92 s 1, pt 8

date of assent 3 December 2003

commenced on date of assent

Local Government (Community Government Areas) Act 2004 No. 37 ss 1–2, 86 sch 1

date of assent 27 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2005 (2004 SL No. 266)

Liquor Amendment Act 2004 No. 39

date of assent 27 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 3 December 2004 (2004 SL No. 255)

Statute Law (Miscellaneous Provisions) Act 2004 No. 53

date of assent 29 November 2004

commenced on date of assent

Summary Offences Act 2005 No. 4 ss 1–2, 30 sch 1

date of assent 3 March 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 21 March 2005 (2005 SL No. 34)

Health Legislation Amendment Act 2005 No. 10 pt 1, s 50 sch

date of assent 1 April 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 29 April 2005 (2005 SL No. 72)

Liquor Amendment Act 2005 No. 13 (this Act is amended, see amending legislation below)

date of assent 22 April 2005

ss 1–2 commenced on date of assent

s 8 never proclaimed into force and om 2006 No. 27 s 8

remaining provisions commenced 29 April 2005 (see s 2(1))

amending legislation—

Liquor and Other Acts Amendment Act 2005 No. 61 ss 1–2(4), pt 3 (amends 2005 No. 13 above)

date of assent 28 November 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 2006 (see s 2(4))

Liquor Amendment Act 2006 No. 27 pts 1, 3 (amends 2005 No. 13 above)

date of assent 1 June 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2006 (see s 2)

Tourism, Fair Trading and Wine Industry Development (Miscellaneous Provisions) Act 2005 No. 14

date of assent 22 April 2005

commenced on date of assent

Public Health Act 2005 No. 48 ss 1–2, 492 sch 1

date of assent 2 November 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 18 June 2007 (2007 SL No. 85)

Local Government and Other Legislation Amendment Act 2005 No. 54 s 1, pt 3

date of assent 18 November 2005

commenced on date of assent

Liquor and Other Acts Amendment Act 2005 No. 61 ss 1, 2(2)–(4), pt 2

date of assent 28 November 2005

ss 1–2 commenced on date of assent

ss 3, 4(2) (to the extent it ins defs “Anzac Day event”, “development approval”, “post-amended Act”, “pre-amended Act”, “relevant period”), 5–24, 32–35, 36 (other than to the extent it ins new ss 274–275) commenced 1 January 2006 (see s 2(2))

s 26 (to the extent it ins new s 142AL) commenced 1 April 2006 (see s 2(3))

remaining provisions commenced 1 March 2006 (see s 2(4))

Integrated Planning and Other Legislation Amendment Act 2006 No. 11 s 1, pt 8

date of assent 30 March 2006

commenced on date of assent

Police Powers and Responsibilities Act 2000 No. 5 s 810 sch 4 (prev s 459A sch 3A) (this Act is amended, see amending legislation below)

amending legislation—

Police Powers and Responsibilities and Other Acts Amendment Act 2006 No. 26 ss 1–2, 84, 86 (amends 2000 No. 5 above)

date of assent 1 June 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 21 July 2006 (2006 SL No. 185)

Liquor Amendment Act 2006 No. 27 pts 1–2

date of assent 1 June 2006
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2006 (see s 2)

Body Corporate and Community Management and Other Legislation Amendment Act 2007 No. 11 pts 1, 3 div 3

date of assent 20 March 2007
commenced on date of assent (see s 2)

Security Providers Amendment Act 2007 No. 15 ss 1–2, 37 sch

date of assent 20 March 2007
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2008 (2008 SL No. 118)

Statute Law (Miscellaneous Provisions) Act 2007 No. 36

date of assent 29 August 2007
commenced on date of assent

Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007 No. 59 pts 1, 9

date of assent 22 November 2007
ss 1–2 commenced on date of assent
remaining provisions commenced 15 March 2008 (2007 SL No. 336)

Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) and Other Acts Amendment Act 2008 No. 30 pts 1, 3

date of assent 21 May 2008
ss 1–2 commenced on date of assent
ss 17, 18(2) (except to the extent it ins def “designated public place”), 36 commenced on date of assent (see s 2(2))
remaining provisions commenced 1 July 2008 (see s 2(1))

Motor Racing Events (Townsville) Amendment Act 2008 No. 36 ss 1–1A, 8 sch

date of assent 21 May 2008
ss 1–1A commenced on date of assent
remaining provision commenced 20 June 2008 (2008 SL No. 166)

Liquor and Other Acts Amendment Act 2008 No. 48 pts 1–2, s 59 schs 1–2 (this Act is amended, see amending legislation below)

date of assent 19 September 2008
ss 1–2, 4–5, 7–8, 12, 22, 29, 41 commenced on date of assent (see s 2)
s 37, sch 1 amdt 33 never commenced and om 2008 No. 75 ss 81, 82(1)
remaining provisions commenced 1 January 2009 (see s 2)

amending legislation—

Revenue and Other Legislation Amendment Act (No. 2) 2008 No. 75 ss 1, 2(10), pt 10 (amends 2008 No. 48 above)

date of assent 11 December 2008
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2009 (see s 2(10))

Penalties and Sentences and Other Acts Amendment Act 2008 No. 66 ss 1–2(1), 4 sch pt 1

date of assent 1 December 2008
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2009 (see 2(1))

Adult Proof of Age Card Act 2008 No. 72 ss 1–2, pt 9 div 1

date of assent 11 December 2008
ss 1–2 commenced on date of assent
remaining provisions commenced 24 July 2010 (2010 SL No. 182)

Residential Tenancies and Rooming Accommodation Act 2008 No. 73 ss 1–2, 554 sch 1

date of assent 11 December 2008
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2009 (2009 SL No. 40)

Revenue and Other Legislation Amendment Act (No. 2) 2008 No. 75 ss 1, 2(10), pt 9

date of assent 11 December 2008
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2009 (see s 2(10))

Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1

date of assent 12 June 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2010 (2010 SL No. 122)

Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 5 pt 43

date of assent 26 June 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 2009 (2009 SL No. 252)

Resorts and Other Acts Amendment Act 2009 No. 26 s 1, pt 4

date of assent 11 August 2009
commenced on date of assent

Sustainable Planning Act 2009 No. 36 ss 1–2, 872 sch 2

date of assent 22 September 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 18 December 2009 (2009 SL No. 281)

Gambling and Other Legislation Amendment Act 2009 No. 41 s 1, pt 7

date of assent 15 October 2009
commenced on date of assent

Health Legislation (Health Practitioner Regulation National Law) Amendment Act 2010 No. 14 pt 1, s 124 sch

date of assent 21 April 2010
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2010 (see s 2)

Personal Property Securities (Ancillary Provisions) Act 2010 No. 44 ss 1–2, ch 4 pt 24

date of assent 14 October 2010

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2)

