

Queensland



# **LIQUOR AMENDMENT BILL 1998**



# Queensland



## LIQUOR AMENDMENT BILL 1998

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**1998**

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**A BILL**

**FOR**

**An Act to amend the *Liquor Act 1992*, and for related purposes**

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**The Parliament of Queensland enacts—**

1

**Short title**

2

Clause      **1.** This Act may be cited as the *Liquor Amendment Act 1998*.

3

**Commencement**

4

Clause      **2.(1)** This Act (other than section 54(1)) commences on a day to be fixed  
by proclamation.

5

6

**(2)** Section 54(1) commences on 1 July 1999.

7

**Act amended**

8

Clause      **3.** This Act amends the *Liquor Act 1992*.

9

**Amendment of s 3 (Objects of Act)**

10

Clause      **4.** Section 3(b)—

11

~~omit~~, *insert*—

12

        ‘(b) to provide for liquor review panel members to review decisions  
made by the chief executive; and’.

13

14

**Amendment of s 4 (Definitions)**

15

Clause      **5.(1)** Section 4, definitions “**assessment period**”, “**chairperson**”,  
“**deputy chairperson**”, “**licence period**”, “**licensed premises**”,  
“**Tribunal**” and “**unlicensed person**”—

16

17

18

~~omit~~.

19

**(2)** Section 4—

20

~~insert~~—

21

        ‘ “**disciplinary action**”, involving a licence, means—

22

        (a) cancelling the licence; or

23

*Liquor Amendment*

|                                                                                                                                                                                        |                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| (b) suspending the licence—                                                                                                                                                            | 1              |
| (i) for a stated period; or                                                                                                                                                            | 2              |
| (ii) until further ordered by the chief executive, but for not more than 1 year; or                                                                                                    | 3<br>4         |
| (c) closing the licensed premises for a stated period; or                                                                                                                              | 5              |
| (d) varying the licence by—                                                                                                                                                            | 6              |
| (i) stating in the licence a condition to which it is to be subject; or                                                                                                                | 7<br>8         |
| (ii) otherwise limiting the authority conferred by the licence; or                                                                                                                     | 9              |
| (e) reducing the times at which the licensee may conduct business under authority of the licence; or                                                                                   | 10<br>11       |
| (f) disqualifying the licensee from holding a licence—                                                                                                                                 | 12             |
| (i) for a stated period; or                                                                                                                                                            | 13             |
| (ii) until further ordered by the chief executive, but for not more than 5 years; or                                                                                                   | 14<br>15       |
| (g) requiring the licensee to pay to the department an amount of not more than \$10 000; <sup>1</sup> or                                                                               | 16<br>17       |
| (h) reprimanding the licensee.                                                                                                                                                         | 18             |
| <b>“licensed premises”</b> means premises to which a licence relates, and includes—                                                                                                    | 19<br>20       |
| (a) premises for which a temporary authority is granted under section 125; <sup>2</sup> and                                                                                            | 21<br>22       |
| (b) premises for which an approval has been granted under part 4, division 15.                                                                                                         | 23<br>24       |
| <b>“ordinarily set aside for dining”</b> , in relation to licensed premises, means the part of the premises usually, or on a regular or continual basis, used or set aside for dining. | 25<br>26<br>27 |

---

<sup>1</sup> The department may require the licensee to pay the department an amount of not more than \$10 000 for each ground for which disciplinary action is taken under section 136.

<sup>2</sup> Section 125 (Temporary licence)

**“panel”** means the Liquor Review Panel. 1

**“panel member”** means a member of the Liquor Review Panel. 2

**“table”** includes a fixed structure used as a table. 3

**“unlicensed person”** means a person who is not the holder of— 4

(a) a licence under this Act; or 5

(b) a licence or permit under a law of the Commonwealth, or another State, corresponding to this Act; or 6  
7

(c) a licence under the *Wine Industry Act 1994*.’ 8

**(3)** Section 4, definition **“meal”**, paragraph (a), ‘, or a fixed structure used as a table,’— 9  
10

*omit.* 11

#### **Amendment of s 7 (Presumed quantity of liquor)** 12

Clause **6.(1)** Section 7, ‘740 mL’— 13

*omit, insert—* 14

‘700 mL and not more than 750 mL’. 15

**(2)** Section 7, ‘370 mL’— 16

*omit, insert—* 17

‘345 mL and not more than 370 mL’. 18

#### **Amendment of s 9 (Ordinary trading hours)** 19

Clause **7.** Section 9(3)— 20

*omit, insert—* 21

**‘(3)** On Anzac Day, ordinary trading hours for licensed premises do not include any period before 1 p.m. other than— 22  
23

(a) for the sale of liquor to a person to consume on the premises in 24  
association with the person eating a meal in a part of the premises 25  
ordinarily set aside for dining if the meal is prepared, served and 26  
intended to be eaten on the premises—the period between 10 a.m. 27  
and 1 p.m. or, if the chief executive approves another period 28

between 6 a.m. and 1 p.m. for the premises, the approved period;  
or

- (b) for premises that are a cabaret—the period from midnight on the day immediately before Anzac Day until 3 a.m. on Anzac Day.’.

## **Replacement of pt 2 (Liquor Appeals Tribunal)**

Clause 8. Part 2—

*omit, insert—*

## **‘PART 2—REVIEW OF DECISIONS**

### ***‘Division 1—Definitions***

#### **‘Definitions for pt 2**

‘14. In this part—

“**aggrieved person**”, for a decision, means a person who—

- (a) made an application, submission or objection under this Act for the matter about which the decision was made; and
- (b) is aggrieved by the decision.

“**original decision**” see section 20.

“**review decision**” see section 24(1)(b).

“**submission**” does not include a submission made under section 118A.<sup>3</sup>

### ***‘Division 2—Liquor review panel and members***

#### **‘Appointment of members of panel**

‘15.(1) The Minister may, by gazette notice, appoint adult individuals as members of the liquor review panel.

<sup>3</sup> Section 118A (Submissions on public need)

‘(2) The panel is to consist of not less than 3 members and not more than 6 members. 1  
2

‘(3) At least 3 members of the panel must have engaged in legal practice for not less than 5 years. 3  
4

‘(4) In appointing a member of the panel other than a member mentioned in subsection (3), the Minister must have regard to— 5  
6

(a) the person’s business expertise; or 7

(b) the person’s financial management expertise; or 8

(c) the person’s knowledge of, and experience in, the hospitality or liquor industries. 9  
10

#### **‘Duration of appointment and way of resigning 11**

‘16.(1) A panel member may be appointed for a term not longer than 3 years. 12  
13

‘(2) A panel member may resign by signed notice of resignation given to the Minister. 14  
15

#### **‘Conditions of appointment 16**

‘17.(1) A panel member is to be paid the remuneration and allowances decided by the Governor in Council. 17  
18

‘(2) A panel member holds office on the conditions not provided in this Act that are decided by the Governor in Council. 19  
20

#### **‘Removal from office 21**

‘18. The Minister may, by written notice given to a panel member, remove the member from the panel if the member— 22  
23

(a) is incapable of properly discharging the functions of a panel member; or 24  
25

(b) is convicted, in the State, of an indictable offence; or 26

(c) is convicted elsewhere, of an offence consisting of an act or omission that, had it happened in the State, would be an indictable 27  
28

|                                                                                                                                                                                           |                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| offence; or                                                                                                                                                                               | 1              |
| (d) fails to disclose a material personal interest in a matter as required under section 22; <sup>4</sup> or                                                                              | 2<br>3         |
| (e) is otherwise unfit to continue to be a panel member.                                                                                                                                  | 4              |
| <b>‘Chairperson and deputy chairperson of panel</b>                                                                                                                                       | 5              |
| <b>‘19.(1)</b> The Minister must appoint 1 of the members of the panel as chairperson.                                                                                                    | 6<br>7         |
| <b>‘(2)</b> Also, the Minister must appoint 1 of the members of the panel as deputy chairperson.                                                                                          | 8<br>9         |
| <b>‘(3)</b> The deputy chairperson of the panel is to act in the office of the chairperson during—                                                                                        | 10<br>11       |
| (a) a vacancy in the office of chairperson; or                                                                                                                                            | 12             |
| (b) the absence or temporary incapacity of the chairperson.                                                                                                                               | 13             |
| <b>‘Division 3—Review of decision on application by aggrieved person</b>                                                                                                                  | 14             |
| <b>‘Application for review</b>                                                                                                                                                            | 15             |
| <b>‘20.(1)</b> An aggrieved person may apply to the chairperson of the panel for a review of a decision (an <b>“original decision”</b> ) made by the chief executive about the following— | 16<br>17<br>18 |
| (a) the grant or refusal of a licence or permit (other than a licence for which a preliminary approval was granted) or the renewal of an extended hours permit;                           | 19<br>20<br>21 |
| (b) the imposition of conditions on a licence or permit;                                                                                                                                  | 22             |
| (c) the imposition of disciplinary action involving a licence;                                                                                                                            | 23             |
| (d) the urgent suspension of a licence or the suspension, cancellation or variation of a permit;                                                                                          | 24<br>25       |
| (e) the surrender of a licence or permit;                                                                                                                                                 | 26             |

