

Liquor and Gaming Legislation Amendment Bill 2006

CONTENTS

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
Part 2 — Amendments to the <i>Liquor Licensing Act 1988</i>		
3.	The Act amended	3
4.	Long title amended	3
5.	Section 1 (short title) amended	3
6.	Section 3 amended	3
7.	Section 3A inserted	9
	3A. Meaning of “drunk”	9
8.	Section 4 amended	9
9.	Section 5 amended	9
10.	Section 7 amended	10
11.	Part 2 Division 2 replaced	11
Division 2 — The Liquor Commission		
8.	Commission established	11
9.	The Commission’s jurisdiction	11
9A.	Constitution of Commission	11
Division 2A — Members of the Commission		
9B.	Commission members	12
9C.	Tenure of office	12
9D.	Deputy chairperson	12
9E.	Removal or resignation	13
9F.	Leave of absence	13
9G.	Termination of term of office may be deferred	14
9H.	Remuneration and conditions of members	14

Contents

	Division 2B — Other matters	
	9I. Decisions of the Commission	14
	9J. Official seal	15
	9K. Annual reports	15
	9L. Laying annual report before House of Parliament not sitting	16
	9M. Immunity	17
12.	Section 13 amended	17
13.	Section 16 amended	18
14.	Section 18 amended	20
15.	Section 18A inserted	20
	18A. Enforcement of decisions	20
16.	Section 19 amended	21
17.	Section 20 amended	21
18.	Section 21 amended	22
19.	Section 22 amended	22
20.	Part 2 Division 6 heading amended	22
21.	Section 24 amended	22
22.	Section 25 amended	23
23.	Section 26 replaced	24
	26. Certain decisions of Director to be given effect unless otherwise directed	24
24.	Section 27 amended	25
25.	Section 28 amended	25
26.	Section 29 amended	27
27.	Part 2 Division 7 replaced	28
	Division 7 — Confidential police information	
	30. Confidential police information	28
28.	Section 33 amended	31
29.	Section 35B amended	31
30.	Section 37 amended	32
31.	Section 37B inserted	33
	37B. Taking of fingerprints and palm prints	33
32.	Part 3 Division 2 heading replaced	34
	Division 2 — Licences	
33.	Section 38 replaced	35
	38. Licensing authority to be satisfied that certain applications are in the public interest	35
34.	Section 41 amended	36
35.	Section 46 amended	38
36.	Sections 46A and 46B inserted	39
	46A. Variation of special facility licences	39

	46B. Alternatives to, and replacements of, special facility licences	39	
37.	Part 3 Division 3 heading deleted	40	
38.	Section 48 amended	41	
39.	Section 49 amended	42	
40.	Section 50 amended	43	
41.	Section 55 amended	43	
42.	Section 58 amended	44	
43.	Section 60 amended	44	
44.	Section 61A inserted	47	
	61A. Limitations relating to permits for extended hours	47	
45.	Section 63 amended	47	
46.	Section 64 amended	47	
47.	Section 65B inserted	49	
	65B. Prescribed conditions relating to the responsible promotion of liquor	49	
48.	Section 67 amended	50	
49.	Section 68 amended	50	
50.	Section 69 amended	50	
51.	Section 71 repealed	52	
52.	Section 72 amended	52	
53.	Section 73 amended	53	
54.	Section 74 amended	53	
55.	Section 75 amended	53	
56.	Section 76 amended	54	
57.	Section 77 amended	55	
58.	Section 80 amended	55	
59.	Section 81 amended	55	
60.	Section 84 amended	55	
61.	Section 86 amended	55	
62.	Section 87 amended	56	
63.	Section 90 repealed	56	
64.	Section 91 amended	56	
65.	Section 93 amended	57	
66.	Section 95 amended	58	
67.	Section 97 amended	58	
68.	Sections 98 to 98H inserted	58	
	98. Permitted hours under a hotel licence	58	
	98A. Permitted hours under a nightclub licence	59	
	98B. Permitted hours under a casino liquor licence	60	

Contents

98C.	Permitted hours under a special facility licence	60
98D.	Permitted hours under a liquor store licence	60
98E.	Permitted hours under a club licence and club restricted licence	61
98F.	Permitted hours under a restaurant licence	62
98G.	Permitted hours under a producer's licence	62
98H.	Permitted hours under a wholesaler's licence	63
69.	Section 100 amended	63
70.	Section 102 amended	64
71.	Part 4 Division 3A inserted	65
	Division 3A — Responsible practices in selling, supplying and serving liquor	
103A.	Responsible practices in selling, supplying and serving liquor	65
72.	Section 104 amended	66
73.	Section 105 amended	66
74.	Section 106 amended	67
75.	Section 108 replaced	67
108.	Certain licensees to exhibit charges for meals and liquor	67
76.	Section 109 amended	67
77.	Section 110 amended	68
78.	Section 113A inserted	68
113A.	Licensees to include certain details on website	68
79.	Section 114 amended	69
80.	Section 115 amended	69
81.	Section 115A inserted	73
115A.	Free drinking water to be provided at certain licensed premises	73
82.	Section 116 amended	74
83.	Section 116A inserted	74
116A.	Register of incidents at licensed premises to be maintained	74
84.	Part 4 Division 7 heading replaced	74
	Division 7 — Complaints to Director	
85.	Section 117 amended	75
86.	Section 119 amended	78
87.	Part 4 Division 8A inserted	78

Division 8A — Conduct of unapproved businesses on or from licensed premises		
	119A. Conduct of unapproved businesses on or from licensed premises	78
88.	Section 121 amended	79
89.	Section 122 amended	80
90.	Section 123 amended	81
91.	Section 126 amended	81
92.	Sections 126A and 126B inserted and section 104 consequentially amended	82
	126A. Licensees may apply for approval of entertainment for juveniles on licensed premises	82
	126B. Director may approve entertainment for juveniles on licensed premises	83
93.	Part 4 Division 10 inserted	84
Division 10 — Miscellaneous		
	126C. Crowd controllers to be authorised when exercising powers of removal	84
	126D. Sale of undesirable liquor products	85
	126E. Modified operation of Act for special events	86
94.	Section 127 amended	87
95.	Section 128 amended	87
96.	Part 5 Division 3 heading amended	88
97.	Part 5A inserted	88
Part 5A — Prohibition orders		
	152A. Terms used in this Part	88
	152B. Commissioner of Police may apply for prohibition orders	88
	152C. Evidence in support of application	89
	152D. Relevant person to be given notice of application	89
	152E. Director may make prohibition orders	90
	152F. Term of prohibition orders	91
	152G. Applications to vary or revoke prohibition orders	91
	152H. Evidence in support of application	91
	152I. Respondent to be given notice of application	92
	152J. Director may vary or revoke prohibition orders	92
	152K. Notification of orders	93
	152L. Failure to comply with orders	93
98.	Section 155 amended	94

Contents

99.	Section 165 amended	94
100.	Section 167 amended	95
101.	Section 172 amended	95
102.	Section 175 amended	95
103.	Section 177A inserted	96
	177A. Transitional provisions relating to the <i>Liquor and Gaming Legislation Amendment Act 2006</i>	96
104.	Schedule 1A inserted	97
	Schedule 1A — Transitional provisions relating to the <i>Liquor and Gaming Legislation Amendment Act 2006</i>	
	1. Terms used in this Schedule	97
	2. Liquor Licensing Court	97
	3. Liquor Licensing Court judge	98
	4. Pending cases stated and appeals to Supreme Court	98
	5. Pending applications and matters	98
	6. Licences granted and permits issued by Liquor Licensing Court	99
	7. Cabaret licences	99
	8. Courses of training and assessments	99
	9. References to the Liquor Licensing Court and Liquor Licensing Court judge	100
	10. Transitional regulations	100
105.	Schedule 2 amended	101
106.	Amendments relating to the Liquor Commission	101
107.	Amendments relating to nightclub licences	102
108.	Amendments relating to guest accommodation	102
109.	Amendments relating to the use of reasonable force	102
110.	Amendments relating to penalty amounts	103
111.	Amendments relating to approved forms	105
	Part 3 — Amendments to the <i>Gaming and Wagering Commission Act 1987</i>	
112.	The Act amended	107
113.	Part II Division 7 inserted	107
	Division 7 — Confidential police information	
	20A. Confidential police information	107

Part 4 — Amendments to other Acts

114.	Amendments relating to the amended title of the <i>Liquor Licensing Act 1988</i>	110
115.	Amendments relating to the title of the repealed <i>Liquor Act 1970</i>	110
116.	<i>Constitution Acts Amendment Act 1899</i> amended	111
117.	<i>Equal Opportunity Act 1984</i> amended	112

Western Australia

LEGISLATIVE ASSEMBLY

(As amended in Committee of the Whole)

**Liquor and Gaming Legislation
Amendment Bill 2006**

A Bill for

An Act to amend —

- **the *Liquor Licensing Act 1988*; and**
 - **the *Gaming and Wagering Commission Act 1987*,**
- and to provide for related matters, including minor amendments to certain other Acts.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Liquor and Gaming Legislation Amendment Act 2006*.

5 **2. Commencement**

(1) This Part comes into operation on the day after the day on which this Act receives the Royal Assent.

(2) This Act, other than this Part, comes into operation on a day fixed by proclamation.

10 (3) Different days may be fixed under subsection (2) for different provisions.

Part 2 — Amendments to the *Liquor Licensing Act 1988*

3. The Act amended

5 The amendments in this Part are to the *Liquor Licensing Act 1988**.

[* Reprint 4 as at 9 June 2006.]

4. Long title amended

The long title is amended after “use of liquor,” by inserting —

10 “
to provide for orders that may prohibit persons from being employed at, or from entering, licensed premises,
”.

5. Section 1 (short title) amended

15 Section 1 is amended by deleting “*Licensing*” and inserting instead —

“ *Control* ”.

6. Section 3 amended

(1) Section 3(1) is amended as follows:

- 20 (a) by deleting the definition of “affected area”;
- (b) by deleting the definition of “cabaret licence”;
- (c) by deleting the definitions of “Category A licence” and “Category B licence”;
- (d) before the definition of “closing time” by inserting —

25 “
“chairperson” means the chairperson of the Commission;
”;

s. 6

(e) in the definition of “club licence” after “section 48” by inserting —

“

5

, which may be granted without restriction or as a club restricted licence

”;

(f) after the definition of “club restricted licence” by inserting —

“

10

“**Commission**” means the Liquor Commission established under section 8;

”;

(g) after the definition of “condition” by inserting —

“

15

“**confidential police information**” means any information or document classified by the Commissioner of Police as confidential under section 30(1);

20

“**consume**”, in relation to liquor, includes inhale and absorb;

”;

(h) by deleting the definition of “Court” and inserting —

“

25

“**crowd control agent**” has the same meaning as it has in the *Security and Related Activities (Control) Act 1996* section 34;

30

“**crowd controller’s licence**” means a licence issued for the purposes of the *Security and Related Activities (Control) Act 1996* section 37;

”;

- (i) by deleting the definition of “the Director” and inserting instead —

“

5

“Director” or **“Director of Liquor Licensing”** means the chief executive officer of the department of the Public Service principally assisting in the administration of this Act;

”;

- (j) after the definition of “disqualified” by inserting —

10

“

“drunk” has the meaning given by section 3A(1);

”;

- (k) in the definition of “hotel licence” by deleting “and includes a hotel restricted licence and a tavern licence;” and inserting instead —

15

“

, which may be granted without restriction, as a hotel restricted licence, as a tavern licence or as a small bar licence;

20

”;

- (l) by deleting the definition of “the judge”;
(m) after the definition of “lease” by inserting —

“

“legal practitioner” means a person who —

25

(a) is a legal practitioner, as defined in the *Legal Practice Act 2003*; or

(b) has been admitted to legal practice in another State or a Territory;

”;

30

- (n) by deleting the definition of “licence” and inserting instead —

“

“licence” means a licence granted under this Act;

”;

s. 6

- (o) in the definition of “licence fee” after “period” by inserting —
“ or the fee payable in respect of a permit ”;
- (p) in the definition of “liquor” —
- 5 (i) in paragraph (a), by deleting “beverage” and inserting instead —
“
substance intended for human consumption ”;
- 10 and
- (ii) in paragraph (c), by deleting “beverage or”;
- (q) in the definition of “lodger” by deleting “, other than in section 105(2),”;
- (r) by deleting the definition of “meal” and inserting instead —
- 15 “
“**meal**” means food —
- (a) that is eaten by a person sitting at a table, or a fixed structure used as a table, with cutlery provided for the purpose of eating the food; and
- 20 (b) that is of sufficient substance as to be ordinarily accepted as a meal; and
- (c) that may consist of one or more courses, but does not include any food prescribed by the regulations not to be a meal;
- 25 “;
- (s) in the definition of “member” after “accordance with” by inserting —
- 30 “
regulations referred to in section 49(3)(c)(iv) and ”;

- (t) after the definition of “member” by inserting —
“
 “member”, in relation to the Commission, means a
 member of the Commission and includes the
 chairperson;
”;
- (u) after the definition of “metropolitan area” by
inserting —
“
 “nightclub licence” means a licence granted under
 section 42;
”;
- (v) in the definition of “owner” after “licensed premises” by
inserting —
“ or regulated premises ”;
- (w) in the definition of “permitted hours” by deleting
“section 97” and inserting instead —
“ Part 4 Division 1 ”;
- (x) after the definition of “restaurant licence” by
inserting —
“
 “sample”, in relation to a type of liquor, means the
 prescribed quantity of that type of liquor;
”;
- (y) after the definition of “ship” by inserting —
“
 “small bar licence” means a hotel licence of the kind
 referred to in section 41(1)(aa);
”;
- (z) after the definition of “subsidy” by inserting —
“
 “substance”, in the definition of “liquor”, includes a
 vapour;
”.

s. 6

(2) Section 3(2)(b) is amended after “containers” by inserting —
“ or any device ”.

(3) Section 3(4) is amended as follows:

(a) after paragraph (a) by inserting —

5 “ or ”;

(b) at the end of paragraph (c) by deleting the comma and
inserting —

“

; or

10 (d) occupies a position, in relation to the body
corporate, prescribed by the regulations to be a
position of authority,

”.

(4) After section 3(6) the following subsection is inserted —

15 “

(7) In the definition of “authorised person” in
subsection (1) —

“**employee**” includes —

20 (a) a person engaged under a contract for
services by the licensee, occupier or manager
of licensed or regulated premises; and

25 (b) a person holding a crowd controller’s licence
who is employed by a crowd control agent
engaged under a contract for services by the
licensee or occupier or a manager of licensed
premises to supply the services of crowd
controllers at those premises.

”.