Liquor and Other Legislation Amendment Act 2010 No. 51 ss 1, 2(b)–(h), pt 5

date of assent 1 December 2010

ss 1–2 commenced on date of assent

ss 20 (to the extent s 20 ins the defs “commission” and “decision of significant community impact” in s 4), 22–25, 27(2)–(4), 28, 30, 34(4) (to the extent it ins new s 116(6)), 37, 38(3), 39, 42–46, 48 (to the extent it ins new ss 299–304) commenced 1 July 2011 (2011 SL No. 101)

remaining provisions commenced on date of assent

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Primary purpose of business under producer/wholesaler licence

s 81A ins 2001 No. 39 s 50
om 2008 No. 48 s 13

Restriction on grant of community other licence and other related matters

s 82 amd 1994 No. 59 s 3 sch 2
 sub 2008 No. 48 s 13

Requirements of club and secretary

s 83 amd 1994 No. 59 s 28; 2001 No. 39 s 51
 sub 2008 No. 48 s 13

Division 7—Extended trading hours approval

div hdg prev div 7 hdg om 1994 No. 59 s 31
 pres div 7 hdg ins 2008 No. 48 s 13

Authority of extended trading hours approval

s 84 amd 1994 No. 59 s 29; 2001 No. 39 s 52; 2001 No. 40 s 26
 sub 2008 No. 48 s 13
 amd 2009 No. 41 s 71

Primary purpose of business under club licence

s 84A ins 2001 No. 39 s 53
 om 2008 No. 48 s 13

Application for approval

s 85 amd 1994 No. 59 s 3 sch 2; 2001 No. 39 s 54
 sub 2008 No. 48 s 13

Hours to which application may relate etc.

s 86 amd 1993 No. 10 s 3; 2001 No. 39 s 55
 sub 2008 No. 48 s 13
 amd 2010 No. 51 s 27

Restriction on grant of extended trading hours approval

s 87 prev s 87 om 2001 No. 39 s 56
 pres s 87 ins 2008 No. 48 s 13
 amd 2010 No. 51 s 28

Review of operation of extended trading hours approval

s 88 prev s 88 amd 1994 No. 59 s 30; 2001 No. 39 ss 107, 3 sch
 om 2008 No. 48 s 13
 pres s 88 ins 2009 No. 41 s 72

Division 8—Moratorium on extended trading hours approvals

div hdg prev div 8 hdg om 2008 No. 48 s 13
 pres div 8 hdg ins 2009 No. 41 s 72A

Definitions for div 8

s 89 prev s 89 om 1994 No. 59 s 31
 pres s 89 ins 2009 No. 41 s 72A
 def “**moratorium period**” amd 2010 No. 51 s 29

Restriction on making extended trading hours applications

s 90 prev s 90 om 1994 No. 59 s 31
 pres s 90 ins 2009 No. 41 s 72A

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

s 91 prev s 91 om 1994 No. 59 s 31
pres s 91 ins 2009 No. 41 s 72A

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

s 92 orig s 92 om 1994 No. 59 s 31
prev s 92 ins 2001 No. 39 s 57
om 2008 No. 48 s 13
pres s 92 ins 2009 No. 41 s 72A

Certain court or tribunal decisions of no effect

s 93 prev s 93 sub 1994 No. 59 s 32
om 2008 No. 48 s 13
pres s 93 ins 2009 No. 41 s 72A

Protection from liability

s 94 prev s 94 amd 2001 No. 39 s 58
om 2008 No. 48 s 13
pres s 94 ins 2009 No. 41 s 72A
amd 2010 No. 51 s 30

Primary purpose of a business under a limited licence

s 94A ins 2001 No. 39 s 59
om 2008 No. 48 s 13

Minister may extend moratorium period

s 95 prev s 95 sub 1994 No. 59 s 33
om 2008 No. 48 s 13
pres s 95 ins 2009 No. 41 s 72A
amd 2010 No. 51 s 31

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

div hdg prev div 9 hdg om 2008 No. 48 s 13
pres div 9 hdg ins 2009 No. 41 s 72A

Definitions for div 9

s 96 prev s 96 amd 2001 No. 39 s 60
om 2008 No. 48 s 13
pres s 96 ins 2009 No. 41 s 72A

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

s 97 prev s 97 amd 1994 No. 59 s 3 sch 1; 1999 No. 73 s 147; 2001 No. 39 s 61;
2002 No. 47 s 49
om 2008 No. 48 s 13
pres s 97 ins 2009 No. 41 s 72A
amd 2010 No. 51 s 32

Notice to licensee of licensed premises considered high risk

s 98 prev s 98 om 2008 No. 48 s 13
pres s 98 ins 2009 No. 41 s 72A

Representations about notice

s 99 prev s 99 amd 1994 No. 59 s 3 sch 1; 2002 No. 47 s 50
om 2008 No. 48 s 13
pres s 99 ins 2009 No. 41 s 72A

Ending process without further action

s 99A ins 2009 No. 41 s 72A

Notice classifying relevant premises as high risk

s 99B ins 2009 No. 41 s 72A

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

s 99C ins 2009 No. 41 s 72A

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

s 99D ins 2009 No. 41 s 72A

Judicial review only to apply to chief executive's decision

s 99E ins 2009 No. 41 s 72A

Chief executive may publish details of classification of premises on website

s 99F ins 2009 No. 41 s 72A

Commissioner must provide information

s 99G ins 2009 No. 41 s 72A

Division 10—Permits

div hdg om 2008 No. 48 s 13

Division 11—General purpose permit

div hdg om 2008 No. 48 s 13

Division 12—Extended hours permit

div hdg om 2008 No. 48 s 13

Division 12A—Catering away permits for public events

div hdg ins 2001 No. 39 s 62
om 2008 No. 48 s 13

Division 13—Restricted club permit

div hdg ins 1994 No. 59 s 36
om 2008 No. 48 s 13

Division 13A—Adult entertainment permit

div hdg ins 1999 No. 73 s 148
om 2008 No. 48 s 13

Division 13B—Restricted area permits

div hdg ins 2002 No. 47 s 51
om 2008 No. 48 s 13

Division 14—Additional authority of licence and permit

div hdg (prev div 13 hdg) renum 1994 No. 59 s 35
om 2008 No. 48 s 13

PART 4A—PERMITS

pt hdg ins 2008 No. 48 s 13

Division 1—Permits under this Act

div hdg ins 2008 No. 48 s 13

Available permits

s 100 sub 2008 No. 48 s 13

Division 2—Commercial public event permits

div hdg ins 2008 No. 48 s 13

Definitions for div 2

s 101 sub 2008 No. 48 s 13

Commercial public event permit issued jointly to 2 or more licensees

s 101A ins 2008 No. 48 s 13

Licensee to obtain a commercial public event permit for selling or supplying liquor at public events

s 102 sub 2008 No. 48 s 13

Restriction on grant of extended hours permit

s 102A ins 2001 No. 39 s 62
amd 2005 No. 61 s 9
om 2008 No. 48 s 13

Application for an extended hours permit on a regular basis that includes trading between 5a.m. and 7a.m.

