

# LIQUOR LICENSING AMENDMENT BILL 1997



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## EXPLANATORY MEMORANDUM

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# LIQUOR LICENSING AMENDMENT BILL 1997

## EXPLANATORY MEMORANDUM

### General Outline

This Bill seeks to amend the Liquor Licensing Act 1988 to:

- \* implement a number of changes identified in the June 1995 report of the Minister for Racing and Gaming on the Review of the Liquor Licensing Act 1988, including a number of technical amendments;
- \* redraft a number of sections to simplify or clarify them; and
- \* introduce harm minimisation or ill-health due to the use of liquor as a primary object of the Act.

Clause 1       Names the amending Act.

Clause 2       Sets the commencement date.

Clause 3       Names the principal Act as the Liquor Licensing Act 1988.

Clause 4       Amends the long title of the Act to include a reference to harm minimisation or ill-health due to the use of liquor, which will now be a primary object of the Act.

Clause 5       Amends section 3(1) of the Act by:

- \* deleting the definitions of "Certificate of Exemption" which will become a producer's licence, "Obligatory Trading Hours" which are being deleted and "Registrar" whose position has been abolished;
- \* clarifying the definition of a "licence";
- \* including in the definition of "liquor", scope to prescribe in regulations the ethanol content;
- \* extending the definition of a "meal" to include a meal eaten at a counter;
- \* amending the definitions of "proprietary company" and "related body corporate" so they have the same meaning as in Corporations Law;
- \* extending the definition of a "protection order" to include an order made under section 89; and
- \* inserting new definitions for "Commissioner of Police", "Manager" and "Trustee" and inserting a new subsection (6) so any reference to the Commissioner of Police shall include any police officer authorised in writing by the Commissioner to act on his or her behalf.

- Clause 6 Repeals section 4(6) and inserts a redrafted section 4(6) to enable the Director to approve the storage and delivery of liquor from premises other than the licensed premises for any licence category.
- Amends section 4(8) so that any person located interstate who seeks to sell liquor directly to the public in Western Australia, including mail order sales, will be required to be licensed in this state.
- Clause 7 Amends the objects of the Act in section 5 to include harm minimisation or ill-health due to the use of liquor as a primary object of the Act.
- Clause 8 Amends section 7(1) by:
- \* deleting the reference to “sections 30 and 31” and inserting “the Act” to simplify cross references with the Act; and
  - \* inserting a new subsection (4) to allow the Director to vary a condition imposed by the Court after determining a matter under section 117.
- Clause 9 Amends section 10(2) by deleting “subsection 4” and inserting “this section” and inserting a new subsection (5) so that the condition in section 9(8) does not apply to an Acting Judge.
- Clause 10 Repeals section 12 and makes consequential amendments to the Act as a result of the abolition of the position of Registrar of the Liquor Licensing Court.
- Clause 11 Repeals section 16(15), which removes the obligation of the Director to advise an owner of licensed premises of a conviction against the licensee or manager for a breach of the Act.
- Clause 12 Amends section 17(1) by inserting a new subsection (e) to allow the licensing authority to approve any person to represent a party to proceedings.
- Clause 13 Repeals section 24 and inserts a redrafted section 24 which allows the Director to refer any matter to the Court for hearing and determination. This will facilitate the sharing of matters between the Director and the Court.
- Clause 14 Amends section 25 to streamline the decision making process by:
- \* repealing subsection (3) so the discretion of the Court is not limited in how it deals with a review of a decision of the Director and inserting a new subsection (3) which provides that any finding of fact by the Director in respect of probity, suitability of premises and the existence of a club are not subject to review;
  - \* inserting a new subparagraph (ba) into subsection (5) to exclude from review any decisions made relating to the hearing of an objection or a finding of fact in order to dispose of a matter or application; and
  - \* repealing subsection (6) and inserting a redrafted subsection (6) to clarify the right of certain parties to seek a review of a decision of the Director.