7. Section 3A inserted

After section 3 the following section is inserted —

“

3A. Meaning of “drunk”

- 5 (1) A person is “**drunk**” for the purposes of this Act if —
- (a) the person is on licensed premises or regulated premises; and
 - (b) the person’s speech, balance, co-ordination or behaviour appears to be noticeably impaired;
 - 10 and
 - (c) it is reasonable in the circumstances to believe that that impairment results from the consumption of liquor.
- 15 (2) If an authorised officer or a person on whom a duty is imposed under section 115 decides, in accordance with subsection (1), that a person is drunk at a particular time, then, in the absence of proof to the contrary, that person is to be taken to be drunk at that time.

”.

20 **8. Section 4 amended**

Section 4(8) is repealed.

9. Section 5 amended

- (1) Section 5(1) is amended at the end of paragraph (b) by deleting the full stop and inserting —

25 “

 ; and

- (c) to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.

30

”.

s. 10

(2) Section 5(2) is amended as follows:

(a) after “the following” by inserting —

“ secondary ”;

(b) by deleting paragraphs (a), (b) and (c) and inserting instead —

“

(a) to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State; and

”.

(3) After section 5(2) the following subsection is inserted —

“

(3) If, in carrying out any of its functions under this Act, the licensing authority considers that there is any inconsistency between the primary objects referred to in subsection (1) and the secondary objects referred to in subsection (2), the primary objects take precedence.

”.

10. Section 7 amended

(1) Section 7(1)(a) is amended by deleting “Licensing Court;” and inserting instead —

“ Commission; ”.

(2) Section 7(3) and (4) are repealed and the following subsection is inserted instead —

“

(3) Subject to this Act, the Director —

(a) is not to exercise jurisdiction in respect of a matter before the Commission or within the jurisdiction of the Commission; and

- (b) is not subject to direction by the Commission,
except as a party to proceedings or as may be
specifically provided by this Act.

”.

5 **11. Part 2 Division 2 replaced**

Part 2 Division 2 is repealed and the following Divisions are
inserted instead —

“

Division 2 — The Liquor Commission

10 **8. Commission established**

A commission called the Liquor Commission is
established.

9. The Commission’s jurisdiction

15 (1) The Commission has the jurisdiction conferred on it by
this Act and any other written law.

(2) The Commission constituted in accordance with this
Act may sit and exercise the jurisdiction of the
Commission even though the Commission differently
constituted in accordance with this Act is at the same
20 time sitting and exercising the jurisdiction of the
Commission.

9A. Constitution of Commission

25 (1) Except as otherwise stated in this Act or determined by
the chairperson under subsection (2), the Commission
is to be constituted by one member.

(2) The chairperson may determine that, in respect of any
particular matter or any matter of a particular kind, the
Commission is to be constituted by 3 members.

s. 11

- (3) If the Commission is constituted by 3 members and they are divided on a question they are required to decide, the question is decided according to the opinion of the majority of them.

5

Division 2A — Members of the Commission

9B. Commission members

- (1) The Commission is to have —
- (a) a chairperson; and
 - (b) other members as determined by the Minister.
- (2) The chairperson and other members are to be appointed in writing by the Minister.
- (3) A person may be appointed as a member if, in the opinion of the Minister, the person has knowledge or experience relevant to the functions of the Commission.
- (4) The Minister is to ensure that at least one member is a legal practitioner.

10

15

9C. Tenure of office

- (1) A member is to be appointed to hold office on a full-time basis, part-time basis or sessional basis.
- (2) The term for which a person is appointed as a member is to be fixed in the instrument of appointment and is to be not longer than 5 years.
- (3) A person's eligibility for reappointment or the term for which a person may be reappointed is not affected by an earlier appointment.

20

25

9D. Deputy chairperson

- (1) The Minister is to appoint a member as the deputy chairperson of the Commission.

- 5 (2) The deputy chairperson may act as chairperson —
- (a) in the absence of the chairperson; or
 - (b) if so requested by the chairperson; or
 - (c) during a vacancy in the office of chairperson.
- 5 (3) While acting as chairperson the deputy chairperson has, and may perform, the functions of chairperson.
- 10 (4) No act or omission of a person acting in the place of the chairperson under this section is to be questioned on the ground that the occasion for acting had not arisen or had ceased.

9E. Removal or resignation

- 15 (1) The Minister may terminate the term of office of a member if —
- (a) the member has been convicted of an indictable offence or an offence that, if committed in Western Australia, would be an indictable offence; or
 - 20 (b) the member is an insolvent under administration according to the meaning of that term in the *Commonwealth Corporations Act 2001*; or
 - (c) the Minister is satisfied that the member has become incapable of performing, or has neglected to perform, the duties of office; or
 - 25 (d) the Minister is satisfied that the member is unfit to hold office because of misconduct.
- (2) A member may resign office by giving the Minister a signed letter of resignation.

9F. Leave of absence

- 30 The Minister may grant leave of absence to a member on the terms and conditions that the Minister thinks fit.

9G. Termination of term of office may be deferred

Despite the term of office of a member having expired by the passage of time, the member may continue in office —

- 5 (a) until the member is reappointed, or a successor is appointed; and
- (b) in any event for the purpose of completing any part-heard proceedings,

unless the Minister otherwise directs.

10 **9H. Remuneration and conditions of members**

- (1) The remuneration and allowances and other conditions of office of a member are to be determined by the Minister after consultation with the Minister for Public Sector Management.
- 15 (2) Subsection (1) has effect subject to the *Salaries and Allowances Act 1975* if that Act applies to the member.
- (3) The remuneration and allowances and conditions of office of a member are not to be varied while the member is in office so as to become less favourable to the member.
- 20

Division 2B — Other matters

9I. Decisions of the Commission

- (1) A decision of the Commission is to be given in writing and authenticated in accordance with rules of the Commission.
- 25 (2) The Commission is to give a copy of a decision to each party to the proceedings.

- (3) A failure of the Commission to comply with subsection (1) or (2) does not affect the validity of a decision.

9J. Official seal

- 5 (1) The Commission is to have a seal.
- (2) All courts and persons acting judicially are required to take judicial notice of the official seal of the Commission affixed to a document.
- 10 (3) If the official seal of the Commission is affixed to a document, a court or person acting judicially is to presume that it was properly affixed unless the contrary is proved.

9K. Annual reports

- 15 (1) The chairperson is required, on or before 30 September in each year, to submit to the Minister an annual report on the activities of the Commission during the year ending on the preceding 30 June.
- (2) The annual report is to include details of —
- 20 (a) the number, nature and outcome of matters that have come before the Commission; and
- (b) the number and nature of matters that are outstanding; and
- (c) any trends or special problems that may have emerged; and
- 25 (d) forecasts of the workload of the Commission in the year after the year to which the report relates; and
- (e) any proposals for improving the operation of the Commission.

s. 11

- (3) The Minister is to cause a copy of each report submitted under subsection (1) to be laid before each House of Parliament within 28 days after submission of the report.
- 5 (4) The chairperson, if requested to do so by the Minister, is to report to the Minister about the jurisdiction and functions of the Commission or any matter connected with the exercise of that jurisdiction or the performance of those functions.
- 10 (5) The chairperson may, from time to time, report to the Minister about anything referred to in subsection (4) whether or not the chairperson has been requested to do so.

9L. Laying annual report before House of Parliament not sitting

- 15 (1) If —
- (a) at the commencement of the period within which section 9K(3) requires a copy of a report to be laid before a House of Parliament, the House is not sitting; and
- 20 (b) the Minister is of the opinion that the House will not sit during that period,
- the Minister is to transmit a copy of the report to the Clerk of the House.
- 25 (2) A copy of a report transmitted to the Clerk of a House is to be regarded as having been laid before that House.
- (3) The laying of a copy of a report that, under subsection (2), is to be regarded as having occurred is to be recorded in the Minutes, or Votes and
- 30 Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

9M. Immunity

- 5 (1) A member has, in the performance of his or her functions as member, the same protection and immunity as a judge of the Supreme Court has in the performance of his or her duties as a judge.
- (2) A person representing a party in proceedings in the Commission has the same protection and immunity as a legal practitioner has in representing a party in proceedings in the Supreme Court.
- 10 (3) A party to proceedings in the Commission has the same protection and immunity as a party to proceedings in the Supreme Court.
- 15 (4) A person appearing as a witness before the Commission has the same protection and immunity as a witness has in proceedings in the Supreme Court.

”.

12. Section 13 amended

- (1) Section 13(1) is repealed.
- 20 (2) Section 13(2) is amended by deleting “Court, to the chief executive officer of the relevant department of the Public Service.” and inserting instead —
“ Commission. ”.
- (3) Section 13(3)(b) is amended by deleting “the judge of the Liquor Licensing Court.” and inserting instead —
25 “ a member of the Commission. ”.
- (4) After section 13(3) the following subsection is inserted —
“
30 (3a) Subsection (3) does not limit the functions of the Director as a chief executive officer under the *Public Sector Management Act 1994*.

”.

s. 13

- (5) Section 13(4) is repealed and the following subsection is inserted instead —

“

- (4) The Director is to determine applications and matters under this Act that are not subject to the jurisdiction of the Commission, and may defer consideration or further consideration of any application or matter if it is necessary to obtain more information.

”.

13. Section 16 amended

- (1) Section 16(1)(b) is amended by deleting “notwithstanding subsection (7), is not bound by legal rules relating to evidence or procedure but”.
- (2) Section 16(7) and (8) are repealed and the following subsections are inserted instead —

“

- (7) The *Evidence Act 1906* does not apply to the proceedings of the licensing authority, however constituted, and the licensing authority —
- (a) is not bound by the rules of evidence or any practices or procedures applicable to courts of record, except to the extent that the licensing authority adopts those rules, practices or procedures or the regulations make them apply; and
 - (b) is to act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms; and
 - (c) is to act as speedily and with as little formality and technicality as is practicable.

- (8) The hearing of a proceeding before the Commission is to be in private unless the Commission considers that, in the circumstances of the case, the hearing should be in public.

5

”.

- (3) Section 16(9) is amended as follows:

- (a) by deleting the portion of the subsection before paragraph (b) and inserting instead —

“

10

When the hearing of a proceeding before the Commission is in private, the Commission, of its own motion or on the application of a party to the proceeding, may —

15

- (a) subject to section 17, give directions as to the persons who may be present; and

”;

- (b) in paragraph (b), by deleting “, whether in public or in private.”.

- (4) Section 16(10) is amended as follows:

20

- (a) by deleting paragraph (a) and “or” after it;
(b) by deleting “proceedings should be public and that”;
(c) by deleting “to the public and”;
(d) by deleting “hearing should be held in private or why”.

- (5) Section 16(11) is amended after “and (9)” by inserting —

25

“ and section 30 ”.

- (6) Section 16(14) is amended by deleting “licensee or manager” and inserting instead —

“ person ”.

s. 14

14. Section 18 amended

- (1) Section 18(2)(a) is amended by deleting “the judge;” and inserting instead —
“ a member; ”.
- 5 (2) Section 18(3)(a) is amended by deleting “judge” and inserting instead —
“ chairperson ”.
- (3) Section 18(3)(c) is amended by deleting “Rules of Court” and inserting instead —
10 “ rules of the Commission ”.

15. Section 18A inserted

- (1) After section 18 the following section is inserted —
“
- 18A. Enforcement of decisions**
- 15 (1) Subject to sections 19 and 143, a decision of the licensing authority, however constituted, may be enforced under this section.
- (2) A person seeking to enforce a decision under this section may file in the Supreme Court —
- 20 (a) a copy of the decision that the licensing authority has certified to be a true copy; and
- (b) the person’s affidavit stating to what extent the decision has not been complied with; and
- 25 (c) a certificate from the licensing authority stating that the decision is appropriate for filing in the Supreme Court.
- (3) No charge is to be made for filing a copy of a decision, an affidavit or a certificate under this section.

- (4) On filing, the decision is to be taken to be a decision of the Supreme Court and may be enforced accordingly.

”.

16. Section 19 amended

5 (1) Section 19(1) is repealed.

(2) Section 19(2) is amended as follows:

(a) by deleting “or the Court makes an order for the payment of costs” and inserting instead —

“ by the licensing authority, however constituted, ”;

10 (b) by deleting “or the costs”.

17. Section 20 amended

(1) Section 20(1) is amended as follows:

(a) in paragraph (a)(i), by deleting “the Liquor Licensing Court judge,” and inserting instead —

15 “ a member, ”;

(b) by deleting the passage from and including “Liquor Licensing Court judge may” to the end of the subsection and inserting instead —

“

20 chairperson may report the matter to the District Court, and the District Court has jurisdiction to deal with the matter as if it were a contempt of the District Court.

”.

(2) After section 20(1) the following subsection is inserted —

25 “

(1a) If subsection (1) applies to an act or omission by a person and that act or omission is also an offence under this Act, the person is not liable to be punished twice.

”.

s. 18

(3) Section 20(3)(c) is amended by deleting “the judge,” and inserting instead —

“ a member, ”.

18. Section 21 amended

5 Section 21(3) is repealed.

19. Section 22 amended

Section 22 is amended as follows:

(a) by deleting “of Court” and inserting instead —

“ of the Commission ”;

10 (b) by deleting “Liquor Licensing Court judge,” and inserting instead —

“ Commission, ”.

20. Part 2 Division 6 heading amended

15 The heading to Part 2 Division 6 is amended by deleting “Court,” and inserting instead —

“ **Commission,** ”.

21. Section 24 amended

(1) Section 24 is amended before “The” by inserting the subsection designation “(1)”.

20 (2) At the end of section 24 the following subsection is inserted —

“

(2) When hearing and determining a matter or part of a matter referred under subsection (1), the Commission is to be constituted by 3 members if —

25 (a) the matter or part of a matter relates to an application for the grant or removal of a licence; or

- 5
- (b) the matter or part of a matter relates to the making, variation or revocation of a prohibition order under Part 5A; or
 - (c) the chairperson so determines under section 9A(2).

”.

22. Section 25 amended

- (1) After section 25(2) the following subsections are inserted —
- “
- 10 (2a) An application for a review of a decision made by the Director under section 93 to cancel a licence can be made only on a question of law.
- (2b) When carrying out a review of a decision made by the Director, the Commission is to be constituted by
- 15 3 members if —
- (a) the decision relates to an application for the grant or removal of a licence; or
 - (b) the decision is to make, vary or revoke a prohibition order under Part 5A; or
 - 20 (c) the chairperson so determines under section 9A(2).
- (2c) When conducting a review of a decision made by the Director, the Commission may have regard only to the material that was before the Director when making the
- 25 decision.
- (2d) When conducting a review of a decision involving a question of law or giving directions under subsection (4)(c)(i), the Commission is to be constituted by, or is to include, a member who is a
- 30 legal practitioner.

”.

s. 23

(2) Section 25(5)(a) is amended as follows:

(a) after subparagraph (i) by inserting —

“ or ”;

(b) by deleting subparagraph (ii) and “or” after it and inserting —

“

(ii) the imposition, variation or cancellation of a term or condition of an extended trading permit or an occasional licence; or

(iia) the cancellation of, or suspension of the operation of, an extended trading permit or an occasional licence; or

”.