s 102B ins 2001 No. 39 s 62
om 2008 No. 48 s 13

Other application for an extended hours permit that includes trading between 5a.m. and 7a.m.

s 102C ins 2001 No. 39 s 62
amd 2005 No. 61 s 10
om 2008 No. 48 s 13

Definitions for div 12A

s 102D ins 2001 No. 39 s 62
om 2008 No. 48 s 13

Licensee to obtain a permit for selling or supplying liquor at public events

s 102E ins 2001 No. 39 s 62
om 2008 No. 48 s 13

Restriction on grant of catering away permit

s 102F ins 2001 No. 39 s 62
amd 2005 No. 61 s 11
om 2008 No. 48 s 13

Area in catering away permit forms part of licensed premises

s 102G ins 2001 No. 39 s 62
om 2008 No. 48 s 13

Restriction on grant of commercial public event permit

s 103 amd 1994 No. 59 s 34
 sub 2001 No. 39 s 62; 2008 No. 48 s 13

Area defined in commercial public event permit forms part of licensed premises

s 103A ins 1994 No. 59 s 36
 sub 2008 No. 48 s 13

Authority of commercial public event permit

s 103B ins 1994 No. 59 s 36
 sub 2008 No. 48 s 13

Division 3—Community liquor permit

div hdg ins 2008 No. 48 s 13

Authority of community liquor permit

s 103C ins 1994 No. 59 s 36
 sub 2008 No. 48 s 13

Restriction on grant of community liquor permit

s 103D ins 1994 No. 59 s 36
 amd 2001 No. 39 s 3 sch
 sub 2008 No. 48 s 13

Identification of premises

s 103E ins 1999 No. 73 s 148
 sub 2008 No. 48 s 13

Restriction on consumption or possession of liquor

s 103F ins 1999 No. 73 s 148
 sub 2008 No. 48 s 13

Division 4—Extended hours permit

div hdg ins 2008 No. 48 s 13

Authority of extended hours permit

s 103G ins 1999 No. 73 s 148
 amd 2001 No. 39 s 63
 sub 2008 No. 48 s 13

Restriction on grant of extended hours permit

s 103H ins 1999 No. 73 s 148
 sub 2008 No. 48 s 13

Hours to which application may relate etc.

s 103I ins 1999 No. 73 s 148
 sub 2008 No. 48 s 13
 amd 2009 No. 41 s 74

Restriction on number of extended hours permits for particular premises

prov hdg amd 2009 No. 41 s 75
s 103J ins 1999 No. 73 s 148
 sub 2008 No. 48 s 13
 amd 2009 No. 41 s 75

Division 5—Restricted liquor permit

div hdg ins 2008 No. 48 s 13

Authority of restricted liquor permit

s 103JA ins 2008 No. 48 s 13

Restriction on grant of restricted liquor permit and other related matters

s 103K ins 2001 No. 39 s 64
sub 2008 No. 48 s 13
amd 2009 No. 41 s 76

Duration of permit

s 103L ins 2002 No. 47 s 51
amd 2004 No. 39 s 5; 2008 No. 30 s 19
sub 2008 No. 48 s 13

Requirements of club and secretary

s 103M ins 2002 No. 47 s 51
amd 2004 No. 39 s 6
sub 2008 No. 48 s 13

Division 6—Adult entertainment permit

div hdg ins 2008 No. 48 s 13

Adult entertainment code

s 103N ins 2008 No. 48 s 13

Only licensees and permittees eligible for grant of adult entertainment permit

s 103O ins 2008 No. 48 s 13

Authority of adult entertainment permit

s 103P ins 2008 No. 48 s 13

Approved area to conform with requirements

s 103Q ins 2008 No. 48 s 13

Duration of adult entertainment permit

s 103R ins 2008 No. 48 s 13

Adult entertainment permit dependent on currency of licence or community liquor permit or restricted liquor permit

s 103S ins 2008 No. 48 s 13

Restriction on grant of adult entertainment permit

s 103T ins 2008 No. 48 s 13

Division 7—Restricted area permits

div hdg ins 2008 No. 48 s 13

Authority of restricted area permit

s 103U ins 2008 No. 48 s 13

Restriction on grant of restricted area permit

s 103V ins 2008 No. 48 s 13

Additional time for consumption or removal of liquor

s 104 amd 1999 No. 73 s 149; 2001 No. 39 s 65
om 2008 No. 48 s 13

PART 5—GRANT, VARIATION AND TRANSFER OF LICENCES AND PERMITS**Requirements for applications**

s 105 amd 2001 No. 39 s 66; 2002 No. 47 s 52; 2008 No. 48 s 14 (amd 2008 No. 75 s 79)

Who may apply for licence or permit

s 106 amd 1999 No. 73 s 150; 2001 No. 39 s 3 sch; 2008 No. 30 s 20; 2009 No. 41 s 77

Restrictions on grant of licence or permit

s 107 amd 1999 No. 54 s 4; 1999 No. 73 s 151; 2001 No. 39 s 3 sch; 2008 No. 48 s 59(2) sch 2

Additional restriction on grant of licence

s 107A (prev s 107AAA) ins 2003 No. 60 s 6
renum 2003 No. 60 s 3 sch
sub 2008 No. 48 s 47

Additional restriction on grant of permit

s 107B (prev s 107AAB) ins 2003 No. 60 s 6
renum 2003 No. 60 s 3 sch
sub 2008 No. 48 s 47

Chief executive may impose conditions on licences and permits

s 107C (prev s 107AA) ins 2001 No. 39 s 67
amd 2002 No. 47 s 53
renum 2003 No. 60 s 3 sch
amd 2006 No. 27 s 4; 2008 No. 48 s 59(1) sch 1; 2010 No. 51 s 33

Restriction on grant of adult entertainment permit

s 107D (prev s 107A) ins 1999 No. 73 s 152
renum 2003 No. 60 s 3 sch
amd 2008 No. 48 s 59(1) sch 1

Suitability of applicant for adult entertainment permit

s 107E (prev s 107B) ins 1999 No. 73 s 152
amd 2001 No. 39 s 3 sch
renum 2003 No. 60 s 3 sch
amd 2008 No. 48 s 59(2) sch 2