- Clause 15 Repeals section 28(2) and inserts a redrafted subsection 28(2) so that no appeal can be made against a decision of the Court except upon a question of law. The insertion of the new subsection (3a) will preclude any appeal on a decision of the Court to suspend a licence for 2 weeks or less for disciplinary purposes.
- Clause 16 Redrafts section 30 to clarify the section and makes consequential amendments to define the division of responsibility between the Director and the Court.
- Clause 17 Inserts new sections 30A and 30B to provide that:
- \* the licensing authority may grant licences;
  - \* that a licence vests personally in the licensee to whom it was granted; and
  - \* that a power of attorney does not empower the person to whom it is given the right to assign the rights of a licensee under the Act, which can only be done personally by the licensee.
- Clause 18 Amends section 31(3) to clarify that liquor may be sold and supplied from the buildings or places referred to in the licence or otherwise as provided in the licence and inserts into section 31(7) a provision to ensure that licence conditions can be imposed on licences in a specified locality within the state.
- Clause 19 Amends section 32(2) to include where a receiver and manager or liquidator is appointed under section 86.
- Clause 20 Amends section 33 by:
- \* repealing section 33(4) which is no longer required given other amendments (e.g. the insertion of new sections 35A and 35B as referred to in clause 22);
  - \* amending section 33(6) by deleting “a natural person acting” and substituting “approve a natural person”;
  - \* deleting paragraph (b) of section 33(6) and inserting new paragraphs (aa) and (b) so that a person’s character and reputation and convictions in any jurisdiction can be taken into account by the licensing authority when considering the probity of an applicant; and
  - \* inserting a new subsection (6a) to enable the licensing authority to require a person to demonstrate knowledge relevant to managing licensed premises and require a person to undertake an examination or an approved course of instruction.
- Clause 21 Simplifies the wording of sections 34(1)(c) and 34(2) and inserts a new subsection (3) to enable the licensing authority to approve a person who is bankrupt as a manager if satisfied that special circumstances apply.

- Clause 22 Repeals section 35 and inserts a redrafted section 35 to clarify and expand that section, and inserts new sections 35A and 35B to detail who may hold a licence, the appointment of a trustee for unincorporated bodies and the approval of a person as a manager.
- Clause 23 Repeals section 37 and inserts a redrafted section 37 to clarify that section.
- Clause 24 Inserts a new section 37A which will require licensees, persons in a position of authority in a body corporate that holds a licence and approved managers to notify the Director within 14 days of any convictions.
- Clause 25 Inserts into section 38 new subsections (2a) and (2b):
- \* Subsection (2a) provides that when determining the grant of a new category A licence (hotel, tavern, liquor store, cabaret or special facility) the licensing authority may have regard to the requirements of the public ("subjective requirements") and whether those requirements are reasonable in the circumstances ("objectively reasonable") or whether the new licence would be convenient for the public to obtain liquor and related services; and
  - \* Subsection (2b) provides that the licensing authority shall not grant a liquor store licence unless satisfied that the requirements of the public cannot be provided by premises already existing in the area.
- Amends section 38(5) to increase the period prohibiting an unsuccessful applicant from re-lodging the same application from 12 months to 36 months.
- Clause 26 Repeals sections 39 and 40 and inserts redrafted sections 39 and 40 to simplify those sections.
- Clause 27 Repeals section 41(2) and inserts a redrafted section 41(2) to clarify that section and to also remove the obligatory trading hours. However, the licensee of a hotel will be required to receive people onto the premises if the premises are open, and will still have the right to refuse entry and service in certain circumstances.
- Clause 28 Repeals paragraph (a) of section 45(1) so that the holder of a casino gaming licence does not also have to be the holder of the liquor licence in respect of those premises.
- Clause 29 Repeals section 46 and substitutes a redrafted section 46 to simplify the granting of special facility licences. The criteria relating to the grant of special facility licences will be prescribed in regulation.
- Clause 30 Repeals section 47(1) and inserts a redrafted section 47(1) to clarify that section and also removes the obligatory trading requirements for liquor stores.
- Clause 31 Amends section 48 by repealing subsection 3 and substituting a new subsection (3) to clarify/simplify that subsection.
- Clause 32 Amends the reference to section 37(1)(a)(iv) in section 49(1)(a) to section 37(1)(c)(i) as a consequence of the amendment contained in clause 23 and clarifies section 49(6).