(3) After section 25(5) the following subsection is inserted —

“

(5a) Despite subsection (5)(a)(i), this section does apply to a decision in respect of or incidental to an application for an extended trading permit of a kind prescribed.

”.

23. Section 26 replaced

Section 26 is repealed and the following section is inserted instead —

“

26. Certain decisions of Director to be given effect unless otherwise directed

Where —

(a) the holder of a licence applies to the Commission for a review of a decision made by the Director in respect of that licence; or

(b) the person subject to a prohibition order under Part 5A applies to the Commission for a review

of a decision made by the Director in respect of
that order,

effect is to be given to the decision made by the
Director unless the Commission, by way of interim
order, otherwise directs.

”.

24. Section 27 amended

Section 27(2) is amended by deleting “the Court of Appeal.”
and inserting instead —

“ a single judge of the Supreme Court. ”.

25. Section 28 amended

- (1) Section 28(1), (2) and (3) are repealed and the following
subsections are inserted instead —

“

- (1) Subject to this section, a person who —
- (a) is a party to proceedings before the
Commission (including the Director
intervening in proceedings before the
Commission under section 69(11)); and
 - (b) is dissatisfied with a decision of the
Commission,

may appeal under this section.

- (2) No appeal lies against a decision of the Commission
constituted by 3 members except to the Supreme Court
on a question of law.

- (2a) No appeal lies against a decision of the Commission
constituted by 3 members if the decision was made
solely or partly on the basis of confidential police
information.

s. 25

- (2b) No appeal lies against a decision of the Commission constituted by one member except to the Commission constituted in accordance with subsection (4a)(a).
- 5 (2c) No appeal lies against a decision of the Commission constituted by one member if the decision was made on a review under section 25 of a decision of the Director.
- (3) No further appeal lies against a decision of the Commission under this section on an appeal against a decision of the Commission constituted by one member.
- 10
- ”.
- (2) Section 28(4) is amended as follows:
- (a) after “this section” by inserting —
- 15 “
- against a decision of the Commission constituted by 3 members
- ”;
- (b) in paragraph (a), by deleting “the Court of Appeal;” and inserting instead —
- 20 “ a single judge of the Supreme Court; ”.
- (3) After section 28(4) the following subsection is inserted —
- “
- (4a) An appeal under this section against a decision of the Commission constituted by one member —
- 25 (a) is to be heard and determined by the Commission constituted by 3 other members, including a member who is a legal practitioner; and
- (b) must be instituted and conducted in accordance with rules of the Commission.
- 30
- ”.

(4) Section 28(5) is repealed and the following subsections are inserted instead —

“

(5) On an appeal under this section to the Supreme Court, the Supreme Court may —

- (a) affirm, vary or quash the decision appealed against; or
- (b) make any decision that the Commission could have made instead of the decision appealed against; or
- (c) send the decision back to the Commission for reconsideration in accordance with any directions or recommendations that the Court considers appropriate,

and, in any case, may make any ancillary or incidental order the Supreme Court considers appropriate.

(6) On an appeal under this section to the Commission constituted in accordance with subsection (4a)(a), the Commission may —

- (a) affirm, vary or quash the decision appealed against; or
- (b) make any decision that the Commission could have made instead of the decision appealed against,

and, in any case, may make any ancillary or incidental order the Commission considers appropriate.

”.

26. Section 29 amended

Section 29 is amended after “Supreme Court” by inserting —

“

or the Commission as constituted under section 28(4a)(a), as the case requires

”.

s. 27

27. Part 2 Division 7 replaced

Part 2 Division 7 is repealed and the following Division is inserted instead —

“

5

Division 7 — Confidential police information

30. Confidential police information

- (1) For the purposes of this section, the Commissioner of Police may classify as confidential any information or document held by the Commissioner of Police.
- 10 (2) Despite any other provision of this Act, any information or document provided by the Commissioner of Police to the licensing authority for the purposes of this Act must not be published or disclosed by the licensing authority to any person
- 15 (except to the Minister, the Parliamentary Commissioner for Administrative Investigations appointed under section 5 of the *Parliamentary Commissioner Act 1971*, the Corruption and Crime Commission established under the *Corruption and Crime Commission Act 2003*, the Parliamentary Inspector of the Corruption and Crime Commission appointed under the *Corruption and Crime Commission Act 2003*, a court or a person to whom the Commissioner of Police authorises its disclosure) if the
- 20 information or document is classified as confidential police information.
- 25 (3) If —
- (a) the licensing authority —
- 30 (i) refuses an application for a licence, for approval of the transfer of a licence, or for approval of a person’s occupation of a position of authority in a body corporate under section 33(5); or

- 5
- (ii) refuses approval of the appointment of a person as a trustee under section 35A;
or
- (iii) refuses or withdraws approval of a person as a manager under section 35B;
or
- 10 (iv) takes disciplinary action against a person under Part 3 Division 13; or
- (v) makes or varies a prohibition order in respect of a person under Part 5A;
- and
- (b) the decision to do so is made solely or partly on the basis of confidential police information provided to the licensing authority,
- 15 the licensing authority is not required to give any reasons for the decision other than that the decision is made in the public interest.
- 20 (4) If the Commissioner of Police lodges an objection to an application under section 73 solely or partly on the basis of confidential police information —
- (a) the Commissioner of Police is not required to serve a copy of the notice under section 73(4a);
and
- 25 (b) the licensing authority must, at least 7 days before the hearing of the application, give the applicant written notice that the Commissioner of Police has objected to the application on the ground that the grant of the application would not be in the public interest.
- 30 (5) If the Director or the Commissioner of Police lodges a complaint under section 95 in respect of a person solely or partly on the basis of confidential police information, the complaint need only state that it would not be in the public interest if the person were to be or

s. 27

continue to be licensed or approved, as the case may be.

(6) In any proceedings under this Act (other than proceedings for an offence), the Director, the Commission or a court —

(a) must, on the application of the Commissioner of Police, take all reasonable steps to maintain the confidentiality of confidential police information, including steps —

(i) to receive evidence and hear argument about confidential police information in private and in the absence of any party to the proceedings other than the Director or the Commissioner of Police or their representatives; and

(ii) to prohibit the publication of evidence about confidential police information;

and

(b) may take evidence consisting of or relating to confidential police information by way of an affidavit of a member of the Police Force of or above the rank of Superintendent.

(7) The Commissioner of Police must not delegate the function of classifying information or documents as confidential police information except to a Deputy Commissioner of Police or an Assistant Commissioner of Police.

”

28. Section 33 amended

- (1) Section 33(6a) is repealed and the following subsections are inserted instead —

“

- 5 (6a) For the purposes of a determination under subsection (6) in respect of a person, the character and reputation of any person suspected by the licensing authority to be associated with that person may be taken to be relevant and amongst the matters to which consideration should be given.
- 10 (6b) Unless the Director otherwise approves, a determination cannot be made under subsection (6) that a person —
- 15 (a) is a fit and proper person to hold a licence; or
- (b) is approved to occupy a position of authority in a body corporate,
- unless the person has successfully completed —
- 20 (c) a course of training or an assessment, approved by the Director, in the management of licensed premises; and
- (d) a course of training or an assessment, approved by the Director, in responsible practices in the sale, supply and service of liquor.
- 25 (6c) The regulations may modify the operation of subsection (6b) for the purposes of applications for or in respect of an occasional licence.

”.

29. Section 35B amended

- 30 (1) Section 35B(3) is amended at the end of paragraph (b) by deleting the full stop and inserting —

“

; or

s. 30

- (c) that the manager has not, within the period specified by the Director after being approved, successfully completed —
- 5 (i) a course of training or an assessment, approved by the Director, in the management of licensed premises; and
- (ii) a course of training or an assessment, approved by the Director, in responsible practices in the sale, supply and service of liquor.
- 10 ”.

(2) Section 35B(4) is amended after “been given” by inserting —
“ , subject to section 30, ”.

(3) After section 35B(6) the following subsection is inserted —

15 “

(7) The regulations may modify the operation of this section for the purposes of the approval of a person as a manager in respect of an occasional licence.

20 ”.

30. Section 37 amended

(1) Section 37(4) is amended after “so to act” by inserting —
“
, and there is then no person approved under section 35B as a manager of the premises or appointed under section 100(3) to manage the premises

25 ”.

(2) After section 37(5) the following subsection is inserted —
“

(6) The condition referred to in subsection (5) continues to apply to a licence during any period that the operation of the licence is suspended.

30 ”.

31. Section 37B inserted

After section 37A the following section is inserted in Part 3
Division 1 —

“

5

37B. Taking of fingerprints and palm prints

10

(1) The licensing authority may by notice in writing (an
“**identification notice**”) require a person to whom
subsection (2) or (3) applies to attend at a specified
place and there have his or her fingerprints and palm
prints taken by a member of the Police Force.

15

(2) This subsection applies to a person who makes an
application to the licensing authority —
(a) for a licence; or
(b) for approval to occupy a position of authority in
a body corporate that is a licensee; or
(c) for approval as a manager under section 35B.

20

(3) This subsection applies to —
(a) a licensee; or
(b) a person who occupies a position of authority in
a body corporate that is a licensee; or
(c) a person approved as a manager under
section 35B,

25

whose fingerprints and palm prints have not been taken
in accordance with an identification notice given for
the purposes of an application referred to in
subsection (2).

30

(4) If a person to whom subsection (2) applies refuses to
comply with an identification notice, the licensing
authority may refuse the relevant application.
(5) If a person to whom subsection (3) applies refuses to
comply with an identification notice, a proper cause for

s. 32

disciplinary action under section 96 is to be taken to have been made out in respect of the person.

(6) The Commissioner of Police is to cause fingerprints and palm prints taken under this section and any copy of them to be destroyed —

(a) in the case of fingerprints or palm prints taken from a person to whom subsection (2) applies —

(i) if the relevant application is not granted; or

(ii) if, after the relevant application is granted, the person ceases to be a licensee, to occupy a position of authority in a body corporate that is a licensee, or to be a manager;

or

(b) in the case of fingerprints or palm prints taken from a person to whom subsection (3) applies — if the person ceases to be a licensee, to occupy a position of authority in a body corporate that is a licensee, or to be a manager.

(7) The licensing authority is to provide the Commissioner of Police with any information that the Commissioner of Police requires to comply with subsection (6).

”.

32. Part 3 Division 2 heading replaced

The heading to Part 3 Division 2 is deleted and the following heading is inserted instead —

“

Division 2 — Licences

”.

33. Section 38 replaced

Section 38 is repealed and the following section is inserted instead —

“

5

38. Licensing authority to be satisfied that certain applications are in the public interest

- (1) Subsection (2) applies to —
- (a) an application for the grant or removal of a licence; or
 - 10 (b) an application for a permit of a kind prescribed; or
 - (c) any other application to which the Director decides it is appropriate for subsection (2) to apply.
- 15 (2) An applicant who makes an application to which this subsection applies must satisfy the licensing authority that granting the application is in the public interest.
- (3) For the purpose of subsection (2), the applicant must provide to the licensing authority —
- 20 (a) any prescribed document or information; and
 - (b) any other document or information reasonably required by the licensing authority for those purposes.
- 25 (4) Without limiting subsection (2), the matters the licensing authority may have regard to in determining whether granting an application is in the public interest include —
- 30 (a) the harm or ill-health that might be caused to people, or any group of people, due to the use of liquor; and

s. 34

- (b) the impact on the amenity of the locality in which the licensed premises, or proposed licensed premises are, or are to be, situated; and
- (c) whether offence, annoyance, disturbance or inconvenience might be caused to people who reside or work in the vicinity of the licensed premises or proposed licensed premises; and
- (d) any other prescribed matter.
- (5) If an application referred to in subsection (1)(a) is not granted because the licensing authority is not satisfied that granting the application is in the public interest, an application for the grant or removal of a licence in respect of the same premises or land cannot be made within 3 years after the licensing authority's decision unless the Director certifies that the proposed application is of a kind sufficiently different from the application that was not granted.
- (6) A decision by the Director under subsection (1)(c) or (5) in relation to an application is not subject to review under section 25.

”.

34. Section 41 amended

- (1) Before section 41(1) the following subsection is inserted —
- “
- (1aa) For the purposes of this Act, where a hotel licence is not subject to any condition referred to in subsection (4) and is subject to —
- (a) a condition prohibiting the sale of packaged liquor; and
- (b) a condition limiting the number of persons who may be on the licensed premises to a maximum of 120,

it is to be referred to as a small bar licence, and an application may be made for a small bar licence if the applicant does not seek another kind of hotel licence.

”.

- 5 (2) Section 41(1)(a) is amended by deleting “the condition referred to in subsection (4)” and inserting instead —

“

any condition referred to in subsection (4) and is not a small bar licence

10

”.

- (3) Section 41(2) is amended as follows:

(a) in paragraph (a), by deleting “is required to” and inserting instead —

“ may ”;

15

(b) by deleting paragraph (b) and inserting the following paragraph instead —

“

(b) may, unless the licence is a small bar licence or a hotel restricted licence, sell packaged liquor on and from the premises to any person.

20

”.

- (4) Section 41(4) is repealed and the following subsection is inserted instead —

“

25

(4) Unless it is a small bar licence or a tavern licence, a hotel licence —

(a) subject to subsection (5) and to any variation under subsection (6), is subject to the condition that the licensee provides guest accommodation for any person; and

30

(b) subject to subsection (5) and without limiting section 64, is subject to any condition imposed

s. 35

by the licensing authority requiring meals to be provided to lodgers.

”.

5 (5) Section 41(5)(a) is deleted and the following is inserted instead —

“

10 (a) the person seeking the guest accommodation or, if applicable, the meal, is a person who may be refused entry to the licensed premises by the licensee under section 115(4); or

”.

35. Section 46 amended

After section 46(1) the following subsection is inserted —

“

15 (1a) The licensing authority is not to grant a special facility licence only because —

- 20 (a) the grant or variation of a licence of another class; or
- (b) the imposition, variation or cancellation of a condition on a licence of another class; or
- (c) the issue of an extended trading permit in respect of a licence of another class,

25 is not possible because an approval, consent or exemption required under another written law cannot be obtained.

”.

36. Sections 46A and 46B inserted

After section 46 the following sections are inserted —

“

46A. Variation of special facility licences

- 5 (1) The licensing authority is not to vary a special facility licence, or impose, vary or cancel a condition on a special facility licence, if —
- (a) granting or varying a licence of another class; or
- 10 (b) imposing, varying or cancelling a condition on a licence of another class; or
- (c) issuing an extended trading permit in respect of a licence of another class,
- would achieve the purposes for which —
- 15 (d) the variation of the special facility licence is sought; or
- (e) the imposition, variation or cancellation of a condition on the special facility licence is sought.
- 20 (2) Subsection (1) applies —
- (a) whether or not an application has been made for a grant, variation, imposition, cancellation or issue referred to in paragraph (a), (b) or (c) of that subsection; and
- 25 (b) even if such an application has been made and has been refused.