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<sup>4</sup> Section 22 (Panel member to disclose material personal interest in decision)

|                                                                                                                                                                                          |                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| (f) the grant or refusal of a preliminary approval;                                                                                                                                      | 1              |
| (g) the grant or refusal of an authorisation under this Act;                                                                                                                             | 2              |
| (h) an order directed to a licensee, a permittee or a person holding an authorisation under this Act;                                                                                    | 3<br>4         |
| (i) an assessment or imposition of a fee or premium payable under this Act.                                                                                                              | 5<br>6         |
| ‘(2) The application—                                                                                                                                                                    | 7              |
| (a) must be made in the approved form to the chairperson within 28 days after the aggrieved person is given notice of the original decision; and                                         | 8<br>9<br>10   |
| (b) must be accompanied by the grounds on which the review is sought; and                                                                                                                | 11<br>12       |
| (c) may include a request for a stay of the original decision                                                                                                                            | 13             |
| ‘(3) The application does not stay the original decision unless a stay of the decision is granted under section 23. <sup>5</sup>                                                         | 14<br>15       |
| ‘(4) The aggrieved person must also give a copy of the application to the chief executive at the same time the application is given to the chairperson.                                  | 16<br>17       |
| ‘(5) As soon as practicable after receiving a copy of the application, the chief executive must give to the chairperson—                                                                 | 18<br>19       |
| (a) a copy of the chief executive’s file for the original decision; and                                                                                                                  | 20             |
| (b) the name and last known address of each person who made an application, submission or objection about the matter the subject of the review.                                          | 21<br>22<br>23 |
| <b>‘Chairperson to appoint panel member to review decision</b>                                                                                                                           | 24             |
| ‘21.(1) If the chairperson is satisfied the applicant has made a valid application under section 20(2), the chairperson must appoint an appropriate panel member to review the decision. | 25<br>26<br>27 |
| ‘(2) The chairperson must give written notice about the application for                                                                                                                  | 28             |

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<sup>5</sup> Under section 23, the panel member may grant a stay of the decision to secure the effectiveness of the review.

review to each person whose name and last known address has been given to the chairperson under section 20(5)(b).

‘(3) For an application for review of an urgent suspension, the chairperson must make arrangements for the review to be dealt with by a panel member as soon as practicable.

### ‘Panel member to disclose material personal interest in decision

‘22.(1) If the panel member appointed to review an original decision has a material personal interest in the matter the subject of the review, the panel member—

- (a) must disclose the material personal interest to the chairperson; and
- (b) must be excused from reviewing the decision.

‘(2) A panel member has a material personal interest in a matter if the member has, or should reasonably have, a realistic expectation that, whether directly or indirectly, the member or an associate stands to gain a benefit or suffer a loss depending on the matter’s outcome.

‘(3) An “associate” is any of the following persons—

- (a) the panel member’s spouse or another member of the panel member’s household;
- (b) an entity of which the panel member, or the panel member’s nominee, is a member;
- (c) a partner of the panel member;
- (d) an employer of the panel member;
- (e) a person prescribed under a regulation.

### ‘Stay of original decision

‘23.(1) This section applies if an application for review of an original decision includes a request for a stay of the decision.

‘(2) The panel member appointed for the review may grant a stay of the decision, for not longer than the period in which the panel member must make a decision about the review, to secure the effectiveness of the review.

**‘Procedure for review**

**‘24.(1)** A panel member appointed to review an original decision must, within 14 days after the application was received by the chairperson—

- (a) review the original decision; and
- (b) make a decision (the “**review decision**”) to—
  - (i) confirm or revoke the original decision; or
  - (ii) vary the original decision in a way the member considers appropriate; or
  - (iii) set aside the original decision and substitute the member’s own decision; or
  - (iv) set aside the original decision and return the issue to the chief executive for reconsideration in accordance with matters stated by the member.

**‘(2)** However, if the panel member, in reviewing an original decision, states a case for the Supreme Court’s opinion, the time for making the review decision is extended until 7 days after the court’s decision is delivered.

**‘(3)** Within 14 days after making the review decision, the panel member must give written notice of the decision to—

- (a) the applicant; and
- (b) each person who was given a notice under section 21(2)<sup>6</sup> about the review.

**‘(4)** The notice must—

- (a) include the reasons for the review decision; and
- (b) for the notice to the applicant—inform the applicant of the

---

<sup>6</sup> Section 21 (Chairperson to appoint panel members to review decision)

applicant's right of appeal against the decision under the *Judicial Review Act 1991*.<sup>7</sup>

### **'Panel member may state case for Supreme Court's opinion**

'25. If a question of law arises in reviewing an original decision, the panel member may, on the member's own initiative, state a case for the Supreme Court's opinion.

### ***'Division 4—Appeal by chief executive against review decision***

### **'Appeal to Supreme Court by chief executive**

'26.(1) If the chief executive is dissatisfied with a panel member's review decision, the chief executive may, within 28 days after the decision is made, appeal to the Supreme Court on a ground of error of law.

'(2) If the Supreme Court finds the panel member's decision is affected by an error of law, it may set aside the panel member's decision and remit the matter to the panel member for decision in accordance with the law.<sup>5</sup>.

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

Clause **9.(1) Section 58(1)(a)—**

<sup>7</sup> Under the *Judicial Review Act 1991*, a person who is aggrieved by the panel member's decision may, on a number of grounds, apply to the Supreme Court for a statutory order of review in relation to the decision. The *Judicial Review Act 1991*, section 7 provides that a person aggrieved by a decision includes a person whose interests are adversely affected by the decision. The grounds on which an application may be made include, for example, that the decision involved an error of law (whether or not the error appears on the record of the decision) or there was no evidence or other material to justify the making of the decision. The powers of the court in relation to applications for order of review are set out in the *Judicial Review Act 1991*, section 30. For an application for a statutory order of review in relation to a decision, the court may make an order quashing or setting aside the decision, referring the matter to which the decision relates to the person who made the decision for further consideration, subject to directions or declaring the rights of the parties in relation to any matter to which the decision relates.

*Liquor Amendment*

*omit, insert—* 1

‘(a) hotel licence;’. 2

**(2)** Section 58— 3

*insert—* 4

‘**(1A)** Also, a person may hold a general licence.’. 5

**(3)** Section 58— 6

*insert—* 7

‘**(3)** However, a person may, for any premises or any part of premises, 8  
hold a licence under this Act and a licence under the *Wine Industry Act* 9  
*1994*.’. 10

**Amendment of s 60 (Restriction on grant of general licence)** 11

Clause **10.** Section 60(a)(i)— 12

*omit, insert—* 13

‘(i) the sale or supply of liquor for consumption on and off the 14  
premises; and’. 15

**Amendment of s 62 (Authority of residential licence)** 16

Clause **11.(1)** Section 62(2), ‘premises, other than the licensed premises,’— 17

*omit, insert—* 18

‘other premises,<sup>8</sup>’. 19

**(2)** Section 62— 20

*insert—* 21

‘**(2A)** However, the chief executive must not specify liquor may be sold 22  
under authority of a residential licence for consumption off the licensed 23  
premises if the premises contain less than 16 residential units and do not 24  
include a part set apart and available for public use for dining.’. 25

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<sup>8</sup> See part 4 (Licences and permits), division 15 (Catering for public and private functions) that sets out provisions about licensees catering off the main licensed premises.

|        |                                                                                                                                                                                     |              |
|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
|        | <b>Amendment of s 65 (Consumption of liquor with meals or when meals are being served)</b>                                                                                          | 1<br>2       |
| Clause | <b>12. Section 65(3)—</b>                                                                                                                                                           | 3            |
|        | <i>omit, insert—</i>                                                                                                                                                                | 4            |
|        | ‘(3) The number of persons who may at any time be sold or supplied with liquor under subsection (2) must not be more than the number equal to 20% of the number of seats at tables— | 5<br>6<br>7  |
|        | (a) currently available at the licensed premises at which persons may be seated to eat a meal in the part of the premises ordinarily set aside for dining; and                      | 8<br>9<br>10 |
|        | (b) set with cutlery provided for the purpose of eating a meal.’.                                                                                                                   | 11           |
|        | <b>Omission of s 67 (Restriction on sale of liquor for consumption off premises)</b>                                                                                                | 12<br>13     |
| Clause | <b>13. Section 67—</b>                                                                                                                                                              | 14           |
|        | <i>omit.</i>                                                                                                                                                                        | 15           |
|        | <b>Amendment of s 68 (Authority of on-premises licence)</b>                                                                                                                         | 16           |
| Clause | <b>14. Section 68(2), ‘premises other than the licensed premises’—</b>                                                                                                              | 17           |
|        | <i>omit, insert—</i>                                                                                                                                                                | 18           |
|        | ‘other premises <sup>9</sup> ’.                                                                                                                                                     | 19           |
|        | <b>Omission of s 70 (Restriction on sale of liquor for consumption off-premises)</b>                                                                                                | 20<br>21     |
| Clause | <b>15. Section 70—</b>                                                                                                                                                              | 22           |
|        | <i>omit.</i>                                                                                                                                                                        | 23           |

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<sup>9</sup> See part 4 (Licences and permits), division 15 (Catering for public and private functions) that sets out provisions about licensees catering off the main licensed premises.