Application to be referred to commissioner

s 107F (prev s 107C) ins 1999 No. 73 s 152
renum 2003 No. 60 s 3 sch

More than 1 licence or adult entertainment permit may be held

s 108 sub 1999 No. 73 s 153
amd 2008 No. 48 s 59(2) sch 2

Nominees

s 109 amd 1999 No. 73 s 154; 2001 No. 39 s 68; 2003 No. 60 s 3 sch; 2005 No. 61 s 12
om 2008 No. 48 s 59(2) sch 2

Restriction on acceptance of nominee for licence

s 109A (prev s 109AAA) ins 2003 No. 60 s 7
renum 2003 No. 60 s 3 sch
om 2008 No. 48 s 59(2) sch 2

Controllers

s 109B (prev s 109AA) ins 1999 No. 73 s 155
renum 2003 No. 60 s 3 sch

Application for grant of extended hours permit

s 109C (prev s 109A) ins 1994 No. 59 s 37
renum 2003 No. 60 s 3 sch
om 2008 No. 48 s 15

Application for grant of extended hours permit

prov hdg sub 1994 No. 59 s 38(1)
amd 2008 No. 48 s 16(1)
s 110 amd 1994 No. 59 s 38(2)–(3); 1999 No. 73 s 156; 2001 No. 39 s 69; 2008 No. 48 s 16(2)–(3)

Variation of licence

s 111 amd 1994 No. 59 s 39; 2001 No. 39 s 107; 2002 No. 47 s 54; 2003 No. 60 ss 8, 3 sch; 2005 No. 61 s 13; 2008 No. 48 s 59(1) sch 1

Procedure for variation by chief executive

s 112 amd 2001 No. 39 s 70; 2008 No. 30 s 21

Compensation not payable for variation

s 112A ins 2002 No. 47 s 55

Variation of condition about noise—licensed premises in special entertainment precinct

s 112B ins 2005 No. 54 s 11
amd 2009 No. 17 s 331 sch 1

Application for transfer of licence

s 113 amd 1994 No. 59 s 3 sch 2; 2001 No. 39 s 3 sch; 2008 No. 48 s 59(1) sch 1

Transfer of licence or permit held for or on behalf of unincorporated association

s 113A ins 2001 No. 39 s 71
amd 2002 No. 13 s 54

Restriction on transfer of licence

s 114 sub 1994 No. 59 s 40
om 2003 No. 60 s 9

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

s 115 amd 1994 No. 59 s 41; 2001 No. 39 s 107; 2008 No. 48 s 59(2) sch 2

When community impact statement to be given to chief executive

- prov hdg** amd 2001 No. 39 s 72(1)
s 116 sub 1994 No. 59 s 42
 amd 2001 No. 39 ss 72(2)–(6), 107; 2002 No. 47 s 56; 2005 No. 61 s 14
 sub 2008 No. 48 s 17
 amd 2010 No. 51 s 34

Advice about application etc.

- s 117** sub 1994 No. 59 s 42
 amd 1999 No. 73 s 157; 2001 No. 39 ss 107, 3 sch; 2003 No. 30 s 169 sch 1;
 2005 No. 61 s 15; 2008 No. 48 s 59(1) sch 1

Comments about particular applications

- s 117A** ins 2002 No. 47 s 57

Advertisement of applications

- s 118** sub 1994 No. 59 s 42
 amd 2001 No. 39 s 73; 2005 No. 61 s 16; 2008 No. 48 s 59(1) sch 1; 2010 No.
 51 s 35

Submissions

- prov hdg** amd 2001 No. 39 s 74(1); 2008 No. 48 s 18(1)
s 118A ins 1994 No. 59 s 42
 amd 2001 No. 39 ss 74(2), 107; 2008 No. 48 s 18(2)

Objection by member of public to grant of applications

- prov hdg** sub 2010 No. 51 s 36(1)
s 119 amd 2001 No. 39 s 75; 2010 No. 51 s 36(2)

Objection by Minister to grant of applications having significant community impact

- s 119A** ins 2010 No. 51 s 37

Requirements of objection by petition

- s 120** sub 1994 No. 59 s 43
 amd 2005 No. 14 s 2 sch

Matters the chief executive must have regard to

- s 121** sub 1994 No. 59 s 43
 amd 1999 No. 73 s 158; 2001 No. 39 ss 76, 107; 2002 No. 47 s 58; 2005 No.
 61 s 17
 sub 2008 No. 48 s 19
 amd 2009 No. 41 s 77A; 2010 No. 51 s 38

Renewal of permits for extension of hours beyond 3a.m.

- s 121A** ins 1994 No. 59 s 43
 amd 1999 No. 73 s 159; 2001 No. 39 ss 107, 3 sch; 2002 No. 47 s 59; 2005
 No. 61 s 18
 om 2008 No. 48 s 59(1) sch 1

Procedure on receipt of objections

- s 122** amd 2008 No. 48 s 59(1) sch 1; 2010 No. 51 s 39

Chief executive may grant provisional licence

prov hdg sub 1994 No. 59 s 3 sch 2
s 123 amd 1994 No. 59 s 3 sch 2
sub 2001 No. 39 s 77
amd 2003 No. 60 s 10; 2005 No. 61 s 19; 2008 No. 48 s 59(1) sch 1; 2009 No. 36 s 872 sch 2

Chief executive may grant authority to trade for staged development

s 123A ins 2001 No. 39 s 77
amd 2003 No. 60 s 11; 2005 No. 61 s 20; 2008 No. 48 s 59(1) sch 1

Provisional licence or staged development approval

s 123B ins 2001 No. 39 s 77
amd 2005 No. 61 s 21

Effect of provisional licence

s 123C ins 2001 No. 39 s 77
amd 2005 No. 61 s 22

Effect of staged development approval

s 124 sub 2001 No. 39 s 77

Temporary authority

prov hdg amd 2001 No. 39 s 78(1)
s 125 amd 2001 No. 39 s 78(2)–(3); 2003 No. 60 s 12; 2008 No. 48 s 59(1) sch 1;
2010 No. 51 s 40

Variation or transfer to be endorsed on licence

prov hdg amd 2008 No. 48 s 59(1) sch 1
s 126 amd 2008 No. 48 s 59(1) sch 1

Liability of licensees in certain cases

s 128 amd 2001 No. 39 s 79; 2008 No. 48 s 59(2) sch 2

Applications to continue trading in certain circumstances

s 129 sub 1994 No. 59 s 44
amd 2001 No. 39 s 80; 2009 No. 41 s 78

Nominees when application to continue trading in certain circumstances

s 131 sub 1994 No. 59 s 45
amd 2001 No. 39 s 107; 2005 No. 61 s 23
om 2008 No. 48 s 59(2) sch 2

