South Australia

Liquor Licensing Act 1997

An Act to regulate the sale, supply and consumption of liquor; and for other purposes.

Contents

Part 1—Preliminary

1 Short title
3 Objects
4 Interpretation
5 Resident on licensed premises
6 Persons with authority in a trust or corporate entity
7 Close associates
7A Exemptions

Part 2—Licensing authorities

Division 1—The Commissioner and staff

8 Liquor and Gambling Commissioner
9 Inspectors and other officers
10 Delegation
11 Disclosure of information
11AA Publication of determinations—confidential information
11A Codes of practice
11B Review of codes of practice
11C Steps to avoid conflict with planning system

Division 2—The Licensing Court of South Australia

12 Continuation of Court
13 Court to be court of record
13A Seal
14 Constitution of the Court
15 Judges
15A Registrar
16 Jurisdiction of the Court
16A Rules

Division 3—Division of responsibilities between the Commissioner and the Court

17 Division of responsibilities between Commissioner and the Court

Division 4—Proceedings before the Commissioner

18 Proceedings before the Commissioner
19 Powers of Commissioner with respect to witnesses and evidence

20 Representation
21 Power of Commissioner to refer questions to the Court
22 Application for review of Commissioner's decision

Division 5—Proceedings before the Court

22A Time and place of sittings
22B Adjournment from time to time and place to place
22C Hearing in public
23 Proceedings before the Court
24 Powers with respect to witnesses and evidence
24A Entry and inspection of property
24B Injunctive remedies
24C Punishment of contempts
25 Representation
25A Intervention by Commissioner
26 Power to award costs
27 Appeal from orders and decisions of the Court
28 Reference of question of law

Division 5A—Intervention by Commissioner of Police

28AA Intervention by Commissioner of Police

Division 6—Criminal intelligence

28A Criminal intelligence

Part 3—Licences

Division 1—Requirement to hold licence

29 Requirement to hold licence
30 Cases where licence is not required

Division 2—Licences

Subdivision 1—Authorised trading in liquor

31 Authorised trading in liquor

Subdivision 2—Ongoing licences

32 General and hotel licence
33 On premises licence
34 Residential licence
35 Restaurant and catering licence
36 Club licence
37 Small venue licence
38 Packaged liquor sales licence
39 Liquor production and sales licence

Subdivision 3—Short term licence

40 Short term licence

Subdivision 4—Interstate direct sales licence

41 Interstate direct sales licence

Division 3—Conditions of licence

42 Mandatory conditions
42A New Year's Eve trading in relation to certain licences
43 Power of licensing authority to impose conditions
45 Compliance with licence conditions

Division 4—General provisions

46 Unauthorised sale or supply of liquor
47 How licences are to be held
48 Plurality of licences
50 Minors not to be licensees
50A Annual fees
50B Notification of certain variations to licences

Part 4—Applications and submissions

Division 1—Formal requirements

51 Form of applications
51A Applications to be given to Commissioner of Police
52 Certain applications to be advertised
52A Confidentiality of certain documents and material relevant to application

Division 2—General powers and discretions of licensing authority

53 Discretionary powers of licensing authority
53A Licensing authority to be satisfied that designated application is in community interest
53B Community impact assessment guidelines
54 Order for determining applications
55 Provisions governing whether person is fit and proper

Division 3—Application for new licence

56 Applicant to be fit and proper person
57 Requirements for premises
59 Certificate of approval for proposed premises
59A Licence fee payable on grant of licence

Division 4—Removal of licence

60 Premises to which licence is to be removed
62 Certificate of approval for removal of licence to proposed premises
62A Removal of liquor production and sales licence in respect of outlet

Division 4A—Addition of outlets to liquor production and sales licence

62B Addition of outlets to liquor production and sales licence
62C Certificate of approval for addition to liquor production and sales licence of proposed premises as outlet

Division 5—Transfer of licence

63 Applicant for transfer must be fit and proper person
64 Limitation on sale or assignment of rights under licence
65 Transferee to succeed to transferor's liabilities and rights

Division 5A—Special provision relating to amalgamation of certain clubs

65A Special provision relating to amalgamation of certain clubs

Division 6—Voluntary suspension and revocation of licence

66 Suspension and revocation of licence
67 Surrender of licence

Division 7—Alteration and redefinition of licensed premises

68 Alteration and redefinition of licensed premises

Division 8—Extension of trading area

69 Extension of trading area

Division 8A—Alteration of endorsements

69A Alteration of endorsements

Division 9—Variation of non-statutory conditions of licence

70 Variation of non-statutory conditions of licence

Division 10—Approval of management and control

71 Approval of management and control
71AA Revocation of approval of responsible person

Division 11—Lessor's consent

72 Consent of lessor or owner required in certain cases

Division 12—Devolution of licensee's rights

73 Devolution of licensee's rights
74 Bankruptcy or winding up of licensee
75 Notice to be given of exercise of rights under this Division

Division 13—Submissions in relation to applications

76 Commissioner of Police may make written submissions
77 General right to make written submissions
78 Further written submissions
79 Conciliation
80 Commissioner may refer matters to Court
81 Hearings etc
82 Variation of written submissions

Part 6—Conduct of licensed business

Division 1—Supervision and management

97 Supervision and management of licensee's business
97A Direction to complete training—responsible persons
98 Approval of assumption of positions of authority in corporate or trust structures

Division 2—Profit sharing

99 Prohibition of profit sharing

Division 3—Supply of liquor to residents on licensed premises

100 Supply of liquor to residents on licensed premises
101 Record of residents on licensed premises

Division 4—Removal and consumption of liquor

102 Restriction on taking liquor from licensed premises
103 Restriction on consumption of liquor in, and taking liquor from, licensed premises
104 Liquor may be brought onto, and removed from, licensed premises in certain cases

Division 5—Regulation of prescribed entertainment

105 Prescribed entertainment on licensed premises

Division 6—Noise

106 Complaint about noise etc emanating from licensed premises

Division 7—Employment of minors

107 Minors not to be employed to serve liquor in licensed premises

Division 7A—Sale of liquor through direct sales transaction

107A Sale of liquor through direct sales transaction

Division 8—Sale or supply to intoxicated persons

108 Liquor not to be sold or supplied to intoxicated persons

Division 9—Miscellaneous requirements

109 Copy of licence etc to be kept on licensed premises
109A Records of liquor transactions
109B Returns

Part 7—Minors

109C Interpretation
110 Sale and supply of liquor to minors on licensed premises
110A Supply of liquor to minors generally
111 Areas of licensed premises may be declared out of bounds to minors
112 Minors not to enter or remain in certain licensed premises
113 Notice to be erected
113A Requirements relating to notices
115 Evidence of age may be required
115A Seizure of evidence of age document
116 Power to remove or refuse entry to minors