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**Amendment of s 72A (Restriction on sale and supply of liquor at cabarets)**

Clause      **16. Section 72A(2)—**

*omit, insert—*

‘(2) The number of persons who may at any time be sold or supplied with liquor under subsection (1)(b) must not be more than the number equal to 20% of the number of seats at tables—

(a) currently available at the licensed premises at which persons may be seated to eat a meal in the part of the premises ordinarily set aside for dining; and

(b) set with cutlery provided for the purpose of eating a meal.’.

**Amendment of s 73 (Restriction on sale of liquor under on-premises licence)**

Clause      **17. Section 73(2)—**

*omit, insert—*

‘(2) The authority given under subsection (1)(b)(ii) applies only at a time when the premises are trading in a way that is consistent with the primary purpose of the premises.

‘(3) The number of persons who may at any time be sold or supplied with liquor under subsection (1)(b)(ii) must not be more than the number equal to 20% of the number of seats at tables—

(a) currently available at the licensed premises at which persons may be seated to eat a meal in the part of the premises ordinarily set aside for dining; and

(b) set with cutlery provided for the purpose of eating a meal.’.

**Replacement of s 78 (Restriction on sale of liquor)**

Clause      **18. Section 78—**

*omit, insert—*

**‘Restriction on sale of liquor**

1

‘78. The authority of an on-premises licence relating to premises developed as a tourist attraction by provision of entertainment or visual instruction to tourists—

2

3

4

(a) is restricted to sale of liquor, at a liquor outlet specified in the licence, for consumption within the liquor outlet; and

5

6

(b) if specified in the licence—extends to sale of liquor to or for persons genuinely attending a function on the premises.’.

7

8

**Replacement of pt 4, div 4, subdiv 8**

9

Clause 19. Part 4, division 4, subdivision 8—

10

*omit, insert—*

11

**‘Subdivision 8—On-premises (other activity) licence**

12

**‘Authority of on-premises (other activity) licence**

13

‘79.(1) An on-premises (other activity) licence, if specified by the chief executive in the licence, authorises the licensee to cater for functions held on the licensed premises and sell and supply liquor to or for persons genuinely attending functions on the premises.

14

15

16

17

‘(2) The catering provided by the licensee for functions must include providing a meal, to which the sale and supply of liquor under the licence is ancillary.’.

18

19

20

**Amendment of s 84 (Restriction on sale of liquor under producer/wholesaler licence)**

21

22

Clause 20.(1) Section 84(1)(e)—

23

*renumber* as section 84(1)(i).

24

(2) Section 84(1)(c) and (d)—

25

*omit, insert—*

26

‘(c) a person who exports liquor from Australia for consumption outside of Australia; or

27

28

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|        |                                                                                                                                                |                |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
|        | (d) a person who operates a duty free shop; or                                                                                                 | 1              |
|        | (e) a person purchasing liquor for consumption on aircraft or ships during international journeys; or                                          | 2<br>3         |
|        | (f) a person purchasing liquor for consumption at Government House or at a foreign consulate or embassy; or                                    | 4<br>5         |
|        | (g) a person purchasing liquor for a religious organisation for sacramental purposes; or                                                       | 6<br>7         |
|        | (h) a person authorised by a law of the Commonwealth, another State or a foreign country to sell or supply liquor, or the person's agent; or'. | 8<br>9<br>10   |
|        | <b>Amendment of s 95 (Authority of limited licence)</b>                                                                                        | 11             |
| Clause | 21. Section 95(1)(c), 'premises other than the licensed premises'—<br><i>omit, insert—</i><br>'other premises <sup>10</sup> '.                 | 12<br>13<br>14 |
|        | <b>Insertion of new pt 4, div 9A</b>                                                                                                           | 15             |
| Clause | 22. After section 96—<br><i>insert—</i>                                                                                                        | 16<br>17       |
|        | <b><i>'Division 9A—General licence</i></b>                                                                                                     | 18             |
|        | <b>'Authority of general licence</b>                                                                                                           | 19             |
|        | <b>'96A.(1)</b> A general licence authorises the licensee to sell or supply liquor in the circumstances specified in the licence.              | 20<br>21       |

---

<sup>10</sup> See part 4 (Licences and permits), division 15 (Catering for public and private functions) that sets out provisions about licensees catering off the main licensed premises.

‘(2) The authority provided by a general licence (other than the size of the licensed premises) may not be varied under this Act.<sup>11</sup>’.

### **Insertion of new pt 4, div 15**

Clause 23. After section 104—

*insert—*

### ***‘Division 15—Catering for public and private functions***

#### **‘Definitions for div 15**

‘104A. In this division—

“**cater**”, for a public or private function, means to sell and supply liquor to persons genuinely attending the public or private function in conjunction with providing food or a meal to the persons, as required under section 104H.

“**main premises**”, for a licence, means the licensed area specified in the licence.

“**private function**” means an event or occasion held at a place other than the main premises under a licensee’s licence—

- (a) that is not open to the public or casual attendance; or
- (b) to which attendance is restricted by personal invitation of the host of the function; or
- (c) that does not involve the payment of a fee for admission to the function, or for entertainment or services provided at the function; or
- (d) that is not publicly advertised.

*Examples of private functions—*

- 1. A 21st birthday party.
- 2. A wedding.

<sup>11</sup> A licensee under a general licence may only vary the conditions of the licence by applying for the surrender of the general licence and the grant of a new licence appropriate to the business to be operated under the licence.

|                                                                                                                                                                                                           |                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| 3. A company cocktail party.                                                                                                                                                                              | 1              |
| 4. A boardroom lunch.                                                                                                                                                                                     | 2              |
| <b>“public function”</b> means an event or occasion that is held at premises other than the main premises under a licensee’s licence and that is not a private function.                                  | 3<br>4<br>5    |
| <i>Examples of public functions—</i>                                                                                                                                                                      | 6              |
| 1. Festivals.                                                                                                                                                                                             | 7              |
| 2. Public balls, including, for example, a Bachelor and Spinster Ball.                                                                                                                                    | 8              |
| 3. Rock concerts.                                                                                                                                                                                         | 9              |
| 4. Race meetings.                                                                                                                                                                                         | 10             |
| <b>“public function approval”</b> see section 104C.                                                                                                                                                       | 11             |
| <b>‘Purpose of div 15</b>                                                                                                                                                                                 | 12             |
| <b>‘104B.</b> The purpose of this division is to allow certain licensees to cater for public and private functions.                                                                                       | 13<br>14       |
| <b>‘Licensee may cater for functions in certain circumstances</b>                                                                                                                                         | 15             |
| <b>‘104C.(1)</b> A licensee whose licence authorises the sale and supply of liquor at premises other than the main premises may cater for a function at other premises only if—                           | 16<br>17<br>18 |
| (a) for a private function—the licensee has, at least 14 days before the day of the function, notified the police officer in charge of the police service for the locality about the function, including— | 19<br>20<br>21 |
| (i) the location of the function; and                                                                                                                                                                     | 22             |
| (ii) the type, nature and scale of the function; and                                                                                                                                                      | 23             |
| (iii) the contact details of the person hosting the function; or                                                                                                                                          | 24             |
| (b) for a public function—                                                                                                                                                                                | 25             |
| (i) a condition of the licensee’s licence authorises the licensee to cater for the public function; or                                                                                                    | 26<br>27       |
| (ii) the licensee holds an approval (a <b>“public function approval”</b> ) granted by the chief executive under this                                                                                      | 28<br>29       |

division to cater for the public function.

‘(2) For a private function, the licensee may only sell and supply liquor—

(a) for a limited licence—between in the hours stated in the licence;  
or

(b) in any other case—during the licensee’s ordinary or approved extended trading hours under the licence.

‘(3) Also, for a licensee who holds an on-premises (other activity) licence, the licensee may sell and supply liquor only for a public or private function if the function is associated with the activity specified in the licence.