Decision by chief executive on application to continue trading in certain circumstances

s 131A ins 1994 No. 59 s 45
amd 1999 No. 54 s 5; 2001 No. 39 ss 81, 107; 2003 No. 60 s 13
sub 2008 No. 48 s 48
amd 2010 No. 51 s 41

Section 129 applicants may apply under s 113

s 131B ins 1994 No. 59 s 45
amd 2001 No. 39 s 107

Discharge of licensee or permittee from obligations

s 132 amd 1994 No. 59 s 46; 2001 No. 39 s 82
 sub 2008 No. 48 s 49

Division 3—Surrender and cancellation of licence or permit**Subdivision 1—Surrender of licences and permits**

sdiv hdg ins 2001 No. 39 s 3 sch

Request to surrender

s 133 amd 1994 No. 59 s 3 sch 1; 2001 No. 39 s 83; 2002 No. 13 s 55; 2005 No. 61
 s 24

Subdivision 2—Cancellation, suspension and variation of permits

sdiv hdg ins 2001 No. 39 s 3 sch

Cancellation, suspension or variation of permits

prov hdg amd 1994 No. 59 s 47(1)

s 134 amd 1994 No. 59 s 47(2); 1999 No. 54 s 6; 1999 No. 73 s 160; 2001 No. 39 s
 3 sch; 2002 No. 47 s 60; 2002 No. 58 s 398(1) sch 2 pt 1
 sub 2008 No. 48 s 50

Ground for taking relevant action relating to adult entertainment permit

s 134A ins 2001 No. 39 s 84

Show cause notice

s 134B ins 2001 No. 39 s 84

Decision about relevant action relating to adult entertainment permit

s 134C ins 2001 No. 39 s 84
 amd 2009 No. 24 s 624

Summary cancellation, suspension or variation

s 135 sub 1994 No. 59 s 48
 amd 1999 No. 73 s 161; 2001 No. 39 s 107

Compensation not payable for variation

s 135A ins 2002 No. 47 s 61

Subdivision 3—Disciplinary action relating to licences

sdiv hdg ins 2001 No. 39 s 85

Grounds for disciplinary action

s 136 amd 1994 No. 59 s 49; 1999 No. 54 s 7
 sub 2001 No. 39 s 85
 amd 2002 No. 58 s 398(1) sch 2 pt 1; 2005 No. 48 s 492 sch 1; 2008 No. 48 ss
 20, 59 schs 1–2; 2009 No. 41 s 79

Procedure for taking disciplinary action in relation to licence

s 137 sub 2001 No. 39 s 85
 amd 2010 No. 51 s 42

Decision about disciplinary action

s 137A ins 2001 No. 39 s 85
 amd 2010 No. 51 s 43

Notice to be given about decision of chief executive or commission

prov hdg sub 2010 No. 51 s 44(1)
s 137B ins 2001 No. 39 s 85
amd 2009 No. 24 s 625; 2010 No. 51 s 44(2)–(4)

Urgent suspension

s 137C ins 2001 No. 39 s 85
amd 2009 No. 24 s 626

Amount payable as a debt due to the State

s 137D ins 2001 No. 39 s 85
amd 2010 No. 51 s 45

Disciplinary action against former licensee

s 137E ins 2008 No. 48 s 21

Subdivision 4—Effect of suspension of licence or permit and other matter

sdiv hdg ins 2001 No. 39 s 85

Compensation not payable

s 139 amd 1993 No. 57 s 3

Closure of unsafe or unhealthy premises

s 140 amd 2008 No. 75 s 73

Order to close premises for unlawful trading

s 141 amd 1995 No. 57 s 4 sch 2; 2001 No. 39 s 3 sch; 2008 No. 48 s 51; 2009 No. 41 s 80

Closure of premises in face of riot or tumult

s 141A (prev s 142) amd 2001 No. 39 s 3 sch; 2008 No. 48 s 22(1)–(2)
renum 2008 No. 48 s 22(3)

Division 4A—Training course certificate requirements

div hdg ins 2008 No. 48 s 23

Application of div 4A

s 141B ins 2008 No. 48 s 23

Conditions about training course certificates for particular persons

s 141C ins 2008 No. 48 s 23 (amd 2008 No. 75 s 80)

Application of s 136

s 141D ins 2008 No. 48 s 23

Division 5—Lock out provisions

div hdg ins 2005 No. 13 s 5
amd 2006 No. 27 s 5

Application of div 5

s 142AA ins 2005 No. 13 s 5
amd 2006 No. 27 s 6; 2008 No. 36 s 8 sch; 2009 No. 41 s 81

Licences and permits subject to lock out condition

s 142AB ins 2005 No. 13 s 5
amd 2005 No. 61 s 25

Application of ss 134 and 136 to lock out condition

s 142AC ins 2005 No. 13 s 5

Division 6—Certain provisions about conditions of licences for Brisbane City Council area

div hdg ins 2005 No. 61 s 26
sub 2008 No. 48 s 24

Subdivision 1—Preliminary

sdiv hdg ins 2005 No. 61 s 26
sub 2008 No. 48 s 24

Definitions for div 6

s 142AD ins 2005 No. 61 s 26
sub 2008 No. 48 s 24
def “crowd controller” sub 2007 No. 15 s 37 sch

Application of div 6

s 142AE ins 2005 No. 61 s 26
sub 2008 No. 48 s 24
amd 2008 No. 75 s 74

Purpose of div 6

s 142AF ins 2005 No. 61 s 26
sub 2008 No. 48 s 24

Subdivision 2—Conditions of licences

sdiv hdg ins 2005 No. 61 s 26
sub 2008 No. 48 s 24

Conditions about crowd controllers

s 142AG ins 2005 No. 61 s 26
sub 2008 No. 48 s 24

Conditions about closed-circuit television equipment

s 142AH ins 2005 No. 61 s 26
sub 2008 No. 48 s 24

Conditions about incident and training registers

s 142AI ins 2005 No. 61 s 26
sub 2008 No. 48 s 24

Conditions about drinking practices

s 142AJ ins 2005 No. 61 s 26
sub 2008 No. 48 s 24

Compliance with conditions

s 142AK ins 2005 No. 61 s 26
sub 2008 No. 48 s 24

Subdivision 3—Application of s 136 conditions under sdiv 2

sdiv hdg sub 2008 No. 48 s 24

Application of s 136

s 142AL ins 2005 No. 61 s 26
sub 2008 No. 48 s 24

Division 7—Decisions of significant community impact to be made by commission

div hdg ins 2010 No. 51 s 46

Definition for div 7

s 142AM prev s 124AM ins 2005 No. 61 s 26
om 2008 No. 48 s 24
pres s 124AM ins 2010 No. 51 s 46

Purpose of this division

s 142AN prev s 142AN ins 2005 No. 61 s 26
om 2008 No. 48 s 24
pres s 124AN ins 2010 No. 51 s 46