46B. Alternatives to, and replacements of, special facility licences

- 30 (1) If the licensing authority does not grant or vary a special facility licence because section 46(2) or 46A(1) applies, the licensing authority may, with the

s. 37

agreement of the applicant, treat the application for, or for the variation of, the special facility licence as an application for —

- 5
- (a) the grant or variation of a licence of another class; or
 - (b) the imposition, variation or cancellation of a condition on a licence of another class; or
 - (c) the issue of an extended trading permit in respect of a licence of another class.
- 10 (2) The licensing authority may of its own motion or on the application of the licensee —
- (a) cancel a special facility licence; and
 - (b) in respect of the premises to which the special facility licence related —
- 15
- (i) grant to the person who was the licensee a licence of another class; and
 - (ii) if considered appropriate by the licensing authority, issue to that person an extended trading permit.
- 20 (3) If the licensing authority of its own motion proposes to cancel a special facility licence and grant a licence of another class under subsection (2), the licensing authority —
- (a) is to give the licensee a notice that sets out the proposal and the reasons for it; and
 - (b) is to give the licensee a reasonable opportunity to make submissions or to be heard in relation to the proposal.

”.

30 **37. Part 3 Division 3 heading deleted**

The heading to Part 3 Division 3 is deleted.

38. Section 48 amended

- (1) Section 48(1)(b) is deleted and the following paragraph is inserted instead —

“

- 5 (b) which is subject to conditions prohibiting the sale of liquor for consumption off the premises, or the removal of liquor from the premises, unless subsection (9) applies,

”.

- 10 (2) Section 48(2)(c) is amended by deleting “subsection (3) and subsection (4)(c),” and inserting instead —

“ subsections (3) and (4)(c), ”.

- (3) Section 48(5) is repealed and the following subsection is inserted instead —

15 “

- (5) Subject to subsection (6), a person who is on any day visiting a club (the “**host club**”) as a member or an official of another club —

- 20 (a) that is to engage in a pre-arranged event with the host club conducted for the purposes of one of the host club’s principal objects; or
- (b) that is to hold a pre-arranged function at the host club involving the use of the host club’s sporting facilities,

25 may, for the purposes of this Act, be taken to be a person who is accorded temporary membership of the host club on that day in accordance with rules approved by the Director.

”.

- 30 (4) Section 48(8) is repealed.

s. 39

39. Section 49 amended

(1) Section 49(3) is amended as follows:

5 (a) in paragraph (c)(iii), by deleting “classes of persons entitled to such membership are not unduly large, having regard to the nature of the club;” and inserting instead —

“
10 number of persons who may be admitted to such membership does not exceed any limit that the licensing authority, having regard to the nature of the club, may impose;

”;

(b) after paragraph (c)(iii), by inserting —

15 “
and
(iv) without limiting subparagraph (iii), that
20 any provision for membership of the club by reason of reciprocal arrangements with another club is made in accordance with the regulations;

”;

(c) in paragraph (d), by deleting “or quarterly” and inserting instead —

25 “ , quarterly or monthly ”;

(d) after each of paragraphs (a), (b) and (c) and after each of paragraphs (c)(i) and (e)(i), by inserting —

“ and ”.

40. Section 50 amended

(1) Section 50(1a) is amended as follows:

(a) in paragraph (a) by deleting “at a dining table;” and inserting instead —

5 “ on the licensed premises by a person while sitting at a table, or at a fixed structure used as a table; ”;

(b) by deleting paragraph (b) and inserting instead —

“

10 (b) the sale and consumption of the liquor are in accordance with any conditions —

(i) imposed on the permit by the licensing authority; or

(ii) prescribed for the purposes of this paragraph.

15

”.

(2) Section 50(3) is amended as follows:

(a) in paragraph (b) before “liquor”, by inserting —

“ subject to subsection (1a), ”;

20 (b) at the end of paragraph (b), by deleting the full stop and inserting —

“

; and

25 (c) the licensed premises must contain kitchen facilities that are suitable for the preparation of the meals to be supplied by the licensee.

”.

41. Section 55 amended

(1) Section 55(1)(a)(iii) is amended by deleting “in an aggregate quantity per person of not less than 9 litres”.

s. 42

(2) After section 55(1) the following subsection is inserted —

“

(1a) The licensee of a producer’s licence is authorised to supply liquor, by way of a free sample, at the licensed premises of another licensee (the “**other licensee**”) for consumption on the other licensee’s licensed premises by —

- (a) the other licensee; or
- (b) a manager of the other licensee’s licensed premises; or
- (c) an employee or agent of the other licensee.

”.

42. Section 58 amended

(1) After section 58(2) the following subsection is inserted —

“

(2a) The licensee of a wholesaler’s licence is authorised to supply liquor, by way of a free sample, at the licensed premises of another licensee (the “**other licensee**”) for consumption on the other licensee’s licensed premises by —

- (a) the other licensee; or
- (b) a manager of the other licensee’s licensed premises; or
- (c) an employee or agent of the other licensee.

”.

(2) Section 58(3)(b) is amended after “consist,” by inserting —

“ primarily and predominantly and ”.

43. Section 60 amended

(1) Section 60(1) is amended after “as are specified” by inserting —

“ at the discretion of the Director ”.

(2) After section 60(3) the following subsection is inserted —

“

(3a) In addition to the conditions imposed by subsection (3),
an extended trading permit issued for the purposes of
subsection (4)(ca) or (g) is, unless the Director
otherwise determines, subject to any condition
prescribed for the purposes of this subsection.

”.

(3) Section 60(4) is amended as follows:

(a) by deleting “include — ” and inserting instead —
“ are — ”;

(b) by deleting paragraph (cb) and inserting instead —

“

(cb) authorising the licensee of a club licence to sell
liquor, despite section 48(2), to persons other
than members, or guests of members, of the
club —

(i) on a specified special occasion or
specified special occasions; or

(ii) on a day on which a specified function
is, or on days on which specified
functions are, held on, or on a specified
part of, the licensed premises;

or

”;

(c) in paragraph (e) after “such hours”, by inserting —
“ or in such circumstances ”;

(d) in paragraph (e)(i), by deleting “2 persons” and inserting
instead —

“ 5 persons ”;

s. 43

- (e) in paragraph (g) after “may be specified,” by inserting —
“
5 or in relation to such occasion as may be specified,
”;
- (f) in paragraph (g) after “period”, by inserting —
“ , not exceeding 5 years, ”;
- (g) at the end of paragraph (h), by deleting the full stop and inserting —
10 “
; or
(i) any other prescribed purpose.
”;
- (h) after each of paragraphs (a) to (ca) and (d) to (f) by inserting —
15 “ or ”.
- (4) Section 60(5) is repealed.
- (5) Section 60(7) is amended by deleting “Where” and inserting instead —
20 “ Without limiting subsection (8a), where ”.
- (6) After section 60(8) the following subsection is inserted —
“
25 (8a) The licensing authority may cancel an extended trading permit at any time if satisfied that the permit is no longer appropriate.
”.

44. Section 61A inserted

After section 61 the following section is inserted in Part 3
Division 4 —

“

5 **61A. Limitations relating to permits for extended hours**

The regulations may limit the permitted hours that may
be authorised by an extended trading permit issued for
the purpose referred to in section 60(4)(g).

”

10 **45. Section 63 amended**

Section 63 is amended as follows:

(a) in paragraph (a), by deleting “section 97” and inserting
instead —

“ Part 4 Division 1 ”;

15 (b) by deleting paragraph (cb).

46. Section 64 amended

(1) After section 64(1) the following subsections are inserted —

“

20 (1a) The licensing authority may impose, vary or cancel a
condition under subsection (1) —

(a) of its own motion; or

(b) on the application of the licensee; or

(c) at the written request of the parties to a liquor
accord.

25 (1b) In subsection (1a) —

“**liquor accord**” means a written agreement or other
arrangement —

(a) that is entered into by 2 or more licensees in
a local community, and persons who

s. 46

- represent the licensing authority,
departments of the Public Service, State
agencies or local government, and other
persons; and
- 5 (b) that has the purposes of minimising the harm
caused in the local community by the
excessive consumption of liquor and
promoting responsible practices in the sale,
supply and service of liquor in the local
10 community; and
- (c) that is approved by the Director. ”.
- (2) After section 64(2) the following subsections are inserted —
“
- 15 (2a) If the licensing authority proposes to impose, vary or
cancel a condition under this section, the licensing
authority may, by notice in writing, require the licensee
to show cause to the licensing authority why the
condition should not be imposed, varied or cancelled.
- 20 (2b) Subsection (2a) does not apply in relation to a
condition proposed to be imposed, varied or cancelled
in accordance with an application under
subsection (1a)(b). ”.
- 25 (3) Section 64(3) is amended as follows:
(a) after paragraph (e) by inserting —
“
- 30 (ea) without limiting paragraph (e)(iii), limit the
times when packaged liquor may be sold on
and from the licensed premises to those times
when liquor may be purchased for consumption
on those premises; or ”;

(b) after paragraph (f) by inserting —

“

(fa) prohibit entry to the licensed premises after a specified time; or

5

”;

(c) after each of paragraphs (a) to (e), (f), (g) to (gb) and (j) by inserting —

“ or ”.

(4) Section 64(5) is repealed.

10 (5) After section 64(7) the following subsection is inserted —

“

(8) The imposition, variation or cancellation of a condition, or the imposition of a monetary penalty, under this section is not to be regarded as the taking of disciplinary action for the purposes of section 96.

15

”.

47. Section 65B inserted

After section 65A the following section is inserted in Part 3 Division 6 —

20

“

65B. Prescribed conditions relating to the responsible promotion of liquor

(1) The regulations may prescribe conditions that —

25

(a) prohibit promotional activity in which liquor is offered free or at reduced prices; or

(b) limit the circumstances in which promotional activity referred to in paragraph (a) may take place,

30

and may provide that any licence, or any licence of a prescribed class, is subject to those conditions.

s. 48

(2) Regulations made for the purposes of subsection (1) do not limit the conditions that the licensing authority may impose under section 64(3)(ga) in relation to a particular licensee or particular licensed premises.

5

”.

48. Section 67 amended

Section 67(1), (2), (3) and (4) are repealed and the following subsection is inserted instead —

“

10

(1) An application in respect of any matter must, if the Director so requires, be advertised in the manner specified by the Director.

”.

49. Section 68 amended

15

After section 68(2) the following subsection is inserted —

“

20

(2a) An application for the grant of a licence may be made only by, or on behalf of, the person or persons wishing to carry on business under the licence after it is granted.

”.

50. Section 69 amended

(1) Section 69(2)(b) is amended by deleting “the requirements of this Act and the licensing authority.” and inserting instead —

25

“ any requirement under section 67(1). ”.

(2) Section 69(3) is amended by deleting “section 67(4)(a)” and inserting instead —

“ section 67(1) ”.

- (3) Section 69(4)(b) is amended by deleting “Category A” and inserting instead —

“
hotel licence, nightclub licence, casino liquor
licence, special facility licence or liquor store
”.

- (4) Section 69(6)(c) is amended as follows:

- (a) after subparagraph (i) by inserting —

“ and ”;

- (b) in subparagraph (ii) after “result” by inserting —

“
, or as to any other matter relevant to the
public interest
”.

- (5) Section 69(8a) is repealed and the following subsections are inserted instead —

“

- (8a) The Executive Director —

(a) is required, on the licensing authority requesting a report of that kind in relation to an application, to cause a report to be provided to the licensing authority as to any matter arising from the application that relates to the relevant matters; and

(b) may intervene in proceedings before the licensing authority for the purpose of introducing evidence or making representations in relation to the relevant matters.

- (8b) In subsection (8a) —

“**Executive Director**” means the Executive Director, Public Health as defined in the *Health Act 1911* section 3(1) and, for the purposes of

s. 51

subsection (8a)(b), includes a person authorised in writing by the Executive Director;

“**relevant matters**” means the harm or ill-health caused to people, or any group of people, due to the use of liquor, and the minimisation of that harm or ill-health.

”.

(6) Section 69(11) is amended by deleting “In proceedings before the Court, the Director may intervene” and inserting instead —

“

The Director may intervene in any proceedings before the Commission, including proceedings relating to a decision or determination made by the Director,

”.

51. Section 71 repealed

Section 71 is repealed.

52. Section 72 amended

(1) Section 72(1) is repealed and the following subsection is inserted instead —

“

(1) Subject to subsection (2), the licensing authority must not grant an application for approval of a proposed alteration to, or redefinition of, licensed premises unless the applicant satisfies the licensing authority that —

- (a) the owner; and
- (b) where the licensed premises are occupied under a lease, the lessor,

have consented to the application.

”.

(2) Section 72(6) is repealed.

53. Section 73 amended

- (1) Section 73(2) is repealed and the following subsection is inserted instead —

“

- 5 (2) Where an application is required to be advertised, a right to object to the application is conferred on any person on any ground permitted by section 74.

”.

- (2) Section 73(3) is repealed.

- 10 (3) Section 73(4a) is amended after “approves” by inserting —
“ or section 30(4) applies ”.

54. Section 74 amended

- (1) Section 74(1) is amended as follows:

- 15 (a) in paragraph (a), by deleting “be contrary to” and inserting instead —
“ not be in ”;
- (b) by deleting paragraph (d);
- (c) by deleting paragraph (h) and “or” after it;
- (d) after paragraphs (a), (b) and (g) by inserting —
- 20 “ or ”.

- (2) Section 74(3) is amended by deleting “be contrary to” and inserting instead —

“ not be in ”.

55. Section 75 amended

- 25 (1) Section 75(1) is amended as follows:

- (a) by deleting “, unless the Director otherwise approves,”;

s. 56

(b) by deleting “effect.” and inserting instead —

“

effect unless —

(a) the Director otherwise approves; or

5 (b) in relation to an application for the grant of an occasional licence of a kind prescribed, some other requirement for lodgement of the application is prescribed.

”.

10 (2) Section 75(2) is amended as follows:

(a) by deleting paragraph (a);

(b) after paragraph (b) by inserting —

“ and ”.

56. Section 76 amended

15 (1) Section 76(1)(b) is amended by deleting “a permit of that kind” and inserting instead —

“ the issue of a permit of a kind prescribed, ”.

(2) Section 76(2) is amended as follows:

(a) by deleting paragraph (a);

20 (b) after paragraph (b), by inserting —

“ and ”;

(c) by deleting paragraph (d) and inserting instead —

“

25 (d) unless the permit is of a kind prescribed for the purposes of section 25(5a), is not subject to appeal.