- Clause 33 Inserts a new section 50(1a), to restrict the holder of a restaurant licence who is granted an extended trading permit under section 60 (to sell liquor not ancillary to a meal), to the conditions that the liquor is to be consumed at a dining table and not more than 20 per cent of the seating capacity is used for customers to consume liquor not ancillary to a meal.
- Clause 34 Repeals section 51(1) so that people can bring their own liquor into unlicensed restaurants on Good Friday.
- Clause 35 Repeals section 54 and makes consequential amendments throughout the Act to delete any reference to a "certificate of exemption". The holder of a certificate of exemption will become the holder of a producer's licence.
- Clause 36 Amends section 55(1)(a) to facilitate mail order sales by inserting the words "or from" and provides in paragraph (b) that a fee may be charged for samples.
- Repeals section 55(2) and inserts a redrafted section 55(2) to allow the prescription in regulations of the conditions relating to the grant of a producer's licence.
- Clause 37 Amends section 57 by deleting paragraph (c) and inserting new paragraphs (c) and (d) which ensures that a producer's licence can only be granted if the premises are suitable for the purposes and the applicant can satisfy the conditions imposed by the Act and regulations.
- Clause 38 Inserts a new subsection (1a) into section 58, which permits a wholesaler to sell in aggregate quantities of less than 9 litres to liquor merchants and employees of the licensee.
- Repeals paragraph (a) of section 58(3) and inserts a redrafted paragraph (a) to clarify that paragraph and to include a reference to sales to persons, not resident in Australia, can take place outside the permitted hours of a liquor store where the delivery of liquor is to be effected outside Australia.
- Amends section 58(4) by inserting a new paragraph (c) to exclude sales to persons not resident in Australia and the delivery of the liquor is to be effected outside of Australia when calculating gross turnover for the purposes of determining compliance with the conditions of a wholesaler's licence.
- Clause 39 Amends section 59 and makes consequential amendments to the Act to allow the Director to cancel an occasional licence if he is satisfied that the licence is no longer appropriate.
- Clause 40 Repeals section 60(3)(c) and inserts in section 60(4) new paragraphs (ca) and (cb) to permit, under an extended trading permit, restaurants to sell liquor not ancillary to a meal and clubs to sell liquor to non members on a special occasion or at a specified function. Section 60(3)(c) is no longer required as a consequence of new paragraph (ca).
- Clause 41 Amends the heading to Division 5 of Part 3.

- Clause 42      Repeals section 62 and inserts new sections 62, 62A and 62B. The new sections simplify the repealed section 62 and empower the licensing authority to conditionally grant a licence subject to the satisfactory completion of the premises or the lodgement of statutory consents relating to planning or health from the local authority.
- Clause 43      Amends section 63 by:
- \*      removing the reference to obligatory trading requirements in paragraph (b);
  - \*      inserting a new paragraph (ca) to allow the licensing authority to remove the restrictions on a club restricted licence so that it can be converted to a club licence (which means that clubs wishing to convert their licence no longer have to apply for the grant of a new licence); and
  - \*      inserting a new paragraph (cb) to vary the requirement under a hotel licence to sell liquor for consumption on the premises if the premises are temporarily damaged or rendered unsuitable by an unforeseen event, such as a fire, thereby allowing the hotel to only sell packaged liquor.
- Clause 44      Amends section 64 by:
- \*      deleting the word “served” in subsection (2)(b) which is not necessary;
  - \*      amending subsection (3) to allow the licensing authority to impose conditions which it considers to be in the public interest;
  - \*      inserting a new paragraph (ba) in subsection (3) to empower the licensing authority to impose conditions to ensure the laws of a local authority or of an Aboriginal community are complied with;
  - \*      inserting new paragraphs (ca) to (cd) in subsection 3 to empower the licensing authority to:
    - (1)      impose conditions to ensure that liquor is sold and consumed in a responsible manner;
    - (2)      ensure that persons involved with a licence are suitably trained; and
    - (3)      minimise harm or ill-health caused by the use of liquor and limit or prohibit the sale of liquor on credit;
  - \*      inserting new paragraphs (ga) and (gb) in subsection (3) to empower the licensing authority to impose conditions to restrict promotional activity in which drinks are offered free or at reduced prices or to prohibit any practice which encourages irresponsible drinking;
  - \*      inserting a new subsection (4) which provides that where there is an inconsistency between a condition imposed under this Act and any other written law, the more onerous condition shall prevail;