Part 7A—Offences relating to conduct on licensed premises etc

117A Offensive or disorderly conduct

Part 7B—Offences relating to criminal organisations

117B Preliminary
117C Report of Crime and Public Integrity Policy Committee
117D Exclusion of persons wearing or carrying prohibited items
117E Entering and remaining in licensed premises wearing or carrying a prohibited item
117F Removal of person wearing or carrying prohibited item from premises

Part 8—Disciplinary action

118 Application of Part
119 Cause for disciplinary action
119A Commissioner's power to deal with disciplinary matter by consent
119B Disciplinary action before Commissioner for certain matters
120 Disciplinary action before the Court
120A Commissioner's power to suspend or impose conditions pending disciplinary action
121 Disciplinary action

Part 9—Special powers and enforcement

Division 1—Powers of entry etc

122 Powers of authorised officers
123 Power to enter and search premises and confiscate liquor

Division 2—Power to remove or refuse entry

124 Power to refuse entry or remove intoxicated persons or persons guilty of offensive behaviour

Division 3—Power to bar

Subdivision 1—Interpretation

124A Interpretation

Subdivision 2—Licensee barring orders

125 Licensee barring orders

Subdivision 3—Police barring orders

125A Commissioner of Police barring orders
125B Police officer barring orders
125C Offences
125D Evidence

Subdivision 4—Miscellaneous

125E Power to require personal details
126 Orders
127 Power to remove person who is barred
128 Review of orders
128A Reports on barring orders
128AB Commissioner of Police to report to Minister for Police on barring orders

Division 4—Public order and safety

128B Power of Commissioner to issue public order and safety notice
128C Power of police to clear or close licensed premises etc

Part 9A—Liquor accords

128D Interpretation
128E Preparation of draft local liquor accords
128F Terms of local liquor accords
128G Competition and Consumer Act and Competition Code
128H Approval of local liquor accords

Part 10—Unlawful consumption of liquor

129 Consumption of liquor on regulated premises
130 Unlawful consumption of liquor
131 Control of consumption etc of liquor in public places

Part 10A—Prohibition of manufacture, sale or supply of certain liquor

131AA Prohibition of manufacture, sale or supply of certain liquor

Part 11—Miscellaneous

Division 1—Offences and procedure

131A Failing to leave licensed premises on request
132 Penalties
133 Recovery of financial advantage illegally obtained
134 Vicarious liability
135 Evidentiary provision
135A Determination of second or subsequent offence in case of previous offence that has been expiated

Division 2—General

136 Service
137A Destruction of fingerprints
137B Procedures to be observed by authorised persons in prevention of persons from entering, and removal of persons from, licensed premises
137C Special transitional provision—disapplication or modification of certain restrictions or requirements in respect of licences
138 Regulations

Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Liquor Licensing Act 1997*.

3—Objects

(1) The object of this Act is to regulate and control the promotion, sale, supply and consumption of liquor—

(a) to ensure that the sale and supply of liquor occurs in a manner that minimises the harm and potential for harm caused by the excessive or inappropriate consumption of liquor; and

(b) to ensure that the sale, supply and consumption of liquor is undertaken safely and responsibly, consistent with the principle of responsible service and consumption of liquor; and

(c) to ensure as far as practicable that the sale and supply of liquor is consistent with the expectations and aspirations of the public; and

(d) to facilitate the responsible development of the licensed liquor industry and associated industries, including the live music industry, tourism and the hospitality industry, in a manner consistent with the other objects of this Act.

(1a) For the purposes of subsection (1)(a), harm caused by the excessive or inappropriate consumption of liquor includes—

(a) the risk of harm to children, vulnerable people and communities (whether to a community as a whole or a group within a community); and

(b) the adverse economic, social and cultural effects on communities (whether on a community as a whole or a group within a community); and

(c) the adverse effects on a person's health; and

(d) alcohol abuse or misuse; and

(e) domestic violence or anti-social behaviour, including causing personal injury and property damage.

(2) Subject to this Act, in deciding any matter before it under this Act, the licensing authority must have regard to the objects set out in subsection (1).

4—Interpretation

In this Act, unless the contrary intention appears—

adjacent—places or premises are adjacent if they adjoin (either in a horizontal or vertical plane) or if they are in close proximity to each other;

authorised person, in relation to licensed premises, means—

(a) the licensee; or

(b) a responsible person for the licensed premises; or

(c) a police officer; or

(d) a person who holds a security agents licence that authorises the person to perform the function of controlling crowds in licensed premises under the *Security and Investigation Industry Act 1995*;

authorised trading hours, in relation to a licence, means the hours during which the sale, supply or consumption of liquor is authorised by the licence;

beer means beer, ale, lager, stout or liquor of any other kind produced by brewing;

beneficiary includes an object of a discretionary trust;

body corporate includes a company within the meaning of the *Corporations Act 2001* of the Commonwealth;

close associate, except where otherwise provided by this Act, has the meaning given by section 7;

club event endorsement—see section 36(9);

club transport endorsement—see section 36(11);

code of practice—see section 11A;

collective outlet—see section 39(4);

Commissioner means the Liquor and Gambling Commissioner;

community impact assessment guidelines—see section 53B;

council means a municipal or district council;

Court means the Licensing Court of South Australia;

criminal intelligence means information relating to actual or suspected criminal activity (whether in this State or elsewhere) the disclosure of which could reasonably be expected to prejudice criminal investigations, enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement or endanger a person's life or physical safety;

designated application—see section 53A;

designated licence means—

(a) a general and hotel licence; or

(b) an on premises licence, unless—

(i) the premises to which the proposed licence relates is a public conveyance; or

(ii) the licence is, or is proposed to be, subject to a condition that the business conducted at the licensed premises be such that at all times the primary service provided to the public at the premises is the provision of accommodation; or

(c) a club licence, if—

(i) the licence is, or is proposed to be, subject to a condition authorising—

(A) the sale of liquor to persons (other than a resident) for consumption off the licensed premises; or

(B) the sale of liquor after 2 am on any day; or

(ii) in the opinion of the licensing authority, the business conducted under the licence and activities on the premises or proposed premises will have a substantial adverse impact on the amenity of the locality in which those premises are, or are to be, situated, taking into account—

(A) the size of the premises or proposed premises; and

(B) the trading hours or proposed trading hours under the licence; and

(C) any other matter the licensing authority considers relevant; or

(d) a packaged liquor sales licence, other than if the licence is, or is proposed to be, subject to a condition authorising the licensee to only sell liquor through direct sales transactions;

director of a body corporate means a member of the board or committee of management of the body corporate;

direct sales transaction means a transaction for the sale of liquor in which—

(a) the liquor is ordered by the purchaser by mail, telephone, facsimile transmission or internet or other electronic communication; and