”.

57. Section 77 amended

- (1) Section 77(3)(a) is amended as follows:
- (a) by deleting subparagraph (i);
 - (b) in subparagraph (ii), by deleting “substantial”.

5 (2) Section 77(6) is repealed.

58. Section 80 amended

Section 80(2)(c) is amended by deleting “that the application has not been advertised, and”.

59. Section 81 amended

10 (1) Section 81(4) is repealed.

(2) After section 81(6) the following subsection is inserted —

“

(7) An application for the removal of a licence cannot be made if —

- 15 (a) the licence has been conditionally granted under section 62; and
- (b) the grant of the licence has not been confirmed under section 62(9).

”.

20 **60. Section 84 amended**

Section 84(3)(a) is amended by deleting “last day on which objections should be lodged;” and inserting instead —

“ day on which the application is to be determined; ”.

61. Section 86 amended

25 Section 86(8) is amended by deleting “advertisement or”.

62. Section 87 amended

Section 87(1) is amended as follows:

- (a) in paragraph (a), by deleting “other than premises to which a liquor store licence applies”;
- 5 (b) in paragraph (b), by deleting “, other than a liquor store licence,”;
- (c) by deleting “without advertisement unless the Director otherwise requires but”.

63. Section 90 repealed

10 Section 90 is repealed.

64. Section 91 amended

(1) Section 91 is amended as follows:

- (a) before “The Director” by inserting the subsection designation “(1)”;
- 15 (b) by deleting “by reason of the requirements of public order or of safety.” and inserting instead —

“

if the Director considers it is in the public interest to do so.

20

”.

(2) At the end of section 91 the following subsection is inserted —

“

- (2) Without limiting subsection (1), the Director may, after giving the licensee a reasonable opportunity to make submissions or to be heard, suspend the operation of a licence if —

25

- (a) the licence is other than an occasional licence; and

- 5
- 10
- (b) it appears to the Director that —
 - (i) contrary to the condition referred to in section 37(5), the licensee has ceased to occupy the licensed premises to the exclusion of others; or
 - (ii) in the case of a club restricted licence — contrary to the condition referred to in section 48(4)(a)(i) the licensee has ceased to occupy the licensed premises to the exclusion of others during the times when the sale of liquor is authorised by the licence.
- ”.

65. Section 93 amended

- 15
- 20
- 25
- (1) Section 93(1) is amended as follows:
 - (a) in paragraph (a), by deleting “and that there are no longer any circumstances that justify the licence continuing”;
 - (b) in paragraph (b), by deleting “28 days have” and inserting instead —
 - “ the relevant period has ”.
 - (2) After section 93(1) the following subsection is inserted —
 - “
 - (1a) In subsection (1)(b) —
 - “**relevant period**” means 28 days or any greater period prescribed.
 - ”.
 - (3) Section 93(3) is repealed.

s. 66

66. Section 95 amended

After section 95(7) the following subsection is inserted —

“

- 5 (7a) When hearing a complaint under this section, the Commission is to be constituted by 3 members, including a member who is a legal practitioner.

”.

67. Section 97 amended

- 10 (1) Section 97(1)(a) is amended by deleting “section;” and inserting instead —

“ Division; ”.

- (2) Section 97(2), (3), (4), (5) and (6) are repealed.

68. Sections 98 to 98H inserted

15 After section 97 the following sections are inserted in Part 4 Division 1 —

“

98. Permitted hours under a hotel licence

- 20 (1) The permitted hours under a hotel licence are —
- (a) on a day other than a Sunday — from 6 a.m. to midnight;
 - (b) on a Sunday — from 10 a.m. to 10 p.m.;
 - (c) on a Sunday that is New Year’s Eve — from 10 p.m. to 12 midnight;
 - 25 (d) on New Year’s Day — from immediately after 12 midnight on New Year’s Eve to 2 a.m.;
 - (e) on Good Friday or Christmas Day — from 12 noon to 10 p.m., but only for liquor sold ancillary to a meal supplied by the licensee;
 - 30 (f) on ANZAC Day — from 12 noon to 12 midnight.

- (2) The permitted hours under a hotel licence for the sale of liquor to a lodger are unrestricted.

98A. Permitted hours under a nightclub licence

- (1) The permitted hours under a nightclub licence are —
- 5 (a) on a Monday, Tuesday, Wednesday or
 Thursday — from 6 p.m. to 12 midnight and
 then continuing to 5 a.m. on the next day;
- 10 (b) on a Friday or Saturday — from 6 p.m. to
 midnight and then continuing to 6 a.m. on the
 next day;
- (c) on a Sunday that is not New Year's Eve —
 from 8 p.m. to midnight;
- 15 (d) on a Sunday that is New Year's Eve — from
 8 p.m. to midnight and then continuing to
 6 a.m. on the next day;
- (e) on Good Friday — from immediately after
 12 midnight on the previous day to 3 a.m., and
 there are no further permitted hours before
 6 p.m. on the following day;
- 20 (f) on Christmas Day — subject to subsection (2),
 from immediately after 12 midnight on the
 previous day to 3 a.m., and there are no further
 permitted hours —
- (i) before 6 p.m. on the following day; or
- 25 (ii) if the following day is a Sunday —
 before 8 p.m. on the following day;
- (g) on ANZAC Day — from immediately after
 12 midnight on the previous day to 3 a.m. and
 then in accordance with paragraph (a), (b) or
- 30 (c), as the case requires.

- (2) If Christmas Day falls on a Monday —
- (a) there are no permitted hours under a nightclub licence on that day; and
 - (b) there are no further permitted hours before 6 p.m. on the following day.

5

98B. Permitted hours under a casino liquor licence

- (1) The permitted hours under a casino liquor licence are as permitted by the Gaming and Wagering Commission by notice in writing given to the licensee.
- (2) The Gaming and Wagering Commission is to lodge a copy of a notice under subsection (1) with the Director.

10

98C. Permitted hours under a special facility licence

The permitted hours under a special facility licence are as specified in the particular licence.

15

98D. Permitted hours under a liquor store licence

- (1) The permitted hours under a liquor store licence are —
 - (a) on a day other than a Sunday, Good Friday, Christmas Day or ANZAC Day — from 8 a.m. to 10 p.m.;
 - (b) on a Sunday that is not ANZAC Day — subject to subsection (2), from 10 a.m. to 10 p.m.;
 - (c) on ANZAC Day — from 12 noon to 10 p.m..
- (2) Subsection (1)(b) applies only to liquor stores in the metropolitan area.
- (3) There are no permitted hours under a liquor store licence on Good Friday or Christmas Day.

20

25

98E. Permitted hours under a club licence and club restricted licence

- 5 (1) The permitted hours under a club licence (other than a club restricted licence), excluding Good Friday, Christmas Day or ANZAC Day, are —
- 10 (a) on a day other than a Sunday —
- (i) from 6 a.m. to 12 midnight; and
- (ii) then continuing, if the following day is other than a Sunday or New Year's Day, to 12.30 a.m., but only for liquor sold ancillary to a meal supplied by or on behalf of the licensee;
- 15 (b) on a Sunday that is not New Year's Eve —
- (i) from immediately after 12 midnight on the previous day to 1 a.m.; and
- (ii) from 10 a.m. to 10 p.m.;
- 20 (c) on a Sunday that is New Year's Eve —
- (i) from immediately after 12 midnight on the previous day to 1 a.m.; and
- (ii) from 10 a.m. to 12 midnight;
- (d) on New Year's Day — from immediately after 12 midnight on the previous day to 2 a.m..
- 25 (2) The permitted hours under a club licence (other than a club restricted licence) on Good Friday, Christmas Day and ANZAC Day are —
- 30 (a) on Good Friday — from immediately after 12 midnight on the previous day to 12.30 a.m., but only for liquor sold ancillary to a meal supplied by or on behalf of the licensee;
- (b) on Christmas Day —
- (i) from immediately after 12 midnight on the previous day to 12.30 a.m.; and
- (ii) from 12 noon to 10 p.m.,

but only for liquor sold ancillary to a meal
supplied by or on behalf of the licensee;

(c) on ANZAC Day —

- 5 (i) that is a Sunday — from immediately
after 12 midnight on the previous day to
1 a.m. and from 12 noon to 12 midnight;
or
(ii) that is not a Sunday — from 12 noon to
12 midnight.

10 (3) The permitted hours under a club licence (other than a
club restricted licence) for the sale of liquor to a lodger
who is a member of the club are unrestricted.

(4) The permitted hours under a club restricted licence are
as specified in the particular licence.

15 **98F. Permitted hours under a restaurant licence**

The permitted hours under a restaurant licence are at
any time except from 3 a.m. to 12 noon on ANZAC
Day.

98G. Permitted hours under a producer's licence

20 The permitted hours under a producer's licence are —

- (a) on a day other than Good Friday, Christmas
Day or ANZAC Day — at any time;
(b) on Good Friday or Christmas Day — from
25 12 noon to 10 p.m., but only for liquor sold
ancillary to a meal supplied by the licensee;
(c) on ANZAC Day — from 12 noon to
12 midnight.

98H. Permitted hours under a wholesaler's licence

- (1) The permitted hours under a wholesaler's licence are —
- (a) on a day other than Good Friday, Christmas Day or ANZAC Day — at any time;
 - (b) on ANZAC Day — from 12 noon to 12 midnight.
- (2) There are no permitted hours under a wholesaler's licence on Good Friday and Christmas Day.

5
10

”.

69. Section 100 amended

- (1) After section 100(2) the following subsections are inserted —

“

- (2a) Without limiting subsection (2), the licensee shall ensure, unless the Director otherwise approves, that a person approved as a manager under section 35B or appointed under subsection (3) is present at the licensed premises at any time when business is conducted at those premises.

15
20

Penalty: \$10 000.

- (2b) Subsection (2a) does not apply in relation to the conduct of business at licensed premises at a particular time if —
- (a) there is only one licensee and that licensee is a natural person; and
 - (b) the licensee is present at those premises at that time.

25

”.

- (2) Section 100(3) is amended after “the manager” by inserting —

30

“ , or if there is more than one manager, each manager, ”.

s. 70

(3) Section 100(4)(b) is amended before “the licensee of the premises” by inserting —

“

if there is then no person approved as a manager of the premises under that section,

”.

70. Section 102 amended

(1) Section 102(1)(b) is amended before “being” by inserting —

“ subject to subsection (3), ”.

(2) After section 102(2) the following subsections are inserted —

“

(3) Subsection (1)(b) does not apply to a person who is a shareholder in a proprietary company that holds a licence if —

(a) at the time the person’s shareholding in the proprietary company changes, the occupation by the person of a position of authority in the proprietary company has been approved by the licensing authority under section 33(5); and

(b) the person gives the licensing authority written notice of the change in the person’s shareholding within 14 days after the change occurs.

(4) If a person is convicted of an offence under subsection (1) in relation to a body corporate (including a proprietary company) that holds a licence, the body corporate is to be taken to have also committed an offence and is liable to the penalty provided for in that subsection.

”.

71. Part 4 Division 3A inserted

After section 103 the following Division is inserted —

“

**Division 3A — Responsible practices in selling,
supplying and serving liquor**

103A. Responsible practices in selling, supplying and serving liquor

(1) The regulations may —

- (a) require persons, or persons of a specified class, who are —
- (i) employed or engaged in the sale, supply or service of liquor on or from licensed premises; or
 - (ii) employed or engaged in the performance of other prescribed functions at licensed premises, to complete successfully within a specified period a course of training or an assessment, approved by the Director, in responsible practices in the sale, supply and service of liquor; and
- (b) require licensees to maintain a register that records the prescribed details in respect of that course of training or assessment and the persons employed or engaged as described in paragraph (a) who have successfully completed it; and
- (c) provide for transitional arrangements for successfully completing that course of training or assessment that apply to persons who, immediately before the commencement of the *Liquor and Gaming Legislation Amendment*

s. 72

Act 2006 section 71, were employed or engaged as described in paragraph (a).

- (2) Without limiting subsection (1), regulations made for the purposes of that subsection —
- 5 (a) may operate by reference to persons employed or engaged for the purposes of a specified class of licence; and
- (b) may authorise the Director to approve exemptions from those regulations.
- 10 (3) Regulations made for the purposes of subsection (1)(a) do not apply to a person who is a licensee or an approved manager.

”.

72. Section 104 amended

15 After section 104(3) the following subsection is inserted —

“

- (3a) An agreement or arrangement approved under subsection (3) is of no effect to the extent that it purports —
- 20 (a) to authorise a person other than the licensee to conduct the business carried on under the licence; or
- (b) to exclude, modify or restrict any requirement, responsibility or duty imposed on the licensee
- 25 by or under this Act.

”.

73. Section 105 amended

Section 105(1), (2), (4), (5), (6), (7) and (8) are repealed.

74. Section 106 amended

Section 106(1)(b) is amended by deleting “than 6” and inserting instead —

“ than the number approved by the Director of ”.

5 **75. Section 108 replaced**

Section 108 is repealed and the following section is inserted instead —

“

10 **108. Certain licensees to exhibit charges for meals and liquor**

At a time when —

(a) a licensee is authorised to sell liquor only with or ancillary to a meal; or

15 (b) a licensee of a restaurant licence is authorised to sell liquor whether or not ancillary to a meal,

the licensee is to cause to be exhibited in the place where that liquor is sold, for the use of and clearly visible to customers, a price list showing the charges made for meals and for the various types of liquor supplied ancillary to meals or otherwise.

Penalty: \$2 000.

”.

76. Section 109 amended

25 Section 109(1) is amended in the penalty provision by deleting “\$10 000.” and inserting instead —

“ \$20 000. ”.

s. 77

77. Section 110 amended

After section 110(6) the following subsection is inserted —

“

(6a) Where —

5

(a) a licence authorises the sale of liquor for consumption on the licensed premises ancillary to a meal provided by the licensee; and

(b) liquor is sold for that purpose,

10

then, despite any other provision of this Act, it is lawful for a person subsequently to take any unconsumed portion of the liquor from the licensed premises.

”.

78. Section 113A inserted

15

After section 113 the following section is inserted —

“

113A. Licensees to include certain details on website

Where —

20

(a) an internet website is maintained by or on behalf of a licensee for the purpose of advertising, promoting or otherwise facilitating the business carried on under the licence; and

(b) the licence is of a prescribed class,

25

the licensee is to include on the website any information prescribed in respect of a licence of that class.

Penalty: \$5 000.

”.

79. Section 114 amended

Section 114(1) is amended by deleting “liquor on” and inserting instead —

“ liquor (including the sale of packaged liquor) on or from ”.