- \* inserting a new subsection (5) which empowers the licensing authority to vary the obligation to receive people which is imposed by section 108(2)(a);
- \* inserting a new subsection (6) which empowers the licensing authority to impose a condition relating to any aspects of the business carried on under the licence or any activity carried on at the licensed premises; and
- \* inserting a new subsection (7) which provides that where a condition imposed under this section is contravened, the licensing authority may impose a more restrictive condition on the licence or impose a monetary penalty not exceeding \$500 for each day that the contravention continues.

Clause 45 Amends section 65(1)(c) to recognise that a special facility licence can authorise the consumption of liquor on or in the proximity of the licensed premises.

Clause 46 Makes some minor wording amendments to section 66.

Clause 47 Deletes the requirement under section 67(1)(c) to advertise an application for the transfer of a licence.

Repeals section 67(5)(a) and inserts a redrafted paragraph (a) so that the Director is no longer required to cause a copy of an application to be displayed at the Clerk of Courts if the premises are not within 48 Kilometres of the General Post Office, Perth.

Clause 48 Amends section 69(4)(a) by deleting the words “or an officer nominated by the Commissioner of Police”. These words are no longer necessary given the amendments contained in clause 3.

Inserts a new section 69(8a) to allow the Executive Director, Public Health to intervene in proceedings before the licensing authority.

Amends section 69(12) so that notices of intervention must be lodged with and in a form approved by the Director.

Clause 49 Amends section 71(1)(a) to include the lodgement of an application for the removal of a category A licence.

Clause 50 Amends section 72(1)(b) so that an owner or lessor’s consent is required for a temporary removal of a liquor licence and inserts after the word “lessor” in section 72(6) the words “of the premises to which a licence is sought to be removed” in order to clarify the application of this section.

Clause 51 Inserts a new section 73(4a) which requires an objector to serve a copy of the objection on the applicant, unless the Director otherwise approves, and substitutes the word “may” for “shall” in section 73(5) so that the Director is not compelled to receive objections not in accordance with this section.



- Clause 52      Repeals paragraphs (b),(c),(e) and (f) of section 74(1) and inserts a new paragraph (b) which enables an objection to be lodged if an application would cause undue harm or ill-health to people due to the use of liquor. Paragraphs (b),(c),(e) and (f), will not be grounds of objection.
- Repeals section 74(4) and inserts a redrafted section 74(4) which enables the Director to strike out frivolous or vexatious objections. Clause 10 abolishes the position of Registrar.
- Clause 53      Amends section 75(1) by increasing from 7 to 14 days the period that an application for the grant of an occasional licence must be lodged before the licence is to take effect.
- Clause 54      Amends section 76(1) by increasing from 7 to 14 days the period that an application for the grant of an extended trading permit must be lodged before the permit is to take effect.
- Clause 55      Deletes paragraph (a) of section 81(3) because the probity of an applicant for the removal of a licence will not be relevant.
- Amends section 81(4) so that the Director can only dispense with the requirement to advertise an application for removal of a licence on the written request of the applicant.
- Repeals section 81(7) because the probity of the applicant and the persons referred to in sections 74(1)(b) or (c) will not be grounds of appeal.
- Clause 56      Amends section 82(1) by deleting the reference to section 30(4)(b)(iii), which is no longer required given the change in the division of responsibility between the Director and the Court.
- Clause 57      Inserts a new section 82A, which provides that where a licence is held jointly, and one or more of the persons who hold the licence no longer wishes to be involved in the business, the licence must be transferred to the remaining partner(s) and empowers the Director to suspend the licence if the parties fail to do so.
- Clause 58      Amends section 84(4)(a)(ii) as a consequence of the redrafting of section 37 (see clause 23).
- Amends section 84(6) by deleting paragraph (b) to clarify that a transfer of licence cannot be granted in respect of a licence that has ceased to be in force and simplifies paragraph (c) by deleting the reference to section 87, because a protection order can be granted under sections 86, 87 or 89.
- Clause 59      Amends sections 86(5) and (6) to allow for changes to the Corporations Law.