(b) the liquor is delivered to the purchaser, or a person nominated by the purchaser, at the residence or place of business of the purchaser, or some place (other than premises at which the liquor has been stored prior to delivery) nominated by the purchaser;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975* whether declared as such under that Act or not;

entertainment means a dance, performance, exhibition or event (including a sporting contest) calculated to attract and entertain members of the public;

function means a gathering of people on any occasion at which liquor is to be sold, supplied or consumed and for which licensed premises, or a part of licensed premises, has been booked in advance;

gross turnover means the gross proceeds of the sale of liquor under a licence;

inspector—see section 9;

intoxicated—a person is intoxicated if—

(a) the person's speech, balance, co-ordination or behaviour is noticeably affected; and

(b) it is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor or some other substance;

Judge means the Licensing Court Judge or some other Judge with authority to exercise the jurisdiction of the Court;

licence means a licence under this Act;

licensed person or ***licensee*** means a person who holds a licence (including a temporary or short term licence) under this Act and includes—

(a) if a licence is held by a trustee—the trust; or

(b) a person authorised to carry on business under a licence;

licensed premises means premises in respect of which a licence is in force and includes premises for which the licence is currently under suspension;

licensing authority means—

(a) in relation to a matter that is to be decided by the Court under this Act—the Court;

(b) in relation to any other matter—the Commissioner;

Licensing Court Judge means a District Court Judge designated by proclamation as the Licensing Court Judge;

liquor means a beverage which at 20° Celsius contains more than 1.15 per cent alcohol by volume and includes any substance declared by regulation to be liquor for the purposes of this Act;

liquor merchant means—

(a) a person who holds a licence under this Act (except a person who holds only a short term licence); or

(b) a person who is authorised under the law of another State, or a Territory, of the Commonwealth to sell liquor;

meal means a genuine meal eaten while seated at a table;

minor means a person under the age of 18 years;

offensive or disorderly—without limiting the conduct that may constitute behaving in an offensive or disorderly manner, the conduct may be constituted of offensive language;

officer means—

(a) in relation to a body corporate—a director of the body corporate;

(b) in relation to a trust—a trustee;

packaged liquor means liquor in sealed containers for consumption off licensed premises;

party includes—

(a) an intervener;

(b) in relation to an application for the transfer of a licence—the transferor;

position of authority in a trust or corporate entity—see section 6;

premises includes—

(a) land;

(b) any building or structure on land, including a temporary or moveable building or structure;

(c) a public conveyance;

(ca) a motor vehicle (within the meaning of the *Road Traffic Act 1961*) or a vehicle of a kind prescribed by the regulations;

(d) a part of premises;

production and sales event endorsement—see section 39(5);

production outlet—see section 39(2);

public conveyance means an aeroplane, vessel, bus, train, tram, or other vehicle used for public transport or available for hire by members of the public, but does not include a conveyance hired on a self-drive basis if all passengers (if any) are to be transported free of charge or other consideration;

public interest—the public interest includes, but is not limited to, matters relating to—

(a) public order and safety; and

(b) public health (whether generally or in respect of particular groups or communities); and

(c) the welfare of particular groups or communities;

public order and safety includes matters of—

(a) personal safety and apprehension of danger to personal safety; and

(b) safety of property and apprehension of danger to safety of property; and

(c) public order unrelated to matters of public safety; and

(d) public safety unrelated to matters of public order;

public order and safety notice—see section 128B;

public place means a place (not being licensed premises) to which the public has access (whether or not admission is obtained by payment of money);

reception includes a convention, conference or similar function—

(a) at which people gather in substantial numbers for a particular purpose; and

(b) for which licensed premises, or a part of licensed premises, has been booked in advance,

(but does not include a function of which the consumption of liquor is the sole or a predominant purpose);

record means—

(a) a document; or

(b) a record of a kind declared by regulation to be a record for the purposes of this definition;

Note—

The *Acts Interpretation Act 1915* defines ***document***—see section 4(1) of that Act.

regulated premises means—

(a) licensed premises; or

(b) a restaurant, café or shop; or

(c) an amusement parlour or amusement arcade; or

(d) a public place that is being used for the purposes of an organised event, where admission to the event is gained on payment of money, presentation of a pre-paid ticket or purchase of some item; or

(e) a public conveyance; or

(f) premises of a kind declared by regulation to be regulated premises,

and includes an area appurtenant to any such premises, but does not include any premises, place or conveyance declared by regulation not to be regulated premises;

related body corporate—bodies corporate are related for the purposes of this Act if they are related within the meaning of the *Corporations Act 2001* of the Commonwealth;

resident on licensed premises—see section 5;

responsible person for licensed premises means a person who is, in accordance with section 97, responsible for supervising and managing the business conducted under the licence;

retail—a sale is by retail if made to a person who is not a liquor merchant;

retail outlet—see section 39(2);

sample—an amount of liquor of a particular kind will not be considered to be a sample if it exceeds the prescribed amount for that kind of liquor;

sell includes—

(a) to barter or exchange;

(b) to offer or expose for sale, barter or exchange;

(c) to supply, or offer to supply, in circumstances in which the supplier derives, or would derive, a direct or indirect pecuniary benefit;

(d) to supply, or offer to supply, gratuitously but with a view to gaining or maintaining custom, or otherwise with a view to commercial gain;

spirits means liquor of any kind produced wholly or in part by distillation;

spouse—a person is the spouse of another if they are legally married;

trust—a trust is considered for the purposes of this Act as a single entity consisting of the trustees and the beneficiaries;

trust or corporate entity means a trust or a body corporate;

unlicensed person means a person who does not hold a licence under this Act;

unlicensed premises means premises in respect of which a licence is not in force under this Act (but if a licence for the premises is under suspension, the premises are not to be regarded as unlicensed premises for the period of the suspension);

wholesale—a sale is by wholesale if made to a liquor merchant;

wholesale outlet—see section 39(2);

wine includes mead, cider, perry and any other fermented liquor produced from fruit, vegetables, berries or honey but does not include a product produced by blending wine with other beverages.

5—Resident on licensed premises

(1) A person is regarded as a resident on licensed premises at a particular time if, and only if—

(a) the person has spent the previous night at the licensed premises or is booked to spend the next night (or the present night) at the licensed premises; and

(b) the person's name has been entered in the record of residents required to be kept by the licensee under this Act.