#### **‘Way to apply for public function approval**

‘104D. An application for a public function approval must—

(a) be made to the chief executive; and

(b) be accompanied by the particulars required under a regulation.

#### **‘Public function approval only to certain licensees**

‘104E. The chief executive may grant a public function approval to a licensee only if—

(a) the licensee holds 1 of the following licences—

(i) a hotel licence;

(ii) a general licence;

(iii) a residential licence;

(iv) an on-premises licence;

(v) a limited licence, if the primary purpose of the business conducted under the licence is specified in the licence as catering for public or private functions; and

(b) the licensee’s licence specifies the licensee may sell and supply liquor at premises other than the main premises.

**‘Restrictions on grant of public function approval**

**‘104F.(1)** The chief executive may grant a public function approval to a licensee only if the chief executive is, on reasonable grounds, satisfied that—

- (a) the licensee would, in catering for the public function, be complying with the primary purpose of the licensee’s licence; and
- (b) the public function will not create any undue annoyance, disturbance or inconvenience to residents of the locality in which the function is to be held; and
- (c) the public function will not create an unsafe or unhealthy environment for persons attending the function or residents of the locality; and
- (d) the licensee has carried out appropriate planning for the public function with the police service and local government for the locality; and
- (e) premises in which liquor may be sold, supplied and consumed at the public function are properly defined and will be appropriately monitored.

**‘(2)** Also, the chief executive may, if the licensee will cater for a particular public function on a regular basis or regularly cater for public functions at a particular place, vary the licensee’s licence by specifying conditions that authorise the licensee to cater for the public functions without a public function approval.

**‘Public function approval may be subject to conditions**

**‘104G.(1)** The chief executive must grant a public function approval subject to the conditions, including about trading hours, that the chief executive, on reasonable grounds, considers appropriate.

**‘(2)** If a public function is to be held over more than 1 day, the public function approval for the function applies to the day or days specified in the approval.

**‘Authority provided by public function approval****‘104H.** A licensee who holds a public function approval—

- (a) may cater off the main premises only in the course of catering for a public function; and
- (b) must for each public function catered for—
  - (i) for a licensee under a limited licence—provide food as specified in the conditions of the licence or approval; or
  - (ii) for a licensee under an on-premises (cabaret) licence—if the function is held between 10 a.m. and 5 p.m., provide a meal; or
  - (iii) for a licensee under an on-premises (other activity) licence—provide a meal on all occasions; or
  - (iv) for any other licensee—provide a meal to the extent necessary to comply with the primary purpose of the licensee’s licence as specified in the licence.’.

**Amendment of s 105 (Requirements for applications)**Clause **24.** Section 105(c)—*omit, insert—*

- ‘(c) be supported by enough information to enable the chief executive to decide the application, including the information prescribed under a regulation for the licence or permit applied for; and

**Amendment of s 106 (Who may apply for licence or permit)**Clause **25.(1)** Section 106, ‘a general purpose’—*omit.***(2)** Section 106—*insert—*

**‘(2)** Also, an adult individual may make application for a licence or permit for or on behalf of an unincorporated association.’.

|        |                                                                                                                                                                                                                                                                                                                                                                                   |    |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
|        | <b>Amendment of s 107 (Restrictions on grant of licence or permit)</b>                                                                                                                                                                                                                                                                                                            | 1  |
| Clause | <b>26.(1)</b> Section 107, heading, ‘permit’—                                                                                                                                                                                                                                                                                                                                     | 2  |
|        | <i>omit, insert—</i>                                                                                                                                                                                                                                                                                                                                                              | 3  |
|        | ‘permit to fit and proper persons’.                                                                                                                                                                                                                                                                                                                                               | 4  |
|        | <b>(2)</b> Section 107(4)—                                                                                                                                                                                                                                                                                                                                                        | 5  |
|        | <i>omit.</i>                                                                                                                                                                                                                                                                                                                                                                      | 6  |
|        | <b>Insertion of new ss 107A–107G</b>                                                                                                                                                                                                                                                                                                                                              | 7  |
| Clause | <b>27.</b> After section 107—                                                                                                                                                                                                                                                                                                                                                     | 8  |
|        | <i>insert—</i>                                                                                                                                                                                                                                                                                                                                                                    | 9  |
|        | <b>‘Other restrictions on grant of licence or permit based on premises etc.</b>                                                                                                                                                                                                                                                                                                   | 10 |
|        | <b>‘107A.(1)</b> The chief executive must not grant an application for a licence or permit unless—                                                                                                                                                                                                                                                                                | 11 |
|        | (a) if a minimum standard has been prescribed under a regulation for the premises at which business is to be conducted under authority of the licence or permit—the premises comply with the standard; or                                                                                                                                                                         | 13 |
|        | (b) in any other case—the premises are, in the chief executive’s opinion, suitable for conduct of business under authority of the licence or permit.                                                                                                                                                                                                                              | 14 |
|        | <b>‘(2)</b> Also, the chief executive must not grant an application for a licence or permit unless the chief executive is satisfied that any other matter relevant to the conduct of the business at the premises has been completed, including, for example, a suitable staff training program has been developed and is to be implemented before the business starts operating. | 15 |
|        | <b>‘(3)</b> This section is subject to section 123. <sup>12</sup>                                                                                                                                                                                                                                                                                                                 | 16 |
|        | <b>‘Chief executive may grant preliminary approval</b>                                                                                                                                                                                                                                                                                                                            | 17 |
|        | <b>‘107B.(1)</b> This section applies if, after assessing an application for a                                                                                                                                                                                                                                                                                                    | 18 |
|        |                                                                                                                                                                                                                                                                                                                                                                                   | 19 |
|        |                                                                                                                                                                                                                                                                                                                                                                                   | 20 |
|        |                                                                                                                                                                                                                                                                                                                                                                                   | 21 |
|        |                                                                                                                                                                                                                                                                                                                                                                                   | 22 |
|        |                                                                                                                                                                                                                                                                                                                                                                                   | 23 |
|        |                                                                                                                                                                                                                                                                                                                                                                                   | 24 |
|        |                                                                                                                                                                                                                                                                                                                                                                                   | 25 |
|        |                                                                                                                                                                                                                                                                                                                                                                                   | 26 |
|        |                                                                                                                                                                                                                                                                                                                                                                                   | 27 |

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<sup>12</sup> Section 123 (Provisional grant of licence)

|                                                                                                                                                                                                                                                                       |                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| licence or permit and considering the requirements of sections 107 and 107A, the chief executive would grant the application but for—                                                                                                                                 | 1<br>2               |
| (a) the applicant needing to produce evidence that the conduct of the business on the premises is a permitted use under the relevant local government’s planning scheme; or                                                                                           | 3<br>4<br>5          |
| (b) the applicant needing to undertake or complete work on the premises the subject of the application to the satisfaction of the chief executive or relevant local government.                                                                                       | 6<br>7<br>8          |
| ‘(2) The chief executive may grant the applicant a preliminary approval for the licence or permit subject to the condition that the applicant produce the relevant evidence or complete the relevant work.                                                            | 9<br>10<br>11        |
| ‘(3) The preliminary approval must state—                                                                                                                                                                                                                             | 12                   |
| (a) the evidence the applicant is required to produce, or the work the applicant is required to undertake or complete, before the application for the licence or permit will be granted; and                                                                          | 13<br>14<br>15       |
| (b) if the applicant produces the stated evidence, or undertakes or completes the stated work, the applicant is entitled to a stated licence or permit.                                                                                                               | 16<br>17<br>18       |
| <b>‘Preliminary approval valid for a year</b>                                                                                                                                                                                                                         | 19                   |
| ‘107C.(1) A preliminary approval is in force for 1 year from the day on which it is granted.                                                                                                                                                                          | 20<br>21             |
| ‘(2) The chief executive may, after considering any matter to which the chief executive may have regard in making a decision to grant a licence or permit of the type the subject of the approval, renew a preliminary approval for a period of not more than a year. | 22<br>23<br>24<br>25 |
| ‘(3) A preliminary approval may be renewed more than once.                                                                                                                                                                                                            | 26                   |
| <b>‘Public need in relation to preliminary approvals and later applications</b>                                                                                                                                                                                       | 27<br>28             |
| ‘107D.(1) This section applies if—                                                                                                                                                                                                                                    | 29                   |
| (a) the chief executive grants a preliminary approval to a person in relation to an application (the “ <b>earlier application</b> ”) for a licence                                                                                                                    | 30<br>31             |

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or permit to provide liquor and related services at premises in a locality; and

- (b) while the preliminary approval is in force, the chief executive receives another application (the “**later application**”) for a licence or permit to provide liquor and related services at premises in the same locality.