- Clause 60 Amends section 87(1)(b) so that a protection order cannot be granted in respect of a liquor store licence if the licence is suspended.
- Amends section 87(5) to make it clear that a protection order cannot be granted when a licence ceases to be in force.
- Repeals section 87(6) and inserts a redrafted subsection (6) so that the Director, rather than the Court, will make a determination where more than one person claims a right to carry on the business under a licence or applies for a protection order in respect of the same licence.
- Clause 61 Amends section 88(1) by:
- \* deleting the words “under section 87” (because a protection order can be granted under sections 86, 87 or 89);
  - \* including a reference to interim authorisations under section 86; and
  - \* deleting paragraph (b), which is redundant.
- Clause 62 Amends section 89 so that the Director will only consider disputes under leases in respect of licensed premises which impact on the requirements to be met under the Act.
- Clause 63 Amends section 92 to include a provision for the Director to suspend a licence if a person becomes involved in a body corporate which holds a licence without the consent required under section 102 of the Act.
- Clause 64 Inserts a new section 92A which allows the Director to lift the suspension of a licence if he is satisfied that the suspension is no longer justified.
- Clause 65 Makes some minor wording changes to section 93 in accordance with the change in the division of responsibilities between the Director and the Court and deletes paragraph (b) of subsection (1) and inserts a new paragraph (b) which requires 28 days to elapse before a suspended licence can be cancelled.
- Clause 66 Amends section 95 by:
- \* simplifying subsection (4)(e)(ii) by deleting the word “has”;
  - \* deleting subsection (4)(f)(ii) and inserting a new subsection (4)(f)(ii) so that a conviction in any jurisdiction can be grounds for disciplinary action;
  - \* inserting a new subsection (4)(fa) which allows the Court to consider any infringement notices issued under section 167 to a licensee in disciplinary hearings;
  - \* deleting the words “shall be lodged with the licensing authority, and” in subsection (5) which are redundant;

- \* inserting a new subsection (5a) which requires the complainant to serve a copy of the complaint on the licensee;
- \* inserting a new subsection (9) which allows an infringement notice issued under section 167 to an employee or agent of a licensee to be used as evidence in respect of a complaint against a licensee;
- \* inserting a new subsection (10) which allows the Court to deal jointly with complaints if it considers that the complaints are related; and
- \* inserting a new subsection (11) which provides that it is not a defence to a complaint against a licensee to show that the licensee did not know or was not aware of the act or omission which gave rise to the complaint or had taken reasonable steps to prevent the act or omission from taking place.

Clause 67 Clarifies section 96(1) by including a reference to more than one complaint and increases the penalty under paragraph (m) from \$5000 to \$30000.

Repeals section 96(2). Clause 91 incorporates a new section 164(1a) which contains similar provisions to this subsection.

Makes some minor wording changes to subsections 96(3) and (6) to cater for other amendments and to clarify the use of the subsections.

Clause 68 Clarifies the wording of section 97 and amends the permitted trading hours to allow:

- \* hotels, taverns and wine producers to sell liquor ancillary to a meal on Good Friday and Christmas Day between 12 noon and 10 pm;
- \* hotels and taverns to trade on Sundays between 10 am and 10 pm compared to the current permitted hours of 12 noon to 9 pm;
- \* clubs to trade until 2 am if New Year's Day falls on a Sunday; and
- \* restaurants to trade at any time on Good Friday.

Clause 69 Repeals section 98 which deals with obligatory trading hours.

Clause 70 Repeals section 99(4) and makes consequential amendments to the Act relating to work orders issued by the Director and the process for dealing with licensees who fail to comply with an order. The penalty imposed under section 99(7) is increased from \$100 to \$500.