(2) None of the following persons is to be regarded as a resident on licensed premises:

(a) the licensee or a member of the licensee's family;

(b) a responsible person for the licensed premises or a member of a responsible person's family;

(c) an employee of the licensee or a member of the employee's family.

6—Persons with authority in a trust or corporate entity

(1) A person occupies a position of authority in a trust or corporate entity if the person—

(a) in the case of a body corporate—

(i) is a director of the body corporate;

(ii) exercises, or is in a position to exercise, control or substantial influence over the body corporate in the conduct of its affairs;

(iii) manages, or is to manage, the business of the body corporate to be conducted under a licence;

(iv) if the body corporate is a proprietary company—is a shareholder in the body corporate; or

(b) in the case of a trust—is a trustee or beneficiary of the trust.

(2) However—

(a) a minor who is a shareholder in a proprietary company, or a beneficiary under a trust, is not for that reason to be regarded as a person occupying a position of authority; and

(b) a charitable organisation that is a beneficiary of a trust is not, for that reason, to be regarded as occupying a position of authority in the trust.

7—Close associates

(1) Two persons are ***close associates*** if—

(a) one is a spouse, domestic partner, parent, brother, sister or child of the other; or

(b) they are members of the same household; or

(c) they are in partnership; or

(d) they are joint venturers; or

(e) they are related bodies corporate; or

(f) one is a body corporate and the other is a director or executive officer of the body corporate; or

(g) one is a body corporate (other than a public company whose shares are quoted on a prescribed financial market) and the other is a shareholder in the body corporate; or

(h) one is a body corporate whose shares are quoted on a prescribed financial market and the other has a substantial holding (within the meaning of the *Corporations Act 2001* of the Commonwealth) in the body corporate; or

(i) one has a right to participate (otherwise than as a shareholder in a body corporate) in income or profits derived from a business conducted by the other; or

(j) one is in a position to exercise control or significant influence over the conduct of the other; or

(k) a chain of relationships can be traced between them under any one or more of the above paragraphs.

(2) In subsection (1)—

prescribed financial market means a prescribed financial market within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth;

substantial holding in a body corporate has the same meaning as in section 9 of the *Corporations Act 2001* of the Commonwealth.

7A—Exemptions

If a provision of this Act allows a licensing authority to grant an exemption from a provision or requirement under this Act (including a provision or requirement under a code of practice), the licensing authority may vary or revoke the exemption, and must give notice of the variation or revocation of the exemption in a manner and form determined by the licensing authority.

Part 2—Licensing authorities

Division 1—The Commissioner and staff

8—Liquor and Gambling Commissioner

(1) The office of *Liquor and Gambling Commissioner* continues.

(2) The Commissioner is responsible to the Minister for the administration of this Act.

(3) The Commissioner is to be a Public Service employee.

9—Inspectors and other officers

(1) The Commissioner's staff consists of the inspectors and other officers necessary to assist the Commissioner in the administration and enforcement of this Act and any other Acts under which the Commissioner exercises functions and powers.

(2) The Commissioner must provide each inspector with a certificate of identity and an inspector must, at the request of a person in relation to whom the inspector has exercised, or intends to exercise, powers under an Act, produce that certificate.

10—Delegation

(1) The Commissioner may delegate powers or functions (under this Act or any other Act or instrument) to any person.

(2) A delegation under this section—

(a) may be absolute or conditional; and

(b) does not derogate from the power of the Commissioner to act personally in any matter; and

(c) is revocable at will; and

(d) may, if the instrument of delegation so provides, be further delegated.

11—Disclosure of information

The Commissioner may disclose information gained in the course of the administration of this Act—

(a) to authorities responsible for the administration of liquor licensing laws in other States and Territories of the Commonwealth; and

(b) to any other authorities that may require the information for the purpose of discharging duties of a public nature; and

(c) if the information is disclosed in a form that does not identify the person to whom it relates—to any other person, or in any other way, the Commissioner (in the exercise of an absolute discretion) considers appropriate in the public interest.

11AA—Publication of determinations—confidential information

If the Commissioner publishes a determination made under this Act, the Commissioner may exclude from publication information that the Commissioner considers to be—

(a) personal information of a confidential nature; or

(b) information that has a commercial or other value that would be, or could reasonably be expected to be, destroyed or diminished if the information were published; or

(c) information the publication of which would, or could reasonably be expected to, prejudice the commercial position of a person or confer a commercial advantage on a person; or

(d) information the publication of which—

(i) would otherwise be contrary to the public interest; or

(ii) would be inappropriate for such other reason as the Commissioner thinks fit.

11A—Codes of practice

(1) For the purposes of this Act, the Commissioner may, by notice in the Gazette, publish a code of practice that has been approved by the Minister.

(2) Without limiting the matters that may be included in a code of practice, a code of practice may include measures that can reasonably be considered appropriate and adapted to the furtherance of the objects of this Act.

(2a) The Commissioner may include provisions in a code of practice that declare whether a contravention of, or failure to comply with, a provision of the code is to be expiable for the purposes of section 45.

(3) A code of practice may—

(a) be of general or limited application; and

(b) vary in operation according to factors stated in the code; and

(c) provide for the granting by the Commissioner of exemptions (conditional or unconditional) from specified provisions of the code.

(3a) The Commissioner may include provisions in a code of practice that—

(a) declare whether contravention or failure to comply with a provision of the code is a category A, B, C or D offence for the purpose of section 45; and

(b) if the offence is to be expiable—declare whether the offence is a category A, B, C or D expiable offence for the purposes of that section.

(4) The Commissioner may, by subsequent notice in the Gazette, vary or revoke a code of practice.

(4a) The Commissioner must, before making or varying a code of practice, undertake consultation (in such manner as the Commissioner thinks fit) with persons or bodies that the Commissioner is satisfied represent the interests of licensees affected by the proposed code or variation.

(5) A notice published in the Gazette under this section may come into operation on the day on which it is published or on a later day or days specified in the notice.

(6) Sections 10 and 10A of the *Subordinate Legislation Act 1978* apply to a notice published in the Gazette under this section as if it were a regulation within the meaning of that Act.

(7) A person is, in relation to the performance of a prescribed function under a code of practice, exempt from the operation of the *Security and Investigation Industry Act 1995*.

11B—Review of codes of practice

(1) The Minister must cause a review of the operation of any codes of practice published under section 11A to be conducted immediately following the first anniversary of the commencement of this section.

(2) A review under subsection (1) must be completed, and a report on the results of the review provided to the Minister, within 6 months after the first anniversary of the commencement of this section.

(3) The Minister must, within 12 sitting days after receipt of a report, cause copies of the report to be laid before each House of Parliament.