5 **80. Section 115 amended**

(1) Section 115(1) is amended as follows:

(a) in paragraph (a), by deleting “place;” and inserting instead —

“ place on the licensed premises; or ”;

10 (b) in paragraph (b), by deleting “, other than for so long as is necessary to obtain reasonable refreshment;” and inserting instead —

“ on the licensed premises; ”;

(c) in paragraph (c) after “1987”, by inserting —

15

“

or any other activity which contravenes a provision of another written law

”;

20 (d) by deleting “on the licensed premises that” and inserting instead —

“ that ”.

(2) Section 115(2) is amended as follows:

(a) after “licensed premises” by inserting —

“ or regulated premises ”;

25 (b) by deleting “drunken” in each place where it occurs and inserting instead —

“ drunk ”;

(c) after “Penalty” by inserting —

“ for an offence on licensed premises ”;

s. 80

(d) after the penalty provision by inserting —

“

Penalty for an offence on regulated premises: In the
case of the owner of the regulated premises
\$10 000, in any other case \$2 000.

”.

(3) Section 115(3), (3a) and (4) are repealed and the following
subsections are inserted instead —

“

(3) It is a defence to a charge of an offence against
subsection (2)(a) of selling or supplying liquor to a
drunk person to show that the person charged was
instructed by the licensee, an approved manager or
another person in a position of authority in relation to
the person charged to sell or supply the liquor to the
drunk person.

(4) If subsection (4a) applies to a person —

- (a) an authorised person may refuse the person
entry to the licensed premises or a part of the
premises; or
- (b) an authorised person may require the person to
leave the licensed premises or a part of the
premises; or
- (c) if the requirement under paragraph (b) is not
complied with — an authorised person, or any
other person on the request of an authorised
person, may remove the person from the
licensed premises or a part of the premises
using such force as may be reasonably
necessary; or
- (d) an authorised person may refuse to sell liquor
to the person.

- (4a) This subsection applies to a person who —
- (a) is or appears to be drunk; or
 - (b) is behaving in an offensive manner; or
 - (c) is not dressed in conformity with the licensee's requirements for a standard of dress, being requirements —
 - (i) that were at the relevant time reasonable in the circumstances; and
 - (ii) notice of which had been conspicuously displayed at each entrance to any part of the premises where the requirements were to be complied with;
- or
- (d) is a person who the authorised person has reasonable cause to believe —
 - (i) cannot or will not pay; or
 - (ii) is or is known to be quarrelsome or disorderly; or
 - (iii) is seeking to obtain liquor by begging;
- or
- (e) is or is known to be, or is an associate of, a reputed thief, prostitute, supplier of unlawful drugs, or person convicted of an offence involving unlawful drugs or violence that is punishable by a term of imprisonment exceeding 3 years; or
 - (f) is or appears to be a person whose presence, or to whom the provision of service, on the licensed premises will occasion the licensee to commit an offence under this Act; or
 - (g) seeks to enter or enters or remains on the licensed premises at a time when they are

s. 80

closed or are required under this Act to be closed; or

- (h) requests service on a part of the premises —
 - (i) where the licensee is not authorised to provide the service requested; or
 - (ii) set aside for the purposes of a private function.

”.

(4) Section 115(5)(b) is deleted and the following is inserted instead —

“

- (b) without lawful excuse, the burden of proof of which lies on that person, enters licensed premises at a time when they are closed or are required under this Act to be closed; or
- (c) having been required under subsection (4) to leave the licensed premises or a part of the premises, does not do so,

”.

(5) Section 115(6) is repealed and the following subsection is inserted instead —

“

- (6) A person who —
 - (a) under this section —
 - (i) has been refused entry to; or
 - (ii) has been required to leave and has left, or been removed from, licensed premises; and
 - (b) remains —
 - (i) on any footpath; or

(ii) in any area subject to the control or
management of the licensee,
that is adjacent to the licensed premises,

commits an offence.

Penalty: \$2 000.

”.

(6) Section 115(7) is amended after “of being” by inserting —
“ refused entry to, ”.

(7) Section 115(9) is repealed and the following subsection is
inserted instead —

“

(9) This section does not limit any other right to refuse a
person entry to premises or to remove a person from
premises.

”.

81. Section 115A inserted

After section 115 the following section is inserted —

“

**115A. Free drinking water to be provided at certain
licensed premises**

(1) Subsection (2) applies to licensed premises at which
liquor is authorised to be sold under the licence for
consumption on the premises.

(2) The licensee of any licensed premises to which this
subsection applies must ensure that water suitable for
drinking is provided, free of charge, at all times when
liquor is sold for consumption on the premises.

Penalty: In the case of a licensee, \$10 000, in the case
of a manager, \$4 000.

”.

s. 82

82. Section 116 amended

Section 116(5)(d) is amended after “the manager,” by inserting —

“ or the name of each manager if there is more than one, ”.

5 **83. Section 116A inserted**

After section 116 the following section is inserted in Part 4 Division 6 —

“

10 **116A. Register of incidents at licensed premises to be maintained**

(1) A licensee must maintain a register of the incidents, of the prescribed kind, that take place at the licensed premises.

Penalty: \$5 000.

15 (2) The register is to be maintained in a form acceptable to the Director and is to contain the prescribed information.

(3) A licensee, or the employee or agent of a licensee, must, at the request of an authorised officer, make the register available for inspection by the authorised officer.

20

Penalty: \$5 000.

”.

84. Part 4 Division 7 heading replaced

25 The heading to Part 4 Division 7 is deleted and the following heading is inserted instead —

“

Division 7 — Complaints to Director

”.

85. Section 117 amended

(1) Section 117(1) is amended as follows:

- (a) by deleting “Where, with respect to licensed premises, a complaint under this section is” and inserting instead —
5 “ A complaint in writing may be ”;
- (b) by deleting the comma at the end of paragraph (b) and inserting a full stop instead;
- (c) by deleting “the Director may, by notice in writing, require the licensee to show cause why an order should not be made under this section.”.

10

(2) After section 117(2) the following subsections are inserted —

“

(2a) If a complaint is lodged by a person referred to in subsection (2)(d), the complaint is to be signed, unless the Director otherwise approves, by 3 unrelated adults (including the complainant).

15

(2b) In subsection (2a) —

“**3 unrelated adults**” means 3 adults each of whom —

- (a) resides at different residential premises; and
 - (b) is not —
 - (i) a child; or
 - (ii) a parent; or
 - (iii) a brother or sister; or
 - (iv) an aunt or uncle; or
 - (v) a spouse or former spouse; or
 - (vi) a de facto partner or former de facto partner,
-
- 20

of either of the other 2 adults.

”.

25

s. 85

(3) After section 117(3) the following subsections are inserted —

“

5 (3a) When a complaint is lodged with the Director under subsection (1), the Director is to attempt to settle the matter by conciliation or negotiation.

(3b) If the Director determines at any stage of the proceedings under this section that the complaint is frivolous or vexatious, the Director is to dismiss the complaint.

10

”.

(4) Section 117(4) is repealed and the following subsections are inserted instead —

“

15 (4) If the matter referred to in a complaint is not settled by conciliation or negotiation, the Director is to give the complainant, the licensee and any other person appearing to the Director to have a relevant interest in the matter a reasonable opportunity to be heard or to make submissions.

20 (4a) Having complied with subsection (4), the Director —

(a) subject to subsection (4c), may determine the matter; and

25 (b) if of the opinion that the allegation in the complaint is established on the balance of probabilities and that the licensee has failed to show cause why an order should not be made under this section — may make an order under this section,

but otherwise the Director is to dismiss the complaint.

- (4b) Without limiting the matters that the Director may have regard to when making a determination under subsection (4a), the Director may have regard to —
- 5 (a) any alteration, including any structural change, made —
- 10 (i) to the licensed premises; or
- (ii) if the complainant is a person referred to in subsection (2)(d) — to any relevant premises where the complainant (or, if subsection (2)(d)(ii) applies, the complainant’s child) resides, works, worships, attends or is a patient;
- and
- 15 (b) any changes that have taken place over time to the activities that take place on the licensed premises; and
- (c) the kind of business conducted under the licence and how that business is managed; and
- 20 (d) if the complainant is a person referred to in subsection (2)(d) — whether the complainant (or, if subsection (2)(d)(ii) applies, the complainant’s child) began to reside, work, worship, attend or be a patient at any relevant premises before or after the licensee began to conduct business at the licensed premises; and
- 25 (e) any provision of the *Environmental Protection Act 1986*, or of any regulations made under that Act, that is relevant to the subject matter of the complaint.
- 30 (4c) The Director —
- (a) may defer making a determination under subsection (4a) for any period the Director considers appropriate; and

- (b) may make an interim order that has effect for that period for any purpose for which an order may be made under subsection (5).

”.

5 **86. Section 119 amended**

Section 119(4) is amended as follows:

- (a) in paragraph (a), by deleting “, within the boundaries of the metropolitan area or of a town or townsite;” and inserting —
- 10 “ ; or ”;
- (b) by deleting the penalty provision and inserting instead —
- “ Penalty: \$2 000. ”.

15 **87. Part 4 Division 8A inserted**

After section 119 the following Division is inserted —

“

Division 8A — Conduct of unapproved businesses on or from licensed premises

20 **119A. Conduct of unapproved businesses on or from licensed premises**

- (1) A person who, without the approval of the licensing authority, conducts on or from licensed premises a business other than the business conducted under the licence commits an offence.

25 Penalty: In the case of the licensee \$10 000, in any other case \$4 000.

- (2) A licensee who, without the approval of the licensing authority, causes or permits another person to conduct on or from the licensed premises a business other than

the business conducted under the licence commits an offence.

Penalty: \$10 000.

”.

5 **88. Section 121 amended**

(1) Section 121(4) is amended in the penalty provision by deleting “\$5 000, in the case of another employee or agent \$2 000,” and inserting instead —

“ \$10 000, in the case of another employee or agent \$4 000, ”.

10 (2) Section 121(5)(b)(i) is amended as follows:

(a) after “Director” by inserting —

“ under section 126A ”;

(b) by deleting “mainly” and inserting instead —

“ solely ”.

15 (3) After section 121(7) the following subsection is inserted —

“

(7a) A person who —

(a) has been required to leave and has left, or been removed from, licensed premises under this section; and

(b) remains —

(i) on any footpath; or

(ii) in any area subject to the control or management of the licensee,

that is adjacent to the licensed premises,

commits an offence.

Penalty: \$2 000.

”.

s. 89

(4) After section 121(10) the following subsections are inserted —

“

(11) Subsection (10) does not apply in relation to the employment or engagement of a juvenile to serve liquor ancillary to a meal if —

(a) the juvenile is of or above the age of 16 years; and

(b) the juvenile’s employment or engagement is approved by the Director; and

(c) the work carried out by the juvenile —

(i) is supervised at all times; and

(ii) will be assessed for the purposes of a prescribed training course in which the juvenile is engaged.

(12) This section does not limit any other right to refuse a person entry to premises or to remove a person from premises.

”.

89. Section 122 amended

Section 122(2) is repealed and the following subsection is inserted instead —

“

(2) Subject to this Act, a person who —

(a) sells or supplies, or permits the sale or supply of, liquor to; or

(b) permits the consumption or possession of liquor by,

a juvenile on regulated premises commits an offence.

Penalty: \$10 000.

”.

90. Section 123 amended

- (1) Section 123 is amended by inserting before “Subject” the subsection designation “(1)”.
- (2) At the end of section 123 the following subsection is inserted —

5 “

 (2) Without limiting section 119, a juvenile who has any liquor in his or her possession or control in any place or on any premises to which the public is permitted to have access, whether on payment of a charge or

10 otherwise, commits an offence.

 Penalty: \$2 000.

”.

91. Section 126 amended

- (1) After section 126(2) the following subsections are inserted —

15 “

 (2a) If an authorised person suspects on reasonable grounds that a document produced by a juvenile under subsection (1)(b) is a forged, false or counterfeit document, the authorised person may confiscate the

20 document.

 (2b) An authorised person who confiscates a document under subsection (2a) must deal with the document in accordance with the regulations.

”.

- 25 (2) After section 126(4) the following subsections are inserted —

 “

 (5) A person who —

 (a) has been required to leave and has left, or been removed from, licensed premises or regulated

30 premises under this section; and

s. 92

- (b) remains —
- (i) on any footpath; or
 - (ii) in any area subject to the control or management of the licensee or occupier of the regulated premises,
- 5 that is adjacent to the licensed premises or regulated premises,
- commits an offence.
- Penalty: \$2 000.
- 10 (6) This section does not limit any other right to remove a person from premises.

”.

92. Sections 126A and 126B inserted and section 104 consequentially amended

- 15 (1) After section 126 the following sections are inserted in Part 4 Division 9 —

“

126A. Licensees may apply for approval of entertainment for juveniles on licensed premises

- 20 (1) The licensee of any licensed premises may apply to the Director, in a form approved by the Director, for approval of the provision of entertainment solely for juveniles on the licensed premises or a part of the licensed premises.
- 25 (2) The application is to be accompanied by the prescribed fee and is to be supported by any further or other documentation or information that the Director may require.
- 30 (3) The application is to be lodged with the Director not later than 14 days before the day on which the entertainment that is the subject of the application is proposed to be provided.

- (4) Part 3 Division 7 does not apply to an application under this section.

126B. Director may approve entertainment for juveniles on licensed premises

- 5 (1) The Director, by notice in writing given to a licensee who has made an application under section 126A, may approve the provision of entertainment solely for juveniles on the licensed premises, or a part of the licensed premises, if the Director is satisfied that, in the
10 circumstances of the particular case, it is appropriate to do so.
- (2) The Director may, by notice in writing given to the licensee at any time before the entertainment is provided, withdraw the approval if the Director is no
15 longer satisfied in accordance with subsection (1).
- (3) The Director may make the approval subject to such terms and conditions as the Director thinks fit and specifies in the notice under subsection (1).
- (4) Without limiting subsection (3), each approval under
20 subsection (1) is subject to the condition that the licensee is not to participate in any arrangement for the benefit arising from the provision of the entertainment to accrue to any other person unless —
- 25 (a) details of the arrangement were set out in the relevant application under section 126A or otherwise provided under that section; and
- (b) the Director has granted approval under subsection (5).
- (5) The Director may, by notice in writing given to the
30 licensee, approve an arrangement referred to in subsection (4).

”.

s. 93

(2) Section 104(2) is amended as follows:

(a) after paragraph (a) by inserting —

“ or ”;

(b) after paragraph (b) by inserting —

5

“

(ba) the provision of entertainment solely for juveniles on licensed premises or a part of licensed premises, where it is approved under section 126B(5); or

10

”.

93. Part 4 Division 10 inserted

Before section 127 the following Division is inserted in Part 4 —

“

15

Division 10 — Miscellaneous

126C. Crowd controllers to be authorised when exercising powers of removal

(1) A person (the “**crowd controller**”) who —

20

(a) holds a crowd controller’s licence; and

(b) is employed by a crowd control agent engaged under a contract for services by the licensee or occupier or a manager of licensed premises to supply the services of crowd controllers at those premises,

25

is not an authorised person for the purposes of removing a person from licensed premises under section 115(4)(c), 121(7)(b) or 126(3), or requesting another person to do so, unless the crowd controller is authorised under subsection (2).