Decisions to be made by commission

s 142AO ins 2010 No. 51 s 46

Recommendation by chief executive in relation to decision to be made by commission

s 142AP ins 2010 No. 51 s 46

Functions, limitations and protections of commission

s 142AQ ins 2010 No. 51 s 46

Commission may issue guidelines

s 142AR ins 2010 No. 51 s 46

Delegation

s 142AS ins 2010 No. 51 s 46

PART 5A—TRAINERS FOR LICENSEE'S COURSE AND APPROVED TRAINING COURSE

pt hdg ins 2003 No. 60 s 14
amd 2005 No. 61 s 27

Division 1—Appointment of public service officers as trainers

div 1 (s 142A) ins 2003 No. 60 s 14

Division 2—Obtaining approval as trainer

div hdg ins 2003 No. 60 s 14

Applying for approval as trainer

s 142B ins 2003 No. 60 s 14
amd 2005 No. 61 s 28; 2008 No. 48 s 25

Deciding application

s 142C ins 2003 No. 60 s 14
amd 2005 No. 61 s 29

Grant of application

s 142D ins 2003 No. 60 s 14

Refusal of application

s 142E ins 2003 No. 60 s 14

Division 3—Renewal

div hdg ins 2003 No. 60 s 14

Applying for renewal

s 142F ins 2003 No. 60 s 14

Deciding application

s 142G ins 2003 No. 60 s 14
amd 2005 No. 61 s 30

Renewal of approval

s 142H ins 2003 No. 60 s 14

Refusal to renew approval

s 142I ins 2003 No. 60 s 14

Approval continues pending decision about renewal

s 142J ins 2003 No. 60 s 14

Division 4—Lapsing of applications

div hdg ins 2003 No. 60 s 14

Lapsing of application

s 142K ins 2003 No. 60 s 14
amd 2008 No. 48 s 59(1) sch 1

Division 5—Cancellation of approvals

div hdg ins 2003 No. 60 s 14

Grounds for cancellation

s 142L ins 2003 No. 60 s 14
amd 2005 No. 61 s 31

Procedure for cancellation

s 142M ins 2003 No. 60 s 14

PART 5B—REVIEW OF DECISIONS

pt hdg ins 2003 No. 60 s 14

Application for review

s 142N ins 2003 No. 60 s 14

No stay of operation of decision

s 142O ins 2003 No. 60 s 14

Review decision

s 142P ins 2003 No. 60 s 14
amd 2009 No. 24 s 627

PART 5C—APPROVAL AS APPROVED MANAGER

pt hdg ins 2008 No. 48 s 52

Division 1—Obtaining approval

div hdg ins 2008 No. 48 s 52

Applying for approval

s 142Q ins 2008 No. 48 s 52

Deciding application

s 142R ins 2008 No. 48 s 52

Grant of application

s 142S ins 2008 No. 48 s 52

Refusal to grant application

s 142T ins 2008 No. 48 s 52
sub 2009 No. 24 s 628

Division 2—Renewal

div hdg ins 2008 No. 48 s 52

Applying for renewal

s 142U ins 2008 No. 48 s 52

Deciding application

s 142V ins 2008 No. 48 s 52

Renewal of approval

s 142W ins 2008 No. 48 s 52

Refusal to renew approval

s 142X ins 2008 No. 48 s 52
sub 2009 No. 24 s 629

Approval continues pending decision about renewal

s 142Y ins 2008 No. 48 s 52

Division 3—Lapsing of applications

div 3 (s 142Z) ins 2008 No. 48 s 52

Division 4—Suspension and cancellation of approvals

div hdg ins 2008 No. 48 s 52

Grounds for suspension or cancellation

s 142ZA ins 2008 No. 48 s 52

Show cause notice

s 142ZB ins 2008 No. 48 s 52

Representations about show cause notices

s 142ZC ins 2008 No. 48 s 52

Ending show cause process without further action

s 142ZD ins 2008 No. 48 s 52

Suspension or cancellation

s 142ZE ins 2008 No. 48 s 52
amd 2009 No. 24 s 630

Division 5—Approved managers

div hdg (prev pt 4 div 15 hdg) ins 2008 No. 48 s 46
renum and reloc 2009 No. 41 s 73(1)

Responsibility of approved manager etc.

s 142ZF (prev s 104A) ins 2008 No. 48 s 46
renum and reloc 2009 No. 41 s 73(2)

PART 6—OBLIGATORY PROVISIONS AND OFFENCES**Division 1—Provisions binding licensees, permittees, approved managers, employees and agents**

div hdg sub 1999 No. 54 s 2 sch; 1999 No. 73 s 162
amd 2001 No. 39 s 3 sch; 2008 No. 48 s 59(2) sch 2

Particulars to be displayed on premises

s 143 amd 2001 No. 39 s 86; 2008 No. 48 s 59(2) sch 2

Particulars to be displayed for approved area for adult entertainment

s 143A ins 1999 No. 73 s 163

Keeping licence or permit at licensed premises

s 145 sub 1994 No. 59 s 50

Production of licence or permit on request

s 145A ins 1994 No. 59 s 50

Supply contrary to licence or permit

s 146 sub 1999 No. 54 s 8

Consumption or removal contrary to licence or permit

s 147 amd 2001 No. 39 s 87

Gratuitous supply of liquor

s 148 amd 2001 No. 39 s 88

Obligations of licensees and permittees relating to the service, supply and promotion of liquor

s 148A ins 2002 No. 47 s 62

Control of certain advertising by licensees or permittees

s 148B ins 2005 No. 13 s 6
amd 2008 No. 48 s 59(1) sch 1

Employment on licensed premises

s 149 amd 2003 No. 60 ss 15, 3 sch
sub 2008 No. 48 s 53

Providing adult entertainment without adult entertainment permit

s 149A ins 1999 No. 73 s 164
amd 2008 No. 48 s 59(1) sch 1

Supervising adult entertainment

s 149B ins 1999 No. 73 s 164
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Notification of change in controlling interest in licensee

s 150 amd 2001 No. 39 s 89; 2008 No. 48 s 59(1) sch 1

Unlawful betting or gaming

s 151 amd 1993 No. 57 s 4; 1994 No. 59 s 51; 1996 No. 47 s 244 sch 3; 2000 No. 51
s 93

Betting on licensed premises

s 151A ins 2002 No. 58 s 398(1) sch 2 pt 1

Prohibition on other use of premises

s 152 amd 1994 No. 59 s 52; 2001 No. 39 s 90; 2002 No. 58 s 398(1) sch 2 pt 1

Change in principal activity of business conducted under a licence

s 152A ins 2008 No. 48 s 26

Letting or subletting of licensed premises

s 153 sub 1994 No. 59 s 53
amd 2003 No. 60 s 16; 2008 No. 48 s 59(1) sch 1

Sale, supply or consumption of liquor in car park

s 153A ins 2008 No. 75 s 75

Alteration etc. and maintenance of licensed premises

prov hdg sub 2001 No. 39 s 91(1)

s 154 sub 1994 No. 59 s 54
amd 2001 No. 39 s 91(2); 2002 No. 47 s 63; 2005 No. 61 s 32; 2008 No. 48 s
59(1) sch 1