11C—Steps to avoid conflict with planning system

The Commissioner should—

(a) in the development and implementation of a code of practice; or

(b) in the assessment of an application for a licence under this Act; or

(c) in the imposition of conditions under this Act,

take reasonable steps to avoid any inconsistency with, or the duplication of, matters that are dealt with or addressed under the *Planning, Development and Infrastructure Act 2016*.

Division 2—The Licensing Court of South Australia

12—Continuation of Court

The Licensing Court of South Australia continues in existence.

13—Court to be court of record

The Court is a court of record.

13A—Seal

(1) The Court will have such seals as are necessary for the transaction of its business.

(2) A document apparently sealed with a seal of the Court will, in the absence of evidence to the contrary, be taken to have been duly issued under the authority of the Court.

14—Constitution of the Court

(1) The Court is constituted of—

(a) the Licensing Court Judge; or

(b) some other District Court Judge, or former District Court Judge, with authority to exercise the jurisdiction of the Court.

(2) The Court, separately constituted of different Judges, may sit at the same time to hear and determine separate proceedings.

15—Judges

(1) The Governor may, by proclamation—

(a) designate a District Court Judge as the Licensing Court Judge; or

(b) confer on other District Court Judges, or former District Court Judges, authority to exercise the jurisdiction of the Court; or

(c) vary or revoke a proclamation under this section.

(2) If a proclamation under subsection (1)(a) or (b) so provides, it lapses at the end of a specified period.

(3) The Licensing Court Judge is responsible for the administration of the Court.

(4) If the Licensing Court Judge is absent or unable to act, another Judge of the Court nominated by the Governor will act in the office of the Licensing Court Judge.

(5) The Licensing Court Judge may delegate any power or function under this Act to another Judge of the Court.

(6) A delegation under subsection (5) is revocable at will and does not derogate from the power of the Licensing Court Judge to act himself or herself in any matter.

(7) A Judge has the same privileges and immunities from liability as a Judge of the Supreme Court.

15A—Registrar

(1) A person may be appointed to be the Registrar of the Court on a basis determined by the Minister.

(2) The office of Registrar may be held in conjunction with another office or position.

16—Jurisdiction of the Court

The Court has the jurisdiction conferred on it by this Act or any other Act.

16A—Rules

(1) Rules of court may be made under this Act to regulate the practice and procedure of the Court and to provide for any other matter necessary or expedient for the effective and efficient operation of the Court.

(2) The power to make rules under this section includes the power to make rules in respect of any jurisdiction conferred on the Court by another Act.

(3) Rules of the Court may be made by the Licensing Court Judge.

(4) Rules of the Court take effect as from the date of publication in the Gazette or a later date specified in the rules.

Division 3—Division of responsibilities between the Commissioner and the Court

17—Division of responsibilities between Commissioner and the Court

The powers and responsibilities of a licensing authority under this Act are divided between the Commissioner and the Court as follows:

(a) the Court is to determine the following matters:

(i) all matters referred to the Court under a provision of this Act for hearing and determination by the Court; and

(ii) all other matters that are, under some other provision of this Act, to be determined by the Court;

(b) the Commissioner is to determine all matters that are not to be determined by the Court under paragraph (a).

Division 4—Proceedings before the Commissioner

18—Proceedings before the Commissioner

In proceedings under this Act, the Commissioner—

(a) must act without undue formality; and

(b) is not bound by the rules of evidence but may inform himself or herself on any matter as the Commissioner thinks fit.

19—Powers of Commissioner with respect to witnesses and evidence

(1) The Commissioner may exercise the following powers:

(a) by summons, require any person to attend before the Commissioner at a time and place specified in the summons for the purpose of giving evidence relevant to proceedings before the Commissioner;

(b) by summons, require the production of records;

(c) inspect records, and take copies of, or extracts from, them;

(d) require any person to take an oath or affirmation verifying evidence given, or to be given, before the Commissioner;

(e) require any person appearing before the Commissioner to answer a question put by the Commissioner or some other person.

(2) A person who—

(a) having been served with a summons to attend before the Commissioner fails, without reasonable excuse, to attend in obedience to the summons; or

(b) having been served with a summons to produce records fails, without reasonable excuse, to comply with the summons; or

(c) refuses to be sworn or to affirm, or to answer a relevant question when required to do so by the Commissioner,

is guilty of an offence.

Maximum penalty: $2 500.

20—Representation

(1) A party to, or another person involved in, proceedings before the Commissioner, other than proceedings relating to an application under Part 4 in relation to which the Commissioner has determined not to hold a hearing, may appear in those proceedings—

(a) personally; or

(b) by counsel; or

(c) if the party or other person is a member of a genuine association formed to promote or protect the interests of a section of the liquor industry, or employees in the liquor industry—by an officer or employee of that association; or

(d) if the party or other person is a trust or corporate entity—by an officer or employee of the entity; or

(e) with the permission of the Commissioner—by any other person.

(2) The Commissioner of Police may be represented in proceedings (other than proceedings relating to an application under Part 4 in relation to which the Commissioner has determined not to hold a hearing) before the Commissioner by a police officer.

21—Power of Commissioner to refer questions to the Court

(1) Without limiting anything in Part 4 Division 13, the Commissioner may refer for hearing and determination by the Court—

(a) any proceedings that involve questions of substantial public importance; or

(b) any question of law that arises in proceedings before the Commissioner; or

(c) any other matter that should, in the public interest or in the interests of a party to the proceedings, be heard and determined by the Court.

(2) Subsection (1)(a) and (c) does not apply to an application to which section 52 applies that relates to a small venue licence.

22—Application for review of Commissioner's decision

(1) Subject to subsection (3), the following persons may apply to the Court for a review of a decision of the Commissioner in relation to an application for or in relation to a licence under Part 4:

(a) in the case of a decision of the Commissioner where the Commissioner held a hearing in respect of the application—a person involved in the hearing;

(b) in the case of a decision of the Commissioner relating to a designated application (other than a decision of a kind referred to in paragraph (a))—

(i) the applicant; or

(ii) if the Commissioner of Police intervened or made written submissions in relation to the application—the Commissioner of Police; or

(iii) any other person who made written submissions relating to the application;

(c) in any other case—

(i) the applicant; or

(ii) the licensee (in a case where the licensee is not the applicant); or

(iii) if the Commissioner of Police intervened or made written submissions in relation to the application—the Commissioner of Police; or

(iv) any other person with the permission of the Court.

(2) Subject to subsection (3)—

(a) a party to any other proceedings before the Commissioner under this Act who is dissatisfied with a decision made by the Commissioner in the proceedings may apply to the Court for a review of the Commissioner's decision; and

(b) a licensee who is dissatisfied with a decision made by the Commissioner under section 43(1) in circumstances in which there were no proceedings before the Commissioner may apply to the Court for a review of the Commissioner's decision.