‘(2) In considering the later application, the reasonable requirements of the public for liquor and related services in the locality are taken to be satisfied to the extent the requirements are covered by the earlier application.

**‘Effect of preliminary approval**

‘107E. A preliminary approval granted in relation to an application for a licence or permit does not give the applicant authority to operate the business the subject of the application until the licence or permit is granted.

**‘Chief executive must grant licence to holder of preliminary approval if conditions satisfied**

‘107F. If, while a preliminary approval is in force, the holder of the approval produces the evidence, or undertakes or completes the work, stated in the preliminary approval, the chief executive must grant the appropriate licence or permit.

**‘Term of licence**

‘107G.(1) A licence continues in force until—

- (a) if the chief executive accepts the surrender of the licence—the day fixed by the chief executive for its termination; or
- (b) it is cancelled.

‘(2) A licence does not have effect during a period for which it is suspended.’.

**Amendment of s 109 (Nominees)**

Clause 28. Section 109(1)(c)—

|        |                                                                                                                                                                                         |    |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
|        | <i>omit, insert—</i>                                                                                                                                                                    | 1  |
|        | ‘(c) if the applicant is an incorporated association;’.                                                                                                                                 | 2  |
|        | <b>(2)</b> Section 109(4) and (5)—                                                                                                                                                      | 3  |
|        | <i>omit.</i>                                                                                                                                                                            | 4  |
|        | <b>Amendment of s 110 (Application for grant of extended hours permit not on regular basis)</b>                                                                                         | 5  |
|        |                                                                                                                                                                                         | 6  |
| Clause | <b>29.</b> Section 110(2) and (3), ‘Assistant Commissioner’—                                                                                                                            | 7  |
|        | <i>omit, insert—</i>                                                                                                                                                                    | 8  |
|        | ‘police officer’.                                                                                                                                                                       | 9  |
|        | <b>Amendment of s 111 (Variation of licence)</b>                                                                                                                                        | 10 |
| Clause | <b>30.</b> Section 111—                                                                                                                                                                 | 11 |
|        | <i>insert—</i>                                                                                                                                                                          | 12 |
|        | ‘(5) This section does not apply to a general licence.’.                                                                                                                                | 13 |
|        | <b>Insertion of new s 113A</b>                                                                                                                                                          | 14 |
| Clause | <b>31.</b> After section 113—                                                                                                                                                           | 15 |
|        | <i>insert—</i>                                                                                                                                                                          | 16 |
|        | <b>‘Transfer of licence or permit held for or on behalf of unincorporated association</b>                                                                                               | 17 |
|        |                                                                                                                                                                                         | 18 |
|        | <b>‘113A.(1)</b> This section applies if—                                                                                                                                               | 19 |
|        | (a) a person holds a licence or permit for or on behalf of an unincorporated association; and                                                                                           | 20 |
|        |                                                                                                                                                                                         | 21 |
|        | (b) the association becomes incorporated.                                                                                                                                               | 22 |
|        | <b>‘(2)</b> The licensee must, within 3 months after the association is incorporated, apply to the chief executive for the licence to be transferred to the incorporated association.’. | 23 |
|        |                                                                                                                                                                                         | 24 |
|        |                                                                                                                                                                                         | 25 |

**Amendment of s 114 (Restriction on transfer of licence)**

- Clause 32. Section 114, ‘fees’—  
*omit, insert—*  
‘fees and premiums’.

**Amendment of s 116 (Public need relevant to applications)**

- Clause 33.(1) Section 116(4)—  
*insert—*  
‘(e) the objects of this Act.’.  
(2) Section 116—  
*insert—*  
‘(4A) Subsection 4 does not limit the matters the chief executive may consider in making the decision.’.

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

- Clause 34. Section 118—  
*omit, insert—*  
‘(2A) For subsection (2)(b), the sign must be displayed—  
(a) if the property or premises have 1 road frontage—conspicuously, on the front alignment of the property or premises to which the application relates, at street level and in a way that ensures it is clearly visible to the passing public; and  
(b) if the property or premises have more than 1 road frontage—conspicuously, on the property or premises to which the application relates, at street level and in a way that ensures it is clearly visible to the passing public on each road frontage.’.

**Amendment of s 128 (Liability of licensees in certain cases)**

- Clause 35.(1) Section 128(b), ‘by or for the benefit of a club’—  
*omit, insert—*

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|        |                                                                                                                                                                                              |                |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
|        | ‘by an incorporated association’.                                                                                                                                                            | 1              |
|        | (2) Section 128(b), ‘club’s’—                                                                                                                                                                | 2              |
|        | <i>omit, insert—</i>                                                                                                                                                                         | 3              |
|        | ‘association’s’.                                                                                                                                                                             | 4              |
|        | <b>Replacement of pt 5, div 3 hdg</b>                                                                                                                                                        | 5              |
| Clause | <b>36.</b> Part 5, division 3, heading—                                                                                                                                                      | 6              |
|        | <i>omit, insert—</i>                                                                                                                                                                         | 7              |
|        | <b>‘Division 3—Surrender and disciplinary action’.</b>                                                                                                                                       | 8              |
|        | <b>Amendment of s 133 (Request to surrender)</b>                                                                                                                                             | 9              |
| Clause | <b>37.</b> Section 133(3)(b)—                                                                                                                                                                | 10             |
|        | <i>omit, insert—</i>                                                                                                                                                                         | 11             |
|        | ‘(b) must be accompanied or supported by—                                                                                                                                                    | 12             |
|        | (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; <sup>13</sup> and | 13<br>14<br>15 |
|        | (ii) enough information to enable the chief executive to decide the application, including the information prescribed under a regulation for the surrender of the licence or permit; and’.   | 16<br>17<br>18 |
|        | <b>Replacement of ss 136 and 137</b>                                                                                                                                                         | 19             |
| Clause | <b>38.</b> Sections 136 and 137—                                                                                                                                                             | 20             |
|        | <i>omit, insert—</i>                                                                                                                                                                         | 21             |
|        | <b>‘Disciplinary action in relation to licences</b>                                                                                                                                          | 22             |
|        | <b>‘136.(1)</b> Each of the following is a ground for taking disciplinary action in relation to a licence—                                                                                   | 23<br>24       |

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<sup>13</sup> Section 44A (Owner, lessee, mortgagee and secured creditors to give particulars to chief executive)

- (a) the licensee has failed to comply with—
  - (i) this Act; or
  - (ii) a condition specified in the licence; or
  - (iii) an order of the chief executive or a requisition of an investigator;
- (b) the licensee is convicted of—
  - (i) an offence against this Act; or
  - (ii) an offence under the *Health Act 1937* or the *Food Act 1981* involving licensed premises or liquor; or
  - (iii) 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 1 of the following offences committed in the course of the business—
  - (i) an offence against this Act;
  - (ii) an offence under the *Health Act 1937* or the *Food Act 1981* involving licensed premises or involving liquor;
- (d) the licensee has obtained the licence by fraud or false representation;
- (e) the licensee, or the nominee (if any) in respect of the licensed premises, is not a fit and proper person to conduct business under authority of the licence;
- (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—
    - (A) to persons living, working or doing business in the

|                                                                                                                                                                                                                                                                        |                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| neighbourhood of the premises; or                                                                                                                                                                                                                                      | 1                 |
| (B) to persons conducting or attending religious services in the neighbourhood of the premises; or                                                                                                                                                                     | 2<br>3            |
| (ii) is causing disorderly conduct in, or in the neighbourhood of, the premises.                                                                                                                                                                                       | 4<br>5            |
| <b>‘Procedure for taking disciplinary action in relation to licence</b>                                                                                                                                                                                                | 6                 |
| <b>‘137.(1)</b> If the chief executive considers, on reasonable grounds, there is a ground to take disciplinary action in relation to a licence (the <b>“proposed action”</b> ), the chief executive may give the licensee a written notice that states the following— | 7<br>8<br>9<br>10 |
| (a) the proposed action or actions;                                                                                                                                                                                                                                    | 11                |
| (b) the grounds for the proposed action or actions;                                                                                                                                                                                                                    | 12                |
| (c) an outline of the facts and circumstances forming the basis for the grounds;                                                                                                                                                                                       | 13<br>14          |
| (d) if the proposed action includes suspending the licence—the proposed suspension period;                                                                                                                                                                             | 15<br>16          |
| (e) if the proposed action includes closing the licensed premises for a stated period—the proposed closure period;                                                                                                                                                     | 17<br>18          |
| (f) if the proposed action includes requiring the licensee to pay the department an amount—the proposed amount;                                                                                                                                                        | 19<br>20          |
| (g) an invitation to the licensee—                                                                                                                                                                                                                                     | 21                |
| (i) to show within a stated time, of at least 28 days, (the <b>“last day for representations”</b> ) why the proposed action or actions should not be taken; and                                                                                                        | 22<br>23<br>24    |
| (ii) to make submissions about the proposed disciplinary action or actions;                                                                                                                                                                                            | 25<br>26          |
| (h) how representations by the licensee about the proposed action may be made.                                                                                                                                                                                         | 27<br>28          |
| <b>‘(2)</b> The chief executive must also give to each interested person written notice that—                                                                                                                                                                          | 29<br>30          |
| (a) states the matters mentioned in subsection (1)(a) to (f); and                                                                                                                                                                                                      | 31                |