Relocation of detached bottle shops

s 154A ins 2001 No. 39 s 92
amd 2008 No. 48 s 59(1) sch 1

Transfer of certain premises

s 154B ins 2001 No. 39 s 92

Inclusion or amendment of other premises as part of authority of community club licence

prov hdg amd 2008 No. 48 s 59(1) sch 1

s 154C ins 2001 No. 39 s 92
amd 2008 No. 48 s 59(1) sch 1

Minors on premises

s 155 sub 1994 No. 59 s 55
amd 2001 No. 39 ss 93, 107; 2005 No. 61 s 33; 2008 No. 48 s 59(1) sch 1;
2009 No. 41 s 82

Minors must not be in approved area when adult entertainment being provided

s 155AA ins 1999 No. 73 s 165
amd 2001 No. 39 s 94; 2008 No. 48 s 59 schs 1–2

Supervision of volunteers—community club licence, community other licence or restricted liquor permit

s 155AB ins 2008 No. 48 s 27

Division 1A—Provisions binding particular licensees and permittees

div hdg ins 2008 No. 48 s 55

Application of div 1A

s 155AC ins 2008 No. 48 s 55

Who must be present or reasonably available at licensed premises etc.

s 155AD ins 2008 No. 48 s 55
amd 2009 No. 41 s 83

Approved managers register

s 155AE ins 2008 No. 48 s 55

Exemption from obligation under s 155AD(3)

s 155AF ins 2008 No. 48 s 55

Prohibition on sale to a minor

s 155A (prev s 145B) ins 1994 No. 59 s 50
renum 1999 No. 54 s 2 sch
amd 2001 No. 39 s 3 sch; 2008 No. 48 ss 28, 59(2) sch 2

Liquor prohibited to certain persons

s 156 amd 1994 No. 59 s 56; 2001 No. 39 ss 107, 3 sch; 2003 No. 92 s 28; 2008 No. 48 ss 28, 59(2) sch 2

Irresponsible supply of liquor to a minor at a private place etc.

s 156A ins 2008 No. 48 s 29

Prohibition on sale of undesirable liquor product

s 156B ins 2008 No. 48 s 29
amd 2008 No. 48 s 59(2) sch 2

Interim prohibition on sale of undesirable liquor product

s 156C ins 2008 No. 48 s 29
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Prohibitions affecting minors

s 157 sub 1994 No. 59 s 57
amd 2001 No. 39 s 107

False representation of age

s 158 amd 1994 No. 59 s 58; 2001 No. 39 ss 107, 3 sch; 2008 No. 72 s 52

Wrongful dealing with genuine evidence of age

s 159 amd 1994 No. 59 s 59; 2001 No. 39 s 107; 2008 No. 72 s 53

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

s 162 sub 1994 No. 59 s 60
amd 2001 No. 39 ss 95, 107
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Conduct causing public nuisance

s 164 amd 1993 No. 10 s 4; 1994 No. 28 s 3; 1999 No. 54 s 2 sch; 2000 No. 5 s 461 sch 3; 2005 No. 4 s 30 sch 1

Removal of persons from premises

s 165 sub 1999 No. 54 s 9

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s 165A ins 1999 No. 54 s 9
amd 2005 No. 13 s 7

Preservation of other rights to prevent entry to premises or remove persons from premises

s 165B ins 1999 No. 54 s 9

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s 167 amd 1999 No. 54 s 10

Advertising adult entertainment

s 168A ins 1999 No. 73 s 166
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Prohibition on possession of liquor in restricted area

prov hdg amd 2004 No. 39 s 7(1)

s 168B ins 2002 No. 47 s 64
amd 2004 No. 39 s 7(2)–(4); 2008 No. 30 s 22; 2008 No. 66 s 4 sch; 2008 No. 73 s 554 sch 1

Attempt to take liquor into restricted area

s 168C ins 2008 No. 30 s 23
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Authority required for sale

s 169 amd 1994 No. 80 s 67 sch 1
sub 1999 No. 54 s 11

Sale of liquor on premises to which licence or permit relates

s 170 prov hdg sub 1994 No. 59 s 3 sch 2

Carrying or exposing liquor for sale

s 171 amd 1999 No. 54 s 12

Offer to purchase liquor made elsewhere than at licensed premises

s 172 amd 1994 No. 59 s 61; 2001 No. 39 s 107; 2008 No. 48 s 59(1) sch 1

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

s 173 amd 1999 No. 54 s 13

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

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Definitions

s 173A ins 1992 No. 50 s 4
def “area” om 1994 No. 59 s 3 sch 2

def “**local government**” ins 2002 No. 47 s 65
om 2008 No. 30 s 24

def “**road**” sub 1994 No. 59 s 3 sch 2
amd 2009 No. 17 s 331 sch 1

Consumption of liquor in certain public places prohibited

s 173B ins 1992 No. 50 s 4
amd 1992 No. 20 s 159 sch 2 (amd 1994 No. 42 s 2 sch); 2008 No. 30 s 25;
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Local government, other than particular local governments, may designate public places where liquor may be consumed

prov hdg amd 2008 No. 30 s 26(1)
s 173C ins 1992 No. 50 s 4
amd 1994 No. 59 s 62; 2008 No. 30 s 26(2)–(3)

Local government must advertise designation and place signs

s 173D ins 1992 No. 50 s 4
amd 1994 No. 59 s 63; 2008 No. 30 s 27

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

s 173E ins 1992 No. 50 s 4
amd 1994 No. 59 s 64

PART 6A—RESTRICTED AREAS

pt hdg ins 2002 No. 47 s 66

Division 1—Preliminary

div hdg ins 2008 No. 30 s 28

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s 173F ins 2002 No. 47 s 66

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div hdg ins 2008 No. 30 s 29

Declaration of restricted area

s 173G ins 2002 No. 47 s 66
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s 173H ins 2002 No. 47 s 66
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Consultation with community justice groups for declarations

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Notice about prohibition of possession of liquor in restricted area

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s 174A ins 2002 No. 47 s 67
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s 175 amd 2001 No. 39 s 3 sch; 2004 No. 53 s 2 sch

Entry and search—monitoring compliance

s 176 amd 2002 No. 47 s 68; 2004 No. 53 s 2 sch; 2004 No. 37 s 86 sch 1; 2007 No. 36 s 2 sch; 2007 No. 59 s 84; 2008 No. 30 s 32