(3) If the Commissioner's decision relates to a subject on which the Commissioner has an absolute discretion, the decision, insofar as it was made in the exercise of that discretion, is not reviewable by the Court.

(4) Despite subsection (3)—

(a) an applicant for, or in relation to, a small venue or short term licence who is dissatisfied with a decision of the Commissioner in relation to the applicant's application may apply to the Court for a review of the decision; and

(b) the Commissioner of Police may apply to the Court for a review of the Commissioner's decision to grant an application for, or in relation to, a small venue or short term licence.

(5) A review on application by the Commissioner of Police under subsection (1) or (4)(b) is limited to whether a particular person is a fit and proper person, or whether the Commissioner's decision is contrary to the public interest.

(6) An application for review of a decision of the Commissioner must be made within 1 month after the applicant for the review receives notice of the decision or a longer period allowed by the Court.

(7) A review is in the nature of a rehearing.

(8) On a review, the Court may exercise any 1 or more of the following powers:

(a) affirm, vary or quash the decision subject to the review;

(b) make any decision that should, in the opinion of the Court, have been made in the first instance;

(c) refer a matter back to the Commissioner for rehearing or reconsideration;

(d) make any incidental or ancillary order.

Division 5—Proceedings before the Court

22A—Time and place of sittings

(1) The Court may sit at any time (including a Sunday).

(2) The Court may sit at any place (either within or outside the State).

(3) The Court will sit at such times and places as the Licensing Court Judge may direct.

22B—Adjournment from time to time and place to place

The Court may—

(a) adjourn proceedings from time to time and from place to place; or

(b) adjourn proceedings to a time, or a time and place, to be fixed; or

(c) order the transfer of proceedings from place to place.

22C—Hearing in public

(1) Subject to this and any other Act, proceedings before the Court must be heard in public.

(2) The Court may, at any stage of the proceedings on its own initiative or on the application of a party, give directions—

(a) requiring particular persons to withdraw from a hearing before the Court, or excluding particular persons from a hearing before the Court, so that it may be conducted in private; or

(b) prohibiting or restricting the publication of evidence given before the Court or of the contents of any document produced to the Court.

(3) A person must comply with a direction of the Court under subsection (2).

Maximum penalty: $5 000.

23—Proceedings before the Court

In proceedings before the Court (under this Act or any other Act) the Court—

(a) must act without undue formality; and

(b) is not bound by the rules of evidence but may inform itself on any matter as it thinks fit.

24—Powers with respect to witnesses and evidence

(1) The Court may exercise any of the following powers:

(a) by summons, require any person to attend before the Court at a time and place specified in the summons to give evidence relevant to proceedings before the Court;

(b) by summons, require the production of records;

(c) inspect records, and take copies of, or extracts from, them;

(d) require any person to take an oath or affirmation verifying evidence given, or to be given, before the Court;

(e) require any person appearing before it to answer a question put by the Court or some person appearing before the Court.

(1a) If the Court requires the attendance before it of any person who is held in custody in the State, the Court may—

(a) issue a summons requiring the custodian to produce that person before the Court at a nominated time and place; or

(b) issue a warrant authorising the sheriff, or a police officer, to take the person from the custodian and bring him or her before the Court.

(2) A person who—

(a) having been served with a summons to attend before the Court fails, without reasonable excuse, to attend in obedience to the summons; or

(b) having been served with a summons to produce records fails, without reasonable excuse, to comply with the summons; or

(ba) misbehaves before the Court, wilfully insults the Court, or wilfully interrupts the proceedings of the Court; or

(c) refuses to be sworn or to affirm, or to answer a relevant question when required to do so by the Court,

is guilty of an offence.

Maximum penalty: $2 500.

(3) A summons may be issued on behalf of the Court, on the application of any party to proceedings before the Court, by—

(a) a Judge.

24A—Entry and inspection of property

(1) The Court may enter any land or building and carry out any inspection that the Court considers relevant to a proceeding before the Court.

(2) A person who obstructs the Court in the exercise of a power of entry or inspection under this section is guilty of an offence.

Maximum penalty: $5 000.

24B—Injunctive remedies

(1) If there are reasonable grounds to believe that a person is about to contravene or to fail to comply with a provision of this Act or a condition of a licence, the Court has jurisdiction to order the person to refrain from the contravention or non-compliance.

(2) A person who contravenes or fails to comply with an order under subsection (1) commits a contempt of the Court.

24C—Punishment of contempts

(1) A contempt of the Court is a summary offence punishable by a maximum fine of $10 000 or imprisonment for a maximum term of 6 months.

(2) The jurisdiction to deal with an offence against subsection (1) is vested in the Court.

(3) If a contempt is committed in the face of the Court, the matter may be dealt with immediately (without the necessity of laying a charge or other formality) and the Court may proceed to convict and fine the offender as it thinks fit.

25—Representation

(1) A party to proceedings before the Court may appear in the proceedings—

(a) personally; or

(b) by counsel; or

(c) if the party is a member of a genuine association formed to promote or protect the interests of a particular section of the liquor industry, or employees in the liquor industry—by an officer or employee of that association; or

(d) if the party is a trust or corporate entity—by an officer or employee of the entity; or

(e) with the permission of the Court—by any other person.

(2) The Commissioner of Police may be represented in proceedings before the Court by a police officer.

25A—Intervention by Commissioner

The Commissioner may intervene in proceedings before the Court under this Act for the purpose of introducing evidence, or making representations, on any question before the Court.

26—Power to award costs

If the Court is of the opinion that a person acted unreasonably, frivolously or vexatiously in bringing or in relation to the conduct of proceedings, the Court may make an award of costs against the person.

27—Appeal from orders and decisions of the Court

(1) A party to proceedings before the Court may, with the permission of the Court of Appeal, appeal against any order or decision of the Court.

(2) However, no appeal lies against—

(a) an order or decision of the Court made on a review of a decision of the Commissioner under this or some other Act; or

(b) an order or decision of the Court excluded from appeal under a provision of this or some other Act.

(3) An appeal must be commenced within the time, and in accordance with the procedure, prescribed by rules of the Supreme Court.

(4) An appeal under this section must be heard and determined by the Court of Appeal.

(5) On an appeal under this section, the Court of Appeal may—

(a) affirm, vary or quash the order or decision subject to the appeal;

(b) make any order or decision that should, in the opinion of the Court of Appeal, have been made in the first instance;

(c) remit the subject matter of the appeal for further hearing by the Court;

(d) make any incidental or ancillary order.