30

(2) The licensee, occupier or manager of licensed premises may authorise a crowd controller to exercise the

powers referred to in subsection (1) in respect of those premises by written notice given to the crowd controller or the crowd control agent.

- 5 (3) The licensee, occupier or manager may withdraw the authority referred to in subsection (2) at any time by written notice given to the crowd controller or the crowd control agent.

126D. Sale of undesirable liquor products

- 10 (1) The Governor, on the recommendation of the Minister, may make regulations under section 175 that declare liquor in the form of a specified product, or a product of a specified class, to be an undesirable liquor product.

- 15 (2) Where a licensee, whether personally or by an employee or agent, sells or supplies any product declared to be an undesirable liquor product on or from the licensed premises, the licensee, and the employee or agent concerned, commits an offence.

20 Penalty: In the case of the licensee or manager
\$10 000, in the case of an employee or agent
\$4 000.

- (3) The Minister may recommend the making of regulations for the purposes of subsection (1) only if —
- (a) the Minister considers that —
 - 25 (i) designs, motifs or characters on the packaging of the product concerned are of such a kind that the product is, or is likely to be, attractive to juveniles; or
 - (ii) the product is likely, for any reason, to be confused with soft drinks or confectionery; or
 - 30 (iii) the product, for any other reason, has or is likely to have a special appeal to juveniles; or

(iv) it is otherwise in the public interest to do so;

and

(b) the Minister has complied with subsection (4).

- 5 (4) Before recommending the making of regulations for the purposes of subsection (1), the Minister is to consult with relevant liquor industry representatives and the manufacturer of any product proposed to be declared to be an undesirable liquor product (if the manufacturer is known to the Minister).
- 10 (5) A failure to comply with subsection (3) does not affect the validity of the regulation concerned.

126E. Modified operation of Act for special events

- (1) In this section —
- 15 “**special event notice**” means a notice under subsection (2);
- “**specified**” means specified in a special event notice.
- (2) The Minister may, by notice published in the *Gazette*, declare that, for the purposes of this Act, a specified event to be held in the State is a special event.
- 20 (3) Subject to subsection (4), a special event notice may declare that, for the purposes of the special event, specified provisions of this Act have a specified modified operation —
- 25 (a) during a specified period; and
- (b) in relation to a specified area of the State or the whole of the State.
- (4) A special event notice may make a declaration under subsection (3) only in relation to prescribed provisions of this Act.
- 30

(5) For the purposes of the special event, provisions of this Act that are the subject of a declaration under subsection (3) have effect in accordance with any specified modified operation.

5 (6) The Minister may, by notice published in the *Gazette*, vary or revoke a special event notice.

”.

94. Section 127 amended

Section 127(1) is amended after “force” by inserting —

10 “ (including any period when its operation is suspended) ”.

95. Section 128 amended

(1) Section 128 is amended as follows:

(a) before “Regulations” by inserting the subsection designation “(1)”;

15 (b) after “refund of” by inserting —
“ licence fees or ”.

(2) At the end of section 128 the following subsection is inserted —

“

(2) Without limiting subsection (1) or section 127, regulations may prescribe licence fees by reference to —

- 20 (a) classes of licence; or
(b) the extension of the operation of a licence by a permit; or
25 (c) the purposes for which a permit is to be issued, or the period during which a permit is to have effect.

”.

96. Part 5 Division 3 heading amended

The heading to Part 5 Division 3 is amended by deleting “Court” and inserting instead —
“ **Commission** ”.

5 **97. Part 5A inserted**

After section 152 the following Part is inserted —

“

Part 5A — Prohibition orders

152A. Terms used in this Part

10

In this Part —

“**employed**” includes engaged under a contract for services;

“**prohibition order**” means an order made under section 152E;

15

“**relevant person**” means the person who, as the case requires, is the subject of —

- (a) an application under section 152B; or
- (b) a prohibition order;

20

“**serious and organised crime**” has the same meaning as it has in the *Australian Crime Commission (Western Australia) Act 2004*.

152B. Commissioner of Police may apply for prohibition orders

25

The Commissioner of Police may apply in writing to the Director in a form approved by the Director for an order to be made in respect of a person that —

30

- (a) prohibits the relevant person from being employed by a licensee at specified licensed premises, licensed premises of a specified class or any licensed premises; or

- (b) prohibits the relevant person from entering specified licensed premises, licensed premises of a specified class or any licensed premises.

152C. Evidence in support of application

- 5 (1) An application under section 152B is to —
- (a) set out the reasons why the Commissioner of Police considers a prohibition order should be made in respect of the relevant person; and
 - (b) set out any other information and be
10 accompanied by any document that the Commissioner of Police considers relevant to the application.
- (2) Without limiting subsection (1), the Commissioner of Police is authorised to include in or with the
15 application —
- (a) details of any criminal convictions of the relevant person for offences under the law of the Commonwealth or a State or Territory; and
 - (b) any information that the Commissioner of
20 Police has regarding any involvement, or suspected involvement, of the relevant person in serious and organised crime.

152D. Relevant person to be given notice of application

- 25 (1) The Director is to give the relevant person a written notice that —
- (a) states that the application has been made and explains the proposed effect of the order applied for; and
 - (b) describes the information and documents
30 provided in support of the application; and

(c) informs the relevant person that he or she will be given a reasonable opportunity to make submissions or to be heard in relation to the application.

5 (2) Nothing in subsection (1) requires or authorises the Director to disclose confidential police information.

152E. Director may make prohibition orders

(1) The Director may dispose of the application —
10 (a) by making a prohibition order; or
(b) by dismissing the application; or
(c) at the request of the Commissioner of Police — by discontinuing the application.

(2) The Director may make a prohibition order that —
15 (a) prohibits the relevant person from being employed by a licensee at specified licensed premises, licensed premises of a specified class or any licensed premises; or
(b) prohibits the relevant person from entering
20 specified licensed premises, licensed premises of a specified class or any licensed premises.

(3) The Director may make a prohibition order only if satisfied that it is in the public interest to do so after —
25 (a) having given the relevant person a reasonable opportunity to make submissions or to be heard in relation to the application; and
(b) having regard to —
(i) any information or document provided by the Commissioner of Police in or with the application; and

- (ii) any information or document provided by the relevant person under paragraph (a).

- 5 (4) A prohibition order has effect subject to such terms or conditions as the Director thinks fit and specifies in the order.

152F. Term of prohibition orders

- (1) The Director is to specify in a prohibition order the term for which the prohibition order remains in force.
- 10 (2) The term cannot be more than 5 years or, for a prohibition order in respect of a juvenile, more than 2 years, after it is made, but an application may be made for a further prohibition order.

152G. Applications to vary or revoke prohibition orders

- 15 (1) The Commissioner of Police or the relevant person may apply in writing to the Director in a form approved by the Director for an order varying or revoking a prohibition order.
- (2) If the application is made —
- 20 (a) by the Commissioner of Police, the relevant person is the respondent; or
- (b) by the relevant person, the Commissioner of Police is the respondent.

152H. Evidence in support of application

- 25 The application is to —
- (a) set out the reasons why the applicant considers a prohibition order should be varied or revoked; and
- 30 (b) set out any other information and be accompanied by any document that the applicant considers relevant to the application.

152I. Respondent to be given notice of application

- (1) The Director is to give the respondent a written notice that —
- (a) states that the application has been made and explains the proposed effect of the order applied for; and
 - (b) describes the information and documents provided in support of the application; and
 - (c) informs the respondent that he or she will be given a reasonable opportunity to make submissions or to be heard in relation to the application.
- (2) Nothing in subsection (1) requires or authorises the Director to disclose confidential police information.

152J. Director may vary or revoke prohibition orders

- (1) The Director may dispose of the application —
- (a) by making an order that varies or revokes a prohibition order; or
 - (b) by dismissing the application; or
 - (c) at the request of the applicant — by discontinuing the application.
- (2) The Director may make an order varying or revoking a prohibition order only if satisfied that it is in the public interest to do so —
- (a) having given the respondent a reasonable opportunity to make submissions or to be heard in relation to the application; and
 - (b) having regard to —
 - (i) any information or document provided by the applicant in or with the application; and

- (ii) any information or document provided by the respondent under paragraph (a).

152K. Notification of orders

- 5 (1) If the Director makes a prohibition order, the Director is to give a copy of the order —
- (a) to the relevant person; and
 - (b) if the order is made under section 152E(2)(a) and the Director is aware that the relevant person is employed by a licensee at licensed premises to which the order applies — to the licensee.
- 10 (2) If the Director makes an order varying or revoking a prohibition order, the Director is to give a copy of the order to the applicant and the respondent.

15 **152L. Failure to comply with orders**

- (1) A person given a copy of a prohibition order under section 152K(1)(a) who fails, without reasonable excuse, to comply with the order commits an offence.
Penalty: \$10 000.
- 20 (2) A person given a copy of a prohibition order under section 152K(1)(b) who continues, without reasonable excuse, to employ the relevant person, commits an offence.
Penalty: \$10 000.

25

”.

98. Section 155 amended

After section 155(5) the following subsection is inserted —

“

(6) Despite subsections (4) and (5) —

- 5 (a) if a person is consuming liquor contrary to section 119 during a period, and in an area, specified in a special event notice under section 126E, a member of the Police Force may seize and, as soon as is practicable,
- 10 dispose of any opened or unopened container of liquor that is in the possession of the person; or
- (b) if a person is otherwise consuming liquor contrary to section 119, a member of the Police Force may seize and, as soon as is practicable,
- 15 dispose of any opened container of liquor that is in the possession of the person.

”.

99. Section 165 amended

After section 165(3) the following subsection is inserted —

“

(4) In this section —

“**employee**”, of the licensee, includes —

- (a) a person engaged under a contract for services by the licensee; and
- 25 (b) a person holding a crowd controller’s licence who is employed by a crowd control agent engaged under a contract for services by the licensee or occupier or a manager of the premises to which a licence or permit relates to supply the services of crowd controllers at those premises.
- 30

”.

100. Section 167 amended

Section 167(5a) is repealed.

101. Section 172 amended

5 Section 172(6)(a) is amended by deleting “judge,” and inserting instead —

“ chairperson or any other member of the Commission, ”.

102. Section 175 amended

(1) After section 175(1) the following subsections are inserted —

“

10 (1a) The Governor, on the recommendation of the Minister, may make regulations for any or all of the following purposes —

- 15 (a) declaring an area of the State specified in the regulations to be a restricted area;
- 15 (b) restricting or prohibiting —
 - (i) the bringing of liquor into the restricted area; or
 - (ii) the possession of liquor in the restricted area; or
 - 20 (iii) the consumption of liquor in the restricted area;
- 25 (c) in relation to any offence in the regulations of failing to comply with restrictions or prohibitions referred to in paragraph (b) and without limiting any other power of a member of the Police Force under this Act — conferring powers on members of the Police Force in relation to the seizure and disposal of opened or unopened containers of liquor.

s. 103

- (1b) The Minister may recommend the making of regulations under subsection (1a) only if, after consultation with —
- (a) the Commissioner of Police; and
 - 5 (b) each local government in the district of which any part of the proposed restricted area would be situated; and
 - (c) any other person the Minister considers it appropriate to consult,
- 10 the Minister is satisfied that the regulations are in the public interest.
- (1c) Regulations made under subsection (1a) must state the period during which the regulations are to have effect.
- 15 (1d) Regulations made under subsection (1a) expire at the end of the period referred to in subsection (1c). ”.
- (2) Section 175(2) is amended as follows:
- (a) in paragraph (a), by deleting “\$2 000;” and inserting instead —
 - 20 “ \$5 000; ”;
 - (b) in paragraph (b), by deleting “\$500.” and inserting instead —
 - “ \$2 000. ”.

103. Section 177A inserted

25 After section 177 the following section is inserted —

“

177A. Transitional provisions relating to the *Liquor and Gaming Legislation Amendment Act 2006*

30 Schedule 1A sets out transitional provisions relating to amendments made to this Act by the *Liquor and Gaming Legislation Amendment Act 2006*.

”.

104. Schedule 1A inserted

After Schedule 1 the following Schedule is inserted —

“

**Schedule 1A — Transitional provisions relating to
the *Liquor and Gaming Legislation Amendment
Act 2006***

[s. 177A]

1. Terms used in this Schedule

In this Schedule, unless the context otherwise requires —

10

“**commencement day**” means the day on which the *Liquor and Gaming Legislation Amendment Act 2006* section 103 comes into operation;

“**Court**” means the Liquor Licensing Court preserved and continued under section 8 of the former Act;

15

“**former Act**” means this Act as in force immediately before the commencement day;

“**new Act**” means this Act as in force on the commencement day.

2. Liquor Licensing Court

20

(1) The Court is abolished —

(a) on the commencement day; or

(b) if subclause (2) applies — on the date specified in the notice under subclause (3).

25

(2) The Court is to continue in operation on and after the commencement day for the purposes of continuing to deal with any application or matter referred to in clause 5(1) that the Court has begun, but not completed, hearing or determining.

30

(3) When the Minister is satisfied that there is no further application or matter to be dealt with by the Court under clause 5(1), the Minister is to publish a notice in the *Gazette* specifying the date on which the Court is to cease to continue in operation under that subclause.

3. Liquor Licensing Court judge

The person holding office, immediately before the commencement day, as the Liquor Licensing Court judge referred to in section 9 of the former Act ceases to hold that office on the abolition of the Court under clause 2.

5

4. Pending cases stated and appeals to Supreme Court

(1) If a case stated on a question of law to the Supreme Court under section 27 of the former Act has not been determined immediately before the commencement day, the question of law is to be determined under that section on or after that day by the Court of Appeal.

10

(2) If an appeal made to the Supreme Court under section 28 of the former Act has not been determined immediately before the commencement day, the appeal is to be determined under that section on or after that day by the Court of Appeal.

15

5. Pending applications and matters

(1) Subject to subclause (2), if the licensing authority has begun, but not completed, hearing or determining an application or matter immediately before the commencement day, the application or matter is to continue to be dealt with on or after that day in accordance with the relevant provisions of the former Act.

20

(2) If the licensing authority has begun, but not completed, hearing or determining an application for a cabaret licence immediately before the commencement day, the application is to continue to be dealt with on or after that day as an application for a nightclub licence under the new Act.

25

(3) If —

30

(a) an application or matter was before the licensing authority under the former Act; but

(b) the licensing authority has not begun to hear or determine the application or matter immediately before the commencement day,

35

the application or matter is to be dealt with on or after that day in accordance with the relevant provisions of the new Act.