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s 177 amd 1994 No. 59 s 3 sch 2; 1999 No. 54 s 14

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s 178 amd 1999 No. 54 s 15; 2002 No. 47 s 69

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s 180 amd 2002 No. 47 s 70

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s 183A ins 1999 No. 54 s 16
amd 2001 No. 39 s 3 sch; 2002 No. 47 s 71; 2008 No. 30 s 33

Powers supporting seizure

s 183B ins 2002 No. 47 s 72

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s 184 ins 1999 No. 54 s 17
amd 2000 No. 5 s 461 sch 3

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s 185 amd 2004 No. 53 s 2 sch

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s 187 sub 1994 No. 59 s 65
amd 2001 No. 39 ss 96, 107; 2005 No. 54 s 12; 2008 No. 48 s 59(1) sch 1;
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amd 2001 No. 39 s 3 sch; 2002 No. 47 s 73; 2000 Act No. 5 s 810 sch 4 (amd
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s 187B ins 1999 No. 54 s 18

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s 187C ins 1999 No. 54 s 18
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s 187EA ins 2002 No. 47 s 75
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s 187EB ins 2002 No. 47 s 75
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s 187EC ins 2002 No. 47 s 75

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s 187F ins 1999 No. 54 s 18

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s 192 amd 1993 No. 10 s 5
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s 193 om 2001 No. 39 s 97

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s 198 amd 2002 No. 47 s 79(2)–(3)
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s 203 amd 1994 No. 59 s 67; 1994 No. 80 s 67 sch 1; 2001 No. 39 ss 107, 3 sch
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prov hdg sub 1994 No. 59 s 3 sch 2
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s 205 amd 1994 No. 59 s 68; 1994 No. 80 s 67 sch 1; 1995 No. 57 s 4 sch 2
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s 209 prev s 209 amd 1994 No. 59 s 71
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s 219 prev s 219 sub 1994 No. 59 s 76
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Disbursement of fees etc.

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s 223 sub 1993 No. 57 s 6
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s 226 amd 1999 No. 73 s 167; 2001 No. 39 s 99; 2002 No. 47 s 81; 2003 No. 60 s
17; 2004 No. 53 s 2 sch

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s 228 amd 2002 No. 47 s 82; 2005 No. 61 s 34(2)–(3)

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s 228A ins 1999 No. 54 s 19

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s 231 sub 1994 No. 59 s 77
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s 232B ins 2002 No. 58 s 398(1) sch 2 pt 1

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s 241 amd 2001 No. 39 s 105

Table of corresponding licences

s 242 amd 1994 No. 59 s 83; 1995 No. 57 s 4 sch 2

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s 243A ins 1994 No. 59 s 84
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s 250 sub 1993 No. 57 s 9

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References to Liquor Act 1912

s 251 prev s 251 om R1 (see RA s 40)
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s 252 (prev s 251) (2nd occurring) ins 1994 No. 59 s 87
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8 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

Form 1 Version 2f—Application for a Liquor Licence

pubd gaz 15 August 2008 pp 2239–40

Form 3 Version 2d—Application for Transfer of Liquor Licence

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Form 5 Version 2c—Personal Details Schedule

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Form 6 Version 2c—Application for Registration of Financial Interest

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Form 7 Version 4—Application for a community liquor permit

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Form 8 Version 2d—Application for New Restricted Club Permit

pubd gaz 15 August 2008 pp 2239–40

Form 8 (booklet) Version 2b—Application for New Restricted Club Permit—instruction booklet

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Form 9 Version 2c—Application for Extended hours Permit (on a Regular or Permanent Basis)

pubd gaz 15 August 2008 pp 2239–40

Form 10 Version 2c—Application for One-Off Extended Hours Permit

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Form 11 Version 2c—Application for Extended hours for Restricted Club Permit

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Form 12 Version 2—Community Liquor Permit effective

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Form 12 Version 2c—Application for Renewal of Extended Hours Permit to Trade Beyond 3.00am

pubd gaz 15 August 2008 pp 2239–40

Form 13 Version 2c—Application for Catering Away Permit (one-off public event)

pubd gaz 15 August 2008 pp 2239–40

Form 14 Version 2c—Application for Catering Away Permit (on a regular basis)

pubd gaz 15 August 2008 pp 2239–40

Form 15 Version 2c—Application for Renewal of a Restricted Club Permit

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Form 16 Version 2c—Application for Temporary Change in Licensed Area

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Form 17 Version 2c—Application for Temporary Variation of Licence

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Form 18 Version 2c—Application for Functions/Catering Endorsement on Licence

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Form 19 Version 2c—Application for Variation of Licence (on a permanent basis)

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Form 20 Version 2c—Application for Detached Bottleshop

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Form 21 Version 2c—Application to Relocate a Detached Bottleshop

pubd gaz 15 August 2008 pp 2239–40

Form 22 Version 2c—Application to Transfer a Detached Bottleshop

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Form 23 Version 2c—Application to Alter/Rebuild or Change the Premises

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Form 24 Version 2c—Application to Change the Licensed Area

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Form 25 Version 2c—Notification of House Policy

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Form 26 Version 2c—Statement of Completed Works

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Form 27 Version 2c—Notification of Absence from Licensed Premises

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Form 28 Version 2c—Application for Temporary Authority

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Form 29 Version 1b—Application for Restricted Area Permit

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Form 30 Version 1b—Personal Details for a Restricted Area Permit

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Form 31 Version 2c—Site Assessment – Service Station/Fuel Depot

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Form 32 Version 2c—Application for Adult entertainment Permit

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Form 36 Version 1—Responsible Service of Alcohol Statement of Attainment certificate

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Form 37 Version 1b—Review of Decision—Responsible Service of Alcohol Trainer

pubd gaz 16 November 2007 p 1508

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pubd gaz 16 November 2007 p 1508

Form 39 Version 1a—Application for Renewal—Responsible Management of Licensed Venue Trainer

pubd gaz 16 November 2007 p 1508

Form 40 Version 1b—Application for Renewal—Responsible Service of Alcohol Trainer

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Form 42 Version 1a—Application for Approval—Responsible Service of Alcohol Trainer

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Form 43 Version 1a—Application for Approval—Responsible Management of Licensed Venue Trainer

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Form 48 Version 1—Responsible Service of Alcohol Training Course Certificate

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Form 49 Version 1—Responsible Management of Licensed Venues Licensee's Course Certificate

pubd gaz 25 June 2010 p 820

LL Form 4 Version 1—Approved Manager (Liquor) Application

pubd gaz 31 October 2008 p 1202

LL Form 4a Version 1—Fast-Track Upgrade Approved Manager (Liquor) Application

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