28—Reference of question of law

The Court may refer a question of law for determination by the Court of Appeal.

Division 5A—Intervention by Commissioner of Police

28AA—Intervention by Commissioner of Police

(1) The Commissioner of Police may intervene in proceedings before a licensing authority, by notice lodged in a manner and form approved by the Commissioner, at least 7 days before the day appointed for the determination or hearing of the proceedings (or such lesser period as the licensing authority may allow), for the purpose of introducing evidence, or making submissions, on any question before the authority.

(2) However, the Commissioner of Police may only intervene in proceedings in connection with an application under Part 4 on the question of—

(a) whether a person is a fit and proper person; or

(b) whether, if the application were to be granted, public disorder or disturbance would be likely to result; or

(c) whether to grant the application would be contrary to the public interest.

Division 6—Criminal intelligence

28A—Criminal intelligence

(1) Information that is classified by the Commissioner of Police as criminal intelligence for the purposes of this Act may not be disclosed to any person other than the Commissioner, the Minister, a court or a person to whom the Commissioner of Police authorises its disclosure.

(2) If a licensing authority—

(a) refuses an application for a licence, the transfer of a licence or an approval, or takes disciplinary action against a person, or revokes or proposes to revoke an approval under section 71AA; and

(b) the decision to do so is made because of information that is classified by the Commissioner of Police as criminal intelligence,

the licensing authority is not required to provide any grounds or reasons for the decision other than that to grant the application would be contrary to the public interest, or that it would be contrary to the public interest if the person were to be or continue to be licensed or approved, or that it would be contrary to the public interest if the approval were to continue in force.

(2a) If the Commissioner proposes to impose a licence condition to improve public order and safety or to issue a public order and safety notice in respect of a licence and the decision to do so is made because of information that is classified by the Commissioner of Police as criminal intelligence, the Commissioner is not required to provide any grounds or reasons for the decision other than that it would be contrary to the public interest if the condition were not imposed or the notice were not issued.

(3) If the Commissioner of Police makes written submissions opposing an application under Part 4 because of information that is classified by the Commissioner of Police as criminal intelligence—

(a) the Commissioner of Police is not required to serve a copy of the written submissions on the applicant; and

(b) the licensing authority must, at least 7 days before the day appointed for the hearing or determination of the application, advise the applicant in writing that the Commissioner of Police has made written submissions opposing the application on the ground that to grant the application would be contrary to the public interest.

(4) If the Commissioner or the Commissioner of Police lodges a complaint under Part 8 in respect of a person because of information that is classified by the Commissioner of Police as criminal intelligence, the complaint need only state that it would be contrary to the public interest if the person were to be or continue to be licensed or approved.

(5) If the Commissioner of Police bars a person from entering or remaining on licensed premises by order under Part 9 Division 3 because of information that is classified by the Commissioner of Police as criminal intelligence, the order need only state that it would be contrary to the public interest if the person were not so barred.

(5a) In any proceedings under this Act, the Commissioner, the Court or the Supreme Court—

(a) must, on the application of the Commissioner of Police, take steps to maintain the confidentiality of information classified by the Commissioner of Police as criminal intelligence, including steps to receive evidence and hear argument about the information in private in the absence of the parties to the proceedings and their representatives; and

(b) may take evidence consisting of or relating to information so classified by the Commissioner of Police by way of affidavit of a police officer of or above the rank of superintendent.

(6) The Commissioner of Police may not delegate the function of classifying information as criminal intelligence for the purposes of this Act except to a Deputy Commissioner or Assistant Commissioner of Police.

Part 3—Licences

Division 1—Requirement to hold licence

29—Requirement to hold licence

(1) A person who sells liquor without being licensed under this Act to do so (or who sells liquor under a licence that is suspended) is guilty of an offence.

Maximum penalty:

(a) for a first offence—$20 000;

(b) for a second or subsequent offence—$40 000.

(2) An occupier or person in charge of premises on which liquor is sold in contravention of subsection (1) who knowingly permits the sale is guilty of an offence.

Maximum penalty:

(a) for a first offence—$20 000;

(b) for a second or subsequent offence—$40 000.

(3) If a prescribed person sells liquor to another person and—

(a) the prescribed person reasonably believes, or ought reasonably to believe, that the other person intends to sell the liquor in contravention of subsection (1); and

(b) that other person sells the liquor in contravention of subsection (1),

the prescribed person is guilty of an offence.

Maximum penalty:

(a) for a first offence—$20 000;

(b) for a second or subsequent offence—$40 000.

(4) In this section—

prescribed person means—

(a) a licensee; or

(b) a person employed or engaged by a licensee; or

(c) an agent of a licensee.

30—Cases where licence is not required

A licence is not required for the sale of liquor—

(a) where the liquor is sold for medicinal purposes—

(i) by a registered pharmaceutical chemist; or

(ii) by or on the prescription of a registered medical practitioner or registered dentist; or

(b) where the liquor is sold to a religious organisation or a representative of a religious organisation for sacramental or other similar religious purposes; or

(c) where the liquor is supplied in the course of an educational course declared by the Minister by notice in the Gazette to be an approved course for the purposes of this section; or

(d) where the liquor is sold in Parliament House by the proper authority; or

(e) where the liquor is an allowance supplied by the master of a ship to a member of the ship's crew; or

(f) where the liquor is supplied to a patient in a hospital by or under the authority of the body responsible for administering the hospital; or

(g) where the liquor is won as a prize in a game of skill or chance; or

(h) where the sale is exempted by the regulations from the application of this Act.

Division 2—Licences

Subdivision 1—Authorised trading in liquor

31—Authorised trading in liquor

(1) Subject to this Act, a licence authorises the licensee to sell and supply liquor in accordance with the terms and conditions of the licence (including the trading hours fixed by the licensing authority).

(2) There will be the following classes of ongoing licences (see Subdivision 2):

(a) general and hotel licence;

(b) on premises licence;

(c) residential licence;

(d) restaurant and catering licence;

(e) club licence;

(f) packaged liquor sales licence;

(g) liquor production and sales licence;

(h) small venue licence.

(3) There will be a class of temporary licence known as a short term licence (see Subdivision 3).

(4) There will be a class of licence granted to the holder of a corresponding authorisation in another State or Territory of the Commonwealth known as an interstate direct sales licence (see Subdivision 4).

Subdivision 2—Ongoing licences

32—General and hotel licence

Subject to this Act and the conditions of the licence, a general and hotel licence authorises the licensee—

(a) to sell liquor on the licensed premises at any time for consumption on the licensed premises; and

(b) to sell liquor on the licensed premises on any day over a continuous period authorised by the licensing authority (which must not exceed 13 hours) between 8 am and 10 pm for consumption off the licensed premises; and

(c) to sell liquor at any time on the licensed premises to a resident on licensed premises for consumption on or off the licensed premises; and

(d) to sell liquor at any time through direct sales transactions (provided that, if the liquor is to be delivered to an address in this State, the liquor is delivered only between the hours of 8 am and 10 pm).