Clause 71 Repeals section 100 and inserts a redrafted section 100 which relates to the supervision and management of licensed premises. The redrafted section clarifies that section and provides more flexibility for the industry, while retaining the integrity of only having approved persons manage licensed premises.

Clause 72 Makes some minor wording changes to sections 101(2) and (3) to clarify the use of those sections.

- Clause 73 Amends section 104(2) so that certain arrangements may be prescribed in regulation and replaces paragraph 104(2)(a) with a general provision to allow the licensing authority to approve of profit sharing arrangements.
- Clause 74 Amends section 106(1) so that the provision for lodgers to have guests on the premises only applies where the licence authorises the sale of liquor to both lodgers and the public (i.e. hotels).
- Inserts a new subsection (3) which allows the licensing authority to permit a lodger to have up to 6 adult guests where the licence only authorises the sale of liquor to a lodger (i.e. backpacker premises).
- Clause 75 Amends section 108 by:
- \* deleting paragraph (1)(c) so that liquor stores do not have to receive people onto the licensed premises;
  - \* amending paragraph (2)(a) so that the subsection applies, subject to any conditions on the licence; and
  - \* deleting the reference to obligatory trading hours and substituting a provision that the holder of a hotel licence or special facility licence (if the licence stipulates) must receive people at any time they are open during the permitted hours.
- Clause 76 Amends section 110(1) to make it clear that any person involved in a breach of a licence condition commits an offence.
- Simplifies section 110(4) and deletes paragraph 110(7)(c), which prohibits credit sales. Clause 44, which amends section 64, will enable the Director to place a condition on a licence to prohibit credit sales.
- Repeals section 110(8) which refers to a certificate of exemption.
- Clause 77 Inserts a new section (2a) in section 111 which provides that an offence is still committed under section 111 even though the licence may be suspended.
- Clause 78 Deletes “sale to, or possession or consumption by,” in section 112(1)(b) and replaces it with “possession or consumption by” to make it clear that liquor cannot be sold door to door.
- Clause 79 Amends section 114 to allow the police to close licensed premises if public safety is at risk.

- Clause 80      Repeals section 115(3) and inserts a redrafted subsection (3) to provide a clear definition of when a person is considered to be drunken. Inserts a new subsection (3a) so that where an authorised officer or person relies on the definition provided in subsection (3) to assess a person, then the person shall be taken to be drunken at the time, in the absence of proof to the contrary.
- Amends section 115(4) so that a licensee may refuse service to a person or an associate of a person convicted of an offence involving unlawful drugs or violence punishable by a term of imprisonment exceeding 3 years.
- Amends section 115(8) so that the police may prevent entry or remove persons from licensed premises without first being requested to do so by an authorised person.
- Inserts a new subsection (9) so that a person who is aggrieved from being refused entry or removed from licensed premises may lodge a complaint with the Director.
- Clause 81      Repeals section 116 and inserts a redrafted section 116 which specifies that certain documents are to be kept and displayed on the premises. The existing provisions of section 116(1) have been incorporated in the amendments detailed in clause 17.
- Clause 82      Amends section 117(2) to facilitate one or more persons lodging a complaint, relating to noise and disturbance emanating from licensed premises, compared to the current ten or more. Also enables government agencies to lodge a complaint.
- Repeals section 117(3) and inserts a redrafted section 117(3) which requires the Director to give notice of each complaint lodged to the licensee.
- Clause 83      Repeals section 121(4) and inserts redrafted section 121(4) to clarify that section and includes a new provision in which a juvenile who enters or remains on licensed premises commits an offence.
- Amends section 121(8) so that subsections (6) and (7) do not apply where a juvenile is present on a part of the licensed premises approved by the Director under section 120(1)(e).
- Clause 84      Amends section 125(1)(c) to make it clear that the defence provisions only relate to where an offence is committed on regulated premises (e.g. any amusement parlour or any premises where food or light refreshments are provided).
- Amends section 125(2)(b) to clarify the definition of responsible adult and inserts a new subsection (3) to provide for the spouse of a juvenile to include a person living in a marriage like relationship with the juvenile.
- Clause 85      Clarifies section 126 and repeals paragraph (b) of (1) and inserts a redrafted paragraph (b) which provides that the only acceptable forms of identification in respect of suspect juveniles are a current Australian driver's licence with photograph, a current passport or a prescribed document.