- (b) invites the interested person to make representations (in the way stated in the notice) about the proposed action or actions before the last day for representations. 1  
2  
3
- ‘(3) If, after considering all representations made, the chief executive still considers there is a ground to take the proposed action or any of the proposed actions, the chief executive may— 4  
5  
6
- (a) if the proposed action was other than suspension or cancellation—take the proposed action; or 7  
8
- (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 9  
10  
11  
12
- (c) if the proposed action was to cancel the licence—either cancel the licence or take another form of disciplinary action. 13  
14
- ‘(4) Within 10 days after the chief executive makes the decision, the chief executive must give written notice of the decision to— 15  
16
- (a) the licensee; and 17
- (b) any interested person to whom notice of the proposed action was given. 18  
19
- ‘(5) If the chief executive decides to take disciplinary action, the notice must state— 20  
21
- (a) the reasons for the decision; and 22
- (b) the licensee may apply to the panel for a review of the decision within 28 days after the person receives notice of the decision. 23  
24
- ‘(6) The decision takes effect on the later of— 25
- (a) the day the notice is given to the licensee; or 26
- (b) the day of effect stated in the notice. 27
- ‘(7) However, if disciplinary action is taken in relation to the licence because of a conviction— 28  
29
- (a) the disciplinary action does not take effect until— 30
- (i) the end of the time to appeal against the conviction; or 31
- (ii) if an appeal is made against the conviction—the appeal is 32

|                                                                             |    |
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| finally decided; and                                                        | 1  |
| (b) the disciplinary action has no effect if the conviction is quashed.     | 2  |
| ‘(8) In this section—                                                       | 3  |
| “interested person”, for a licence, means a person who has given the chief  | 4  |
| executive particulars of the person’s interest in the licence, under        | 5  |
| section 44A.                                                                | 6  |
| ‘Urgent suspension                                                          | 7  |
| ‘137A.(1) This section applies if the chief executive believes, on          | 8  |
| reasonable grounds—                                                         | 9  |
| (a) a ground exists for taking disciplinary action in relation to a         | 10 |
| licence; and                                                                | 11 |
| (b) harm may be caused to members of the public if urgent action to         | 12 |
| suspend the licence is not taken.                                           | 13 |
| ‘(2) The chief executive may immediately suspend the licence (an            | 14 |
| “urgent suspension”) by written notice given to the licensee, stating—      | 15 |
| (a) the licence is suspended; and                                           | 16 |
| (b) the reasons for the urgent suspension; and                              | 17 |
| (c) the licensee may apply to the liquor review panel for a review of       | 18 |
| the urgent suspension within 28 days after the licensee is given            | 19 |
| the notice.                                                                 | 20 |
| ‘(3) The urgent suspension takes effect immediately the notice is given to  | 21 |
| the licensee.                                                               | 22 |
| ‘(4) At the same time as the chief executive gives the licensee the notice, | 23 |
| the chief executive must give the licensee a notice under section 137.      | 24 |
| ‘(5) The urgent suspension continues until the first to happen of the       | 25 |
| following—                                                                  | 26 |
| (a) the chief executive revokes it;                                         | 27 |
| (b) the chief executive gives the licensee notice of the chief              | 28 |
| executive’s decision under section 137(4);                                  | 29 |

- (c) the end of 60 days after the notice under subsection (2) was given to the licensee.’

**Replacement of pt 6, div 1, hdg**

Clause 39. Part 6, division 1, heading—

*omit, insert—*

**‘Division 1—Provisions binding licensees, permittees, employees and agents’.**

**Amendment of s 146 (Sale or supply contrary to licence or permit)**

Clause 40. Section 146, ‘The licensee or permittee’—

*omit, insert—*

‘A licensee or permittee, or an employee or agent of the licensee or permittee,’.

**Amendment of s 148 (Gratuitous supply of liquor)**

Clause 41. Section 148, ‘The licensee or permittee’—

*omit, insert—*

‘A licensee or permittee, or the employee or agent of the licensee or permittee,’.

**Replacement of s 154 (Alteration and maintenance of licensed premises)**

Clause 42. Section 154—

*omit, insert—*

**‘Alteration etc. and maintenance of licensed premises**

**‘154.(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.

Maximum penalty—25 penalty units.

‘(2) For subsection (1), a change in the area includes not using a part of the area included in the licence as licensed premises, as if the area were not part of the licensed premises.

‘(3) The licensee of licensed premises must keep the premises clean and in good repair.

Maximum penalty—25 penalty units.

### ‘Relocation of detached bottle shops

‘154A.(1) This section applies if—

- (a) under a hotel licence the licensee has authority to sell or supply liquor on premises (a “**detached bottle shop**”) approved by the chief executive, for consumption off the premises;<sup>14</sup> and
- (b) the licensee proposes to relocate the detached bottle shop.

‘(2) The licensee must make application to the chief executive for approval for the relocation.

‘(3) In making the decision about 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 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

<sup>14</sup> Under section 59(1)(d) of this Act, a hotel licence authorises the licensee to sell liquor on premises approved by the chief executive for sale of liquor under authority of the hotel licence, for consumption off the premises.

|                                                                                                                                                                                                                                   |                      |
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| be located more than the distance prescribed under a regulation from the main licensed premises.                                                                                                                                  | 1<br>2               |
| ‘(7) If the chief executive approves the application, the chief executive must adjust the licensee’s licence—                                                                                                                     | 3<br>4               |
| (a) by decreasing the size of the licensed premises under the licence by the size of the existing detached bottle shop; and                                                                                                       | 5<br>6               |
| (b) by increasing the size of the licensed premises under the licence by the size of the relocated detached bottle shop.                                                                                                          | 7<br>8               |
| <b>‘Transfer of certain premises</b>                                                                                                                                                                                              | 9                    |
| ‘154B.(1) This section applies if—                                                                                                                                                                                                | 10                   |
| (a) the licensee under a hotel licence (the <b>“first licensee”</b> ) has authority to sell or supply liquor on premises (a <b>“detached bottle shop”</b> ) approved by the chief executive for consumption off the premises; and | 11<br>12<br>13<br>14 |
| (b) the first licensee proposes to transfer the detached bottle shop to another licensee of a hotel licence (the <b>“second licensee”</b> ).                                                                                      | 15<br>16             |
| ‘(2) The first and second licensees must make a joint application to the chief executive for approval for the transfer.                                                                                                           | 17<br>18             |
| ‘(3) In making the decision about the joint application, the chief executive must have regard to the matters prescribed under a regulation for this section.                                                                      | 19<br>20<br>21       |
| ‘(4) If the chief executive approves the joint application, the chief executive must—                                                                                                                                             | 22<br>23             |
| (a) adjust the first licensee’s licence by decreasing the size of the licensed premises under the licence by the size of the existing detached bottle shop; and                                                                   | 24<br>25<br>26       |
| (b) adjust the second licensee’s licence by increasing the size of the licensed premises under the licence by the size of the new detached bottle shop.                                                                           | 27<br>28<br>29       |
| ‘(5) A premium is not payable under section 219 for the transfer of the detached bottle shop.’.                                                                                                                                   | 30<br>31             |

|        |                                                                                                                                                           |    |
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|        | <b>Amendment of s 155 (Minors on premises)</b>                                                                                                            | 1  |
| Clause | <b>43.</b> Section 155(3)—                                                                                                                                | 2  |
|        | <i>omit, insert—</i>                                                                                                                                      | 3  |
|        | ‘ <b>(3)</b> 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. | 4  |
|        |                                                                                                                                                           | 5  |
|        | ‘ <b>(3A)</b> If a minor is on the premises, each of the following persons commits an offence—                                                            | 6  |
|        |                                                                                                                                                           | 7  |
|        | (a) the licensee or permittee;                                                                                                                            | 8  |
|        | (b) if another person is in control of the premises—the other person;                                                                                     | 9  |
|        | (c) if an employee or agent of the licensee or permittee allowed the minor to enter the premises—the employee or agent.                                   | 10 |
|        |                                                                                                                                                           | 11 |
|        | Maximum penalty—100 penalty units.’.                                                                                                                      | 12 |
|        | <b>Amendment of s 169 (Authority required for sale)</b>                                                                                                   | 13 |
| Clause | <b>44.</b> Section 169, penalty—                                                                                                                          | 14 |
|        | <i>omit, insert—</i>                                                                                                                                      | 15 |
|        | ‘Maximum penalty—250 penalty units or 6 months imprisonment.’.                                                                                            | 16 |
|        | <b>Amendment of s 171 (Carrying or exposing liquor for sale)</b>                                                                                          | 17 |
| Clause | <b>45.(1)</b> Section 171, penalty—                                                                                                                       | 18 |
|        | <i>omit.</i>                                                                                                                                              | 19 |
|        | <b>(2)</b> Section 171(1)—                                                                                                                                | 20 |
|        | <i>insert—</i>                                                                                                                                            | 21 |
|        | ‘Maximum penalty—250 penalty units or 6 months imprisonment.’.                                                                                            | 22 |
|        | <b>Omission of ss 193–196</b>                                                                                                                             | 23 |
| Clause | <b>46.</b> Sections 193 to 196—                                                                                                                           | 24 |
|        | <i>omit.</i>                                                                                                                                              | 25 |