(4) If —

(a) the Court determined under the former Act that an application or matter is to be referred to or further considered by the Court; and

5 (b) the application or matter has not been referred to or further considered by the Court immediately before the commencement day,

10 then, on or after that day, the application or matter may be referred to or further considered by either the Director or the Commission under the new Act.

6. Licences granted and permits issued by Liquor Licensing Court

15 A licence granted or a permit issued by the Court that has effect immediately before the commencement day continues to have effect, on and after that day, as if it had been granted or issued by the Commission.

7. Cabaret licences

20 (1) A cabaret licence granted under section 42 of the former Act that has effect immediately before the commencement day continues to have effect, on and after that day, as a nightclub licence granted under that section of the new Act.

25 (2) A reference in a written law or other document or instrument to a cabaret licence may, where the context so requires, be read as if it had been amended to be a reference to a nightclub licence.

8. Courses of training and assessments

30 For the purposes of the application of paragraph (c) of section 35B(3) of the new Act to a person who was employed as a manager immediately before the commencement day, the period referred to in that paragraph is to be taken to be the period of 12 months after that day.

s. 104

9. References to the Liquor Licensing Court and Liquor Licensing Court judge

- 5
- (1) A reference in a written law or other document or instrument to the Court may, where the context so requires, be read as if it had been amended to be a reference to the Commission.
- 10
- (2) A reference in a written law or other document or instrument to the Liquor Licensing Court judge, or a Liquor Licensing Court judge, may, where the context so requires, be read as if it had been amended to be a reference to the Commission.

10. Transitional regulations

- 15
- (1) If this Schedule does not provide sufficiently for a matter or issue of a transitional nature that arises as a result of the amendments made to this Act by the *Liquor and Gaming Legislation Amendment Act 2006*, the Governor may make regulations under this clause (“**transitional regulations**”) prescribing all matters that are required, necessary or convenient to be prescribed for providing for the matter or issue.
- 20
- (2) If the transitional regulations provide that a state of affairs specified or described in the regulations is taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.
- 25
- (3) If the transitional regulations contain a provision referred to in subclause (2), the provision does not operate so as —
- 30
- (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the day of publication of those regulations; or
- 35
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

”.

105. Schedule 2 amended

Schedule 2 Division 2 clause 2(1) is amended by deleting “at Bull Creek Drive (formerly Benningfield Road) Bull Creek, at the corner of Marmion Avenue and Baltimore Parade, Merriwa and at 133 Mandurah Terrace, Mandurah — ” and inserting instead —

“ in the State — ”.

106. Amendments relating to the Liquor Commission

The provisions listed in the Table to this section are amended by deleting “Court” in each place where it occurs (except where it occurs in the term “Supreme Court”) and inserting instead —

“ Commission ”.

Table

s. 3(1) (definition of “licensing authority”)	s. 25(1)
s. 7(2)	s. 25(2)
s. 14(1)(b)	s. 25(4)
s. 16(2)	s. 27(1)
s. 16(4)(a)	s. 28(3a)
s. 16(5)	s. 29
s. 16(6)	s. 32(3)(b)
s. 16(10)	s. 75(2)(d)
s. 18(2)(a)	s. 95(1)
s. 20(3)	s. 95(3)
s. 20(4)	s. 95(5a)
s. 21(1)	s. 95(7)
s. 21(4)	s. 95(10)
s. 21(5)	s. 96(1)
s. 22(a)	s. 96(3)
s. 23(1)	s. 96(4)
s. 24	s. 117(6)

s. 107

s. 143(1)	s. 164(1a)
s. 147(1)	s. 172(1)
s. 153(1)(c)	s. 175(1)(c)

107. Amendments relating to nightclub licences

The provisions listed in the Table to this section are amended by deleting “cabaret” and inserting instead —

“ nightclub ”.

5

Table

s. 42(1)	s. 44(2)(a)
s. 42(3)	s. 60(4)(b)
s. 43	s. 60(4)(f)

108. Amendments relating to guest accommodation

The provisions listed in the Table to this section are amended by deleting “residential” in each place where it occurs and inserting instead —

10

“ guest ”.

Table

s. 41(6)	s. 60(4)(c)
s. 50(2)	s. 105(3)

109. Amendments relating to the use of reasonable force

The provisions listed in the Table to this section are amended after “may be” by inserting —

15

“ reasonably ”.

Table

s. 114(3)	s. 126(4)(b)
s. 115(7)	s. 155(3)
s. 121(7)(b)	s. 161(1)(b)
s. 126(3)(b)	

110. Amendments relating to penalty amounts

5 Each provision specified in the first column of the Table to this section is amended by deleting the corresponding amount, or amounts, specified in the second column and inserting instead the corresponding amount, or amounts, specified in the third column.

Table

s. 37A	\$5 000	\$10 000
s. 51(2)	\$1 000	\$2 000
s. 51(4)	\$1 000	\$2 000
s. 77(1)	\$5 000	\$10 000
s. 100(2)	\$5 000	\$10 000
s. 100(4)	\$5 000	\$10 000
s. 100(5)	\$5 000	\$10 000
s. 100(6)	\$5 000	\$10 000
s. 100(8)	\$5 000	\$10 000
s. 101(3)	\$5 000	\$10 000
s. 102(1)	\$5 000	\$10 000
s. 104(1)	\$5 000	\$10 000
s. 106(1)	\$5 000	\$10 000
	\$2 000	\$4 000
	\$1 000	\$2 000
s. 106(3)	\$5 000	\$10 000
	\$2 000	\$4 000
	\$1 000	\$2 000
s. 109(3)	\$5 000	\$10 000
s. 110(1)	\$5 000	\$10 000
	\$2 000	\$4 000
	\$1 000	\$2 000
s. 110(2)	\$5 000	\$10 000
	\$2 000	\$4 000
s. 110(3)	\$5 000	\$10 000
	\$2 000	\$4 000
	\$1 000	\$2 000

Liquor and Gaming Legislation Amendment Bill 2006

Part 2 Amendments to the Liquor Licensing Act 1988

s. 110

s. 110(5)	\$1 000	\$2 000
s. 110(7)	\$1 000	\$10 000
s. 111(1)	\$5 000	\$10 000
	\$2 000	\$4 000
s. 111(2)	\$1 000	\$2 000
s. 114(1)	\$5 000	\$10 000
	\$2 000	\$4 000
s. 115(1)	\$5 000	\$10 000
	\$2 000	\$4 000
s. 115(2)	\$5 000	\$10 000
	\$2 000	\$4 000
	\$1 000	\$2 000
s. 115(5)	\$1 000	\$2 000
s. 115(7)	\$1 000	\$2 000
s. 116	\$1 000	\$2 000
s. 117(7)	\$5 000	\$10 000
s. 118(3)	\$500	\$2 000
s. 119(1)	\$500	\$2 000
s. 119(2)	\$500	\$2 000
s. 119(5)	\$1 000	\$2 000
s. 119(7)	\$500	\$2 000
s. 119(11)	\$500	\$2 000
s. 121(1)	\$5 000	\$10 000
	\$2 000	\$4 000
	\$1 000	\$2 000
s. 121(2)	\$5 000	\$10 000
	\$2 000	\$4 000
s. 121(7)	\$1 000	\$2 000
s. 121(9)	\$500	\$2 000
s. 121(10)	\$5 000	\$10 000
s. 122(3)	\$1 000	\$2 000
	\$2 000	\$4 000
s. 123	\$1 000	\$2 000
s. 124	\$1 000	\$2 000

s. 126(2)	\$1 000	\$2 000
s. 126(4)	\$1 000	\$2 000
s. 145(4)	\$5 000	\$10 000
s. 146(1)	\$5 000	\$10 000
s. 150(2)	\$5 000	\$10 000
s. 152(2)	\$2 000	\$5 000
s. 154(3)	\$5 000	\$10 000
s. 158(1)	\$5 000	\$10 000
s. 159(1)	\$5 000	\$10 000
s. 159(3)	\$5 000	\$10 000
s. 160(4)	\$1 000	\$5 000
s. 161(7)	\$5 000	\$10 000
s. 166(2)	\$1 000	\$2 000

111. Amendments relating to approved forms

- (1) Section 14(3) is amended by deleting “prescribed form.” and inserting instead —

“ form approved by the Director. ”.

- 5 (2) Section 68(1)(a) is amended by deleting “, if a form and manner of giving notice of an application of that kind is prescribed, be so made by notice;” and inserting instead —

“

10 be made in the form and manner approved by the licensing authority;

”.

- (3) Section 73(4) is amended by deleting “in the prescribed form with the Director,” and inserting instead —

“

15 with the Director in the form approved by the Director,

”.

s. 111

- (4) Section 73(5)(a)(ii) is amended by deleting “prescribed” and inserting instead —
“ the approved ”.
- 5 (5) Section 75(1) is amended by deleting “prescribed manner and form” and inserting instead —
“ manner and form approved by the Director ”.
- (6) Section 76(1) is amended by deleting “an application in the prescribed manner and form with” and inserting instead —
“
10 with the Director an application in the manner and form approved by
”.
- (7) Section 84(4)(b) is amended by deleting “the prescribed form or such other” and inserting instead —
15 “ such ”.
- (8) Section 96(6)(a) is amended by deleting “prescribed form or in a”.
- (9) Section 121(6) is amended by deleting “prescribed form” and inserting instead —
20 “ form approved by the Director ”.

Part 3 — Amendments to the *Gaming and Wagering Commission Act 1987*

112. The Act amended

5 The amendments in this Part are to the *Gaming and Wagering Commission Act 1987**.

[* Reprint 4 as at 18 August 2006.]

113. Part II Division 7 inserted

After section 20 the following Division is inserted in Part II —

“

10

Division 7 — Confidential police information

20A. Confidential police information

(1) In this section —

15

“**confidential police information**” means any information or document classified as confidential under subsection (2);

“**relevant Act**” means this Act, the *Betting Control Act 1954*, the *RWWA Act* or the *Casino Control Act 1984*.

20

(2) For the purposes of this section, the Commissioner of Police may classify as confidential any information or document that is —

25

(a) provided by the Commissioner of Police to the Commission as a report, or part of a report, under section 18(4); or

(b) otherwise provided by the Commissioner of Police to the Commission for the purposes of a relevant Act.

(3) Despite any provision of a relevant Act, any information or document provided by the

s. 113

5 Commissioner of Police to the Commission for the
purposes of a relevant Act must not be published or
disclosed by the Commission to any person (except to
the Minister, the Parliamentary Commissioner for
Administrative Investigations appointed under
10 section 5 of the *Parliamentary Commissioner Act
1971*, the Corruption and Crime Commission
established under the *Corruption and Crime
Commission Act 2003*, the Parliamentary Inspector of
the Corruption and Crime Commission appointed
under the *Corruption and Crime Commission Act 2003*,
a court or a person to whom the Commissioner of
Police authorises its disclosure) if the information or
15 document is classified as confidential police
information.

- (4) If —
- (a) the Commission —
 - (i) refuses to grant or issue or renew; or
 - (ii) amends, suspends, cancels or revokes,
20 any permit, approval, certificate, licence or
authorisation under a relevant Act; and
 - (b) the decision to do so is made solely or partly on
the basis of confidential police information
provided to the Commission,

25 the Commission is not required to give any reasons for
the decision other than that the decision is made in the
public interest.

(5) In any proceedings (other than proceedings for an offence) before a court under a relevant Act, the court —

- 5 (a) must, on the application of the Commissioner of Police, take all reasonable steps to maintain the confidentiality of confidential police information, including steps —
- 10 (i) to receive evidence and hear argument about confidential police information in private and in the absence of any party to the proceedings other than the Commission or the Commissioner of Police or their representatives; and
- 15 (ii) to prohibit the publication of evidence about confidential police information;
- and
- 20 (b) may take evidence consisting of or relating to confidential police information by way of an affidavit of a member of the Police Force of or above the rank of Superintendent.

25 (6) The Commissioner of Police must not delegate the function of classifying information or documents as confidential police information except to a Deputy Commissioner of Police or an Assistant Commissioner of Police.

”.

Part 4 — Amendments to other Acts

114. Amendments relating to the amended title of the *Liquor Licensing Act 1988*

5 The Acts listed in the first column of the Table to this section are amended in the corresponding provisions listed in the second column by deleting “*Liquor Licensing Act 1988*” and inserting instead —

“ *Liquor Control Act 1988* ”.

Table

<i>Betting Control Act 1954</i>	s. 26C(1)(b) s. 26C(4)
<i>Cambridge Endowment Lands Act 1920</i>	s. 45
<i>Gaming and Wagering Commission Act 1987</i>	s. 110(1) s. 110(2)
<i>Land Tax Assessment Act 2002</i>	s. 39A(1) (“excluded purpose”, para. (b))
<i>Local Government (Miscellaneous Provisions) Act 1960</i>	s. 414
<i>Security and Related Activities (Control) Act 1996</i>	s. 35(2)
<i>The Criminal Code</i>	s. 206(1) (“intoxicant”)
<i>Tobacco Products Control Act 2006</i>	s. 113(1)(g) and (h) Glossary (“licensed premises”, “responsible person”, para. (a))

10 **115. Amendments relating to the title of the repealed *Liquor Act 1970***

The Acts listed in the first column of the Table to this section are amended in the corresponding provisions listed in the

second column by deleting “*Liquor Act 1970*” and inserting instead —

“ *Liquor Control Act 1988* ”.

Table

<i>Auction Sales Act 1973</i>	s. 33(1) s. 33(2) s. 33(3)(a) s. 33(4)
<i>Government Railways Act 1904</i>	s. 2 (“liquor”)
<i>Property Law Act 1969</i>	s. 81(8)(c)
<i>Reserve (Concert Hall) Act 1972</i>	s. 3(1)(b) s. 3(2)
<i>Retail Trading Hours Act 1987</i>	s. 4(4)

5 **116. *Constitution Acts Amendment Act 1899* amended**

- (1) The amendments in this section are to the *Constitution Acts Amendment Act 1899**.

[* *Reprint 14 as at 21 April 2006.*

For subsequent amendments see Act Nos. 5 and 28 of 2006.]

- 10 (2) Schedule V Part 1 Division 1 is amended by deleting the item relating to the Liquor Licensing Court Judge appointed under the *Liquor Act 1970*.

- (3) Schedule V Part 3 is amended after the item relating to the Legislative Review and Advisory Committee by inserting —

15

“

The Liquor Commission established under the *Liquor Control Act 1988*.

”.

s. 117

117. *Equal Opportunity Act 1984* amended

- (1) The amendments in this section are to the *Equal Opportunity Act 1984**.

[* *Reprint 4 as at 1 April 2005.*

5 *For subsequent amendments see Act Nos. 18 of 2005 and 28 and 29 of 2006.]*

- (2) Section 66ZN(2) is amended as follows:

- (a) by deleting the semicolon at the end of paragraph (g) and inserting a comma instead;
- 10 (b) by deleting paragraph (h).

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