- Clause 86 Repeals section 145(2) as licensees will no longer be required to maintain a liquor purchase register. The redrafted subsection (2) will require a record of transactions to contain the prescribed information.
- Clause 87 Clarifies the use of section 157 by deleting the words “any wilful act,”.
- Clause 88 Amends section 160(1) to empower the police to obtain the name and address of any witness to an offence against the Act.
- Clause 89 Inserts a new section 164(1a) to provide for the Court to impose a penalty under section 96 on any officer or other person concerned in the management of a body corporate if it is found that the grounds of a complaint under section 95 occurred with the consent, connivance or failure of that person to take all reasonable steps to secure compliance by the body corporate with the Act.
- Makes some minor wording changes to sections 164(2), (3),(4) and (5) to clarify the use of those sections and to allow for changes to the Corporations Law and other proposed amendments.
- Clause 90 Deletes paragraph (a) of section 167(2) and inserts a new paragraph (a) to prescribe in regulation the offences for which an infringement may be issued.
- Amends section 167(5) to allow the withdrawal of an infringement notice for up to 2 years after it was issued compared with the existing 28 days.
- Inserts a new subsection (5a) which provides that where an infringement is withdrawn later than 28 days after it was given, no proceedings shall be brought in respect of the alleged offence.
- Clause 91 Repeals section 169(1) and inserts a redrafted section 169(1) to make it clear that offences under the Act are dealt with by a stipendiary magistrate except where the penalty for the offence is \$1000 or less and the defendant pleads guilty, in which case the matter can be dealt with by a Justice of the Peace.
- Amends section 169(2) to allow the time for a prosecution for an offence to be commenced within 4 years of the offence compared with the existing 2 years.
- Amends section 169(3) to tighten up on possible liquor licence fee evasion by inserting “or other disposal or acquisition” after the word “purchase” and allows the time for a prosecution for an offence relating to the recording of a transaction involving the sale or purchase of liquor to be commenced within 4 years compared with the existing 2 years.

- Clause 92      Inserts into section 170 new paragraphs:
- \*      (da), which provides that where a member of the police force purports to be acting on behalf of the Commissioner of Police, that officer shall be taken to be so authorised in the absence of proof to the contrary; and
  - \*      (db), which provides that where a licensee fails to appoint an approved manager in accordance with section 100(2)(c), the licensee shall be deemed not to have appointed a person in accordance with the requirements of the Act in the absence of proof to the contrary.
- Clause 93      Redrafts paragraph (iv) of section 172(1)(b) to clarify that subparagraph and inserts a new paragraph (na) to create an averment so that a person consuming liquor in a public place shall be deemed not to have the consent of the occupier of the premises in the absence of proof to the contrary.
- Clause 94      Amends section 175 to allow the prescription in regulations of conditions relating to the granting of a special facility licence and producer's licence, and the seizure of documents produced as evidence of age.
- Clause 95      Amends section 178 so that a review of the Act must be carried out 5 years after the commencement of section 97 of the Liquor Licensing Amendment Act 1997.
- Clause 96      Amends Division 2 of Schedule 2 by inserting a new address for The Air Force Association Club.
- Clause 97      Makes various amendments to gender references.
- Clause 98      Gives effect to the transitional provisions.

**SCHEDULE 1 - TRANSITIONAL PROVISIONS**

- Clause 1        Sets the commencement date of the transitional provisions.
- Clause 2        Where an application for a licence or permit is part heard at the commencement, it will be dealt with under the principal Act as in force before the commencement, otherwise the application will be dealt with under the principal Act as amended.
- Clause 3        A Certificate of Exemption held under the principal Act shall become a producer's licence.
- Clause 4        A complaint under section 95 which is part heard at the commencement, is to be dealt with under the principal Act as in force immediately before the commencement otherwise it will be dealt with under the principal Act as amended.
- Clause 5        A trustee or manager under the principal Act before commencement shall be taken to be approved under the principal Act as amended.
- Clause 6        Relates to the application of the Interpretation Act.