|        |                                                                                                                                                                                                                                                                                            |    |
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|        | <b>Omission of pt 9, div 1, hdg</b>                                                                                                                                                                                                                                                        | 1  |
| Clause | <b>47.</b> Part 9, division 1, heading—                                                                                                                                                                                                                                                    | 2  |
|        | <i>omit.</i>                                                                                                                                                                                                                                                                               | 3  |
|        | <b>Replacement of ss 199–204</b>                                                                                                                                                                                                                                                           | 4  |
| Clause | <b>48.</b> Sections 199 to 204—                                                                                                                                                                                                                                                            | 5  |
|        | <i>omit, insert—</i>                                                                                                                                                                                                                                                                       | 6  |
|        | <b>‘Annual fees payable for licence or permit</b>                                                                                                                                                                                                                                          | 7  |
|        | <b>‘199.(1)</b> The annual fee payable for a licence or permit for a financial year is the fee prescribed for the licence or permit under a regulation.                                                                                                                                    | 8  |
|        |                                                                                                                                                                                                                                                                                            | 9  |
|        | <b>‘(2)</b> The annual fee for a financial year for a licence or permit must be paid on or before 31 July in the financial year.                                                                                                                                                           | 10 |
|        |                                                                                                                                                                                                                                                                                            | 11 |
|        | <b>‘(3)</b> If the annual fee for a financial year for a licence or permit is not paid on or before 31 July in the financial year, the licence or permit, or the part of the licence or permit for which the fee is payable, is cancelled effective from 1 August in the financial year.’. | 12 |
|        |                                                                                                                                                                                                                                                                                            | 13 |
|        |                                                                                                                                                                                                                                                                                            | 14 |
|        |                                                                                                                                                                                                                                                                                            | 15 |
|        | <b>Amendment of s 205 (Filing of returns)</b>                                                                                                                                                                                                                                              | 16 |
| Clause | <b>49.(1)</b> Section 205(1)—                                                                                                                                                                                                                                                              | 17 |
|        | <i>omit.</i>                                                                                                                                                                                                                                                                               | 18 |
|        | <b>(2)</b> Section 205(2) and (3), ‘In each licence period the holder’—                                                                                                                                                                                                                    | 19 |
|        | <i>omit, insert—</i>                                                                                                                                                                                                                                                                       | 20 |
|        | ‘The holder’.                                                                                                                                                                                                                                                                              | 21 |
|        | <b>(3)</b> Section 205(2) and (3), ‘assessment period’—                                                                                                                                                                                                                                    | 22 |
|        | <i>omit, insert—</i>                                                                                                                                                                                                                                                                       | 23 |
|        | ‘financial year’.                                                                                                                                                                                                                                                                          | 24 |
|        | <b>(4)</b> Section 205(3), ‘or certificate’—                                                                                                                                                                                                                                               | 25 |
|        | <i>omit.</i>                                                                                                                                                                                                                                                                               | 26 |
|        | <b>(5)</b> Section 205(4) and (5), ‘subsection (2)’—                                                                                                                                                                                                                                       | 27 |

|                                                             |   |
|-------------------------------------------------------------|---|
| <i>omit, insert—</i>                                        | 1 |
| ‘subsection (2) or (3)’.                                    | 2 |
| <b>(6)</b> Section 205—                                     | 3 |
| <i>insert—</i>                                              | 4 |
| ‘ <b>(7)</b> Subsection (2) expires on 30 September 1999.’. | 5 |

|                               |   |
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| <b>Omission of ss 206–214</b> | 6 |
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|        |                                 |   |
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| Clause | <b>50.</b> Sections 206 to 214— | 7 |
|        | <i>omit.</i>                    | 8 |

|                                           |   |
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| <b>Amendment of s 215 (Refund of fee)</b> | 9 |
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|        |                                                               |    |
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| Clause | <b>51.</b> Section 215, ‘, other than a discontinuance fee,’— | 10 |
|        | <i>omit.</i>                                                  | 11 |

|                                                    |    |
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| <b>Omission of s 215A (Refund of fees—general)</b> | 12 |
|----------------------------------------------------|----|

|        |                          |    |
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| Clause | <b>52.</b> Section 215A— | 13 |
|        | <i>omit.</i>             | 14 |

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|---------------------------------------------------------|----|
| <b>Amendment of s 216 (Unpaid fees a debt to State)</b> | 15 |
|---------------------------------------------------------|----|

|        |                                             |    |
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| Clause | <b>53.(1)</b> Section 216, heading, ‘fees’— | 16 |
|        | <i>omit, insert—</i>                        | 17 |
|        | ‘amount’.                                   | 18 |
|        | <b>(2)</b> Section 216, ‘as a fee payable’— | 19 |
|        | <i>omit.</i>                                | 20 |

|                                                            |    |
|------------------------------------------------------------|----|
| <b>Amendment of s 217 (Records to be kept by licensee)</b> | 21 |
|------------------------------------------------------------|----|

|        |                               |    |
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| Clause | <b>54.(1)</b> Section 217(1)— | 22 |
|        | <i>omit, insert—</i>          | 23 |

*Liquor Amendment*

**‘217.(1)** A person who holds 1 of the following licences must make and keep a true and up-to-date record of all transactions (a **“transaction record”**) made by or on behalf of the person that involve the sale or supply of liquor by or for the person—

- (a) a producer/wholesaler licence;
- (b) a limited licence relating to premises used for the conduct of a business by a person who holds a licence under the *Wine Industry Act 1994*.

Maximum penalty—350 penalty units.’.

**(2)** Section 217(4)—

*omit, insert—*

**‘(4)** The licensee must keep the accounting records on the premises to which they relate, or in another place approved by the chief executive, for 6 years after the day on which the record is made.’.

**(3)** Section 217(6)—

*omit.*

**Omission of pt 9, div 2, hdg**

Clause 55. Part 9, division 2, heading—

*omit.*

**Amendment of s 219 (Payment of premium for general licence and special facility licence)**

Clause 56.(1) Section 219, heading—

*omit, insert—*

**‘Payment of premium and additional premium for hotel licence, general licence and special facility licence’.**

**(2)** Section 219—

*insert—*

**‘(1A)** Also, the chief executive may—

*Liquor Amendment*

- 
- (a) for a hotel licence, general licence or special facility licence—grant an application for an increase in the size of the licensed premises under the licence only if the applicant has paid the additional premium to the department; or 1  
2  
3  
4
- (b) for a hotel licence or special facility licence—grant an application for an increase in the facilities provided under the licence only if the applicant has paid the additional premium to the department.’. 5  
6  
7
- (3)** Section 219(2), after ‘the premium’— 8  
*insert—* 9  
‘, or additional premium,’. 10

**Amendment of s 220 (Basis of calculation of premium)** 11

- Clause 57.(1) Section 220, heading, ‘premium’— 12  
*omit, insert—* 13  
‘premium and additional premium’. 14
- (2)** Section 220— 15  
*insert—* 16
- ‘(2)** In fixing the amount of an additional premium, the chief executive must have regard to— 17  
18
- (a) the increased size of the licensed premises under the licence or the increased facilities provided under the licence; and 19  
20
- (b) a variation of the conditions of the licence; and 21
- (c) an increase in the number or size of liquor outlets on the licensed premises; and 22  
23
- (d) another matter the chief executive considers relevant.’. 24

**Amendment of s 235 (Regulations)** 25

- Clause 58. Section 235(2)— 26  
*insert—* 27  
‘(j) the minimum standards for premises at which a business may be 28

|        |                                                                                                                         |          |
|--------|-------------------------------------------------------------------------------------------------------------------------|----------|
|        | conducted under authority of a licence or permit; and                                                                   | 1        |
|        | (k) the premium or additional premium to be paid for a hotel licence,<br>general licence or special facility licence.’. | 2<br>3   |
|        | <b>Omission of ss 242–244</b>                                                                                           | 4        |
| Clause | <b>59.</b> Sections 242 to 244—<br><i>omit.</i>                                                                         | 5<br>6   |
|        | <b>Omission of s 247 and 248</b>                                                                                        | 7        |
| Clause | <b>60.</b> Sections 247 and 248—<br><i>omit.</i>                                                                        | 8<br>9   |
|        | <b>Omission of ss 249A and 250</b>                                                                                      | 10       |
| Clause | <b>61.</b> Sections 249A and 250—<br><i>omit.</i>                                                                       | 11<br>12 |
|        | <b>Replacement of pt 12</b>                                                                                             | 13       |
| Clause | <b>62.</b> Part 12—<br><i>omit, insert—</i>                                                                             | 14<br>15 |
|        | <b>‘PART 12—MISCELLANEOUS TRANSITIONAL<br/>PROVISIONS</b>                                                               | 16<br>17 |
|        | <b>‘Definitions for pt 12</b>                                                                                           | 18       |
|        | <b>‘252.</b> In this part—                                                                                              | 19       |
|        | <b>“amending Act”</b> means the <i>Liquor Amendment Act 1998</i> .                                                      | 20       |
|        | <b>“commencement”</b> means the commencement of section 62 of the<br>amending Act.                                      | 21<br>22 |
|        | <b>“tribunal”</b> means the Liquor Appeals Tribunal.                                                                    | 23       |

**‘Completion of proceedings before tribunal**

‘253.(1) If, immediately before the commencement, a proceeding had been started in the tribunal and had not been completed, the proceeding may be completed by the tribunal as if section 7 of the amending Act had not commenced.

‘(2) For the purposes of subsection (1), the tribunal continues in existence until all the proceedings started before the commencement have been completed.

‘(3) After the tribunal has finished hearing the last proceeding, the Minister must publish a notice in the gazette stating the tribunal has ended.

‘(4) If, immediately before the commencement, a notice of appeal had been filed with the registrar of the tribunal and proceedings for the appeal had not started, the notice of appeal is taken to be an application for review made to the chairperson of the panel.

**‘Transitional provisions about undecided applications for general licences**

‘254.(1) This section applies if, immediately before the commencement of the amending Act—

- (a) a person had applied for a general licence; and
- (b) the application had not been decided.

‘(2) The application is taken to be an application for a hotel licence.

**‘Transitional arrangements for decisions about applications for general licence**

‘255.(1) This section applies if, before the commencement, an application for a general licence had been refused and—

- (a) proceedings in relation to the decision had been started in the tribunal before the commencement and may be completed under section 253; or
- (b) the decision is the subject of a review by a panel member.

‘(2) The tribunal or panel member must—

|                                                                                                                                                                                                           |                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| (a) decide the appeal or review as if the application were an application for a hotel licence; and                                                                                                        | 1<br>2         |
| (b) if the tribunal or member decides to grant the application—grant the applicant a hotel licence not a general licence.                                                                                 | 3<br>4         |
| <b>‘Transitional provisions for existing general licences</b>                                                                                                                                             | 5              |
| ‘ <b>256.(1)</b> This section applies if, immediately before the commencement, a person held a general licence.                                                                                           | 6<br>7         |
| ‘ <b>(2)</b> If the general licence held by the person was 1 of the following licences, the person is taken, after the commencement, to hold a hotel licence—                                             | 8<br>9<br>10   |
| (a) a general licence that, before 1 July 1992, was—                                                                                                                                                      | 11             |
| (i) a licensed victualler’s licence; or                                                                                                                                                                   | 12             |
| (ii) a tavern licence; or                                                                                                                                                                                 | 13             |
| (iii) a resort licence and, from 1 July 1992, was taken to be a general licence; or                                                                                                                       | 14<br>15       |
| (iv) a canteen licence;                                                                                                                                                                                   | 16             |
| (b) a general licence granted under this Act.                                                                                                                                                             | 17             |
| ‘ <b>(3)</b> A licence that was a general licence mentioned in subsection (2)(b) and, after the commencement, is taken to be a hotel licence—                                                             | 18<br>19       |
| (a) is, until it is varied under this Act, subject to the same conditions and restrictions which applied to it immediately before the commencement; and                                                   | 20<br>21<br>22 |
| (b) may be varied only if the process in sections 116 and 117 are followed in relation to the variation as if it were an application for a licence mentioned in section 116.                              | 23<br>24<br>25 |
| ‘ <b>(4)</b> If the general licence held by the person was, before 1 July 1992, a spirit merchant’s (retail) licence, the person is taken, after the commencement, to continue to hold a general licence. | 26<br>27<br>28 |
| ‘ <b>(5)</b> Also, if the general licence held by the person was granted under this Act because the person had applied for a spirit merchant’s (retail) licence                                           | 29<br>30       |

before 1 July 1992, the person is taken, after the commencement, to  
continue to hold a general licence.

**‘Transitional provision for licences that provide for sale of liquor on  
other premises**

‘257.(1) As soon as practicable after the commencement, the chief  
executive must conduct a review of licences that, before the  
commencement, authorised the sale or supply of liquor on premises other  
than the licensed premises under the licence.

‘(2) The chief executive may vary the licence to the extent necessary to  
ensure the conditions of the licence are consistent with part 4, division 15.

**‘Transitional provision for review of licensed premises under hotel,  
general and special facility licences**

‘258.(1) As soon as practicable after the commencement the chief  
executive must conduct a review of licensed premises under hotel, general  
and special facility licences.

‘(2) The chief executive may vary a hotel, general or special facility  
licence to the extent necessary to clarify the area of the licensed premises  
under the licence.’.

**Amendment of sch (Rules of clubs)**

Clause 63. Schedule, ‘92’—  
omit, insert—  
‘103D’.

**Minor and consequential amendments**

Clause 64.(1) Schedule 1 makes some minor amendments to the *Liquor Act*  
1992.  
(2) Schedule 2 makes consequential amendments to the Acts mentioned  
in it.

**SCHEDULE 1**

1

**MINOR AMENDMENTS**

2

section 64(1)

3

**1. Section 6(a), 47(a), 84(1)(i) (as renumbered), 85(1)(a)(iv), 107(5)(b), 149, ‘or a Territory’—**

4

5

*omit.*

6

**2. Sections 9(12), 58(1)(a), 59, 60, 61, 116(1)(b), 118(1)(b), 219(1), 235(2)(g), ‘general licence’—**

7

8

*omit, insert—*

9

‘hotel licence’.

10

**3. Part 4, div 2, heading, ‘General licence’—**

11

*omit, insert—*

12

‘Hotel licence’.

13

**4. Section 86(2), example, ‘general licence’—**

14

*omit, insert—*

15

‘hotel licence’.

16

**5. Section 152(2), ‘general licence’—**

17

*omit, insert—*

18

‘hotel licence or general licence’.

19

20

**SCHEDULE 2**

1

**CONSEQUENTIAL AMENDMENTS**

2

section 64(2)

3

**GAMING MACHINE ACT 1991**

4

**1. Section 3, definition “general liquor licence”—**

5

*omit, insert—*

6

‘**“hotel liquor licence”** means a licence mentioned in the *Liquor Act 1992*,  
section 58(1)(a).

7

8

**2. Section 39(1)(b), (d)(i) and (e)(i), ‘general liquor licence’—**

9

*omit, insert—*

10

‘hotel liquor licence’.

11

**3. Section 53(1) and (3)(a), ‘general liquor licence’—**

12

*omit, insert—*

13

‘hotel liquor licence’.

14

**WINE INDUSTRY ACT 1994**

15

**4. Division 11, heading—**

16

*omit, insert—*

17

*‘Division 11—Review of decisions’.*

18

## SCHEDULE 2 (continued)

|                                                                                                     |        |
|-----------------------------------------------------------------------------------------------------|--------|
| <b>5. Section 33, heading—</b>                                                                      | 1      |
| <i>omit, insert—</i>                                                                                | 2      |
| <b>‘Review of decisions made by chief executive’.</b>                                               | 3      |
| <br><b>6. Section 33(1), ‘A decision’ to ‘appealed against’—</b>                                    | 4      |
| <i>omit, insert—</i>                                                                                | 5      |
| ‘An application for the review of a decision of the chief executive under<br>this Act may be made’. | 6<br>7 |
| <br><b>7. Schedule 2, definition “Tribunal”—</b>                                                    | 8      |
| <i>omit.</i>                                                                                        | 9      |
| <br><b>8. Part 9—</b>                                                                               | 10     |
| <i>omit.</i>                                                                                        | 11     |
|                                                                                                     | 12     |