33—On premises licence

Subject to this Act and the conditions of the licence, an on premises licence authorises the licensee to sell liquor at any time—

(a) to a person on licensed premises for consumption on the licensed premises; and

(b) to a resident on licensed premises for consumption on or off the licensed premises.

34—Residential licence

(1) Subject to this Act and the conditions of the licence, a residential licence authorises the licensee to sell liquor on the licensed premises at any time—

(a) to a resident on licensed premises for consumption on or off the licensed premises; and

(b) to a guest of a resident on the licensed premises for consumption on the licensed premises, if the resident is also present on the licensed premises; and

(c) to a person dining on the licensed premises for consumption with or ancillary to a meal provided by the licensee; and

(d) for consumption on the licensed premises to a person—

(i) attending a reception; or

(ii) attending a function at which food is provided; or

(iii) seated at a table.

(2) A residential licence is subject to the condition that business must be conducted at the licensed premises such that the provision of accommodation to members of the public is at all times the primary service provided to the public at the premises, except as otherwise allowed by a condition of the licence.

35—Restaurant and catering licence

(1) Subject to this Act and the conditions of the licence, a restaurant and catering licence—

(a) authorises the consumption of liquor on the licensed premises at any time with or ancillary to a meal provided by the licensee; and

(b) authorises the licensee to sell liquor at any time for consumption on the licensed premises—

(i) with or ancillary to a meal provided by the licensee or in prescribed circumstances; or

(ii) to a person—

(A) attending a function at which food is provided; or

(B) seated at a table; and

(c) authorises the licensee to sell liquor in accordance with a condition under subsection (3).

(2) A restaurant and catering licence is subject to the condition that business must be conducted at the licensed premises such that the supply of meals is at all times the primary service provided to the public at the premises, except as otherwise allowed by a condition of the licence.

(3) For the purposes of subsection (1)(c), the conditions of a restaurant and catering licence may authorise the licensee to sell or supply liquor for consumption at the site of a function off the licensed premises by persons attending the function, provided that—

(a) food is provided by the licensee at the function; and

(b) the licensee has been given notice of the function at least 24 hours before the function; and

(c) the licensee maintains records relating to the function in accordance with any requirements of the licensing authority,

and the licensed premises are, for the period during which the licensee is so authorised to sell or supply liquor, to be regarded as including the site at which the function is held.

36—Club licence

(1) Subject to this Act and the conditions of the licence, a club licence authorises the licensee—

(a) to sell liquor at any time for consumption on the licensed premises;

(b) to sell liquor on the licensed premises to a resident on licensed premises for consumption on or off the licensed premises; and

(c) to sell liquor at any time through direct sales transactions to a member of the club (provided that, if the liquor is to be delivered to an address in this State, the liquor is delivered only between the hours of 8 am and 10 pm).

(2) In addition, the licensing authority may include a condition on a club licence authorising the sale of liquor on the licensed premises on any day over a continuous period authorised by the licensing authority (which must not exceed 13 hours) between 8 am and 10 pm for consumption off the licensed premises.

(3) A club licence is subject to the condition that the licence does not authorise the sale of packaged liquor from a facility commonly known as a drive-in or drive through bottle shop.

(4) In addition, a club licence is subject to the following conditions:

(a) if there is a change to the composition of the committee of management of the club, the club will, within 14 days, give the Commissioner notice of the change in the form and containing the information required by the Commissioner;

(b) if the licensing authority notifies the club that it considers that any member of the committee of management of the club is not a fit and proper person to be in a position of authority in the club, the club will immediately take action to have that person removed from the committee of management.

(5) A club licence may only be held by a club that is—

(a) a non-profit association incorporated under the *Associations Incorporation Act 1985*; or

(b) a company limited by guarantee under the *Corporations Act 2001* of the Commonwealth.

(6) However, the licensing authority may grant a club licence to a trustee for an association if satisfied that—

(a) the association is unable to become incorporated; or

(b) it is inappropriate to require the incorporation of the association.

(7) A club is not eligible to hold a club licence unless the licensing authority is satisfied that—

(a) subject to subsection (8), the club will be entitled to exclusive possession of the licensed premises at times when the sale of liquor is authorised by the licence; and

(b) the rules of the club also make appropriate provision for—

(i) management of the affairs of the club by a management committee elected by the general body of members; and

(ii) regular meetings of the general body of members and the management committee; and

(iii) admission to membership of the club; and

(iv) the payment of subscriptions by the ordinary members of the club; and

(v) the keeping of proper records of the proceedings of the club and its financial affairs.

(8) Subsection (7)(a) does not apply to licensed premises in respect of which 2 or more clubs licences are granted if—

(a) only those licensees are entitled to exclusive possession of the premises at times when the sale of liquor is authorised by the relevant licences; and

(b) each licensee maintains a register in accordance with section 48(3)(b).

(9) The licensing authority may endorse a club licence with an authorisation to sell or supply liquor on a site used for club activities specified in the endorsement during an event specified in the endorsement for consumption on or off the site as specified in the endorsement (a ***club event endorsement***), except if the licensing authority is of the opinion that the trade to be authorised by the endorsement would, in view of the likely scale or nature of the event or for any other reason, be better authorised by a short term licence or licence of some other category.

(10) A club licence with a club event endorsement authorises the licensee to sell or supply liquor in accordance with the endorsement and the licensed premises are, for the period for which the licensee is so authorised to sell or supply liquor, to be regarded as including any site specified in the endorsement.

(11) The licensing authority may endorse a club licence held by a club with an authorisation to sell or supply liquor to, or allow the consumption of liquor by, members of the club on a public conveyance specified in the endorsement for the purposes of transporting members to and from club activities specified in the endorsement (a ***club transport endorsement***).

(12) A club licence with a club transport endorsement authorises the licensee to sell or supply, or allow the consumption of, liquor in accordance with the endorsement and the licensed premises are, for the period for which the licensee is so authorised, to be regarded as including any public conveyance specified in the endorsement.

37—Small venue licence

(1) Subject to this Act and the conditions of the licence, a small venue licence authorises the licensee to sell liquor on the licensed premises for consumption on the licensed premises between 8 am on 1 day and 2 am the following day.

(2) Without limiting any other provision of this Act, a small venue licence can only be granted in respect of premises located, or to be located, in a prescribed area.

(3) A small venue licence is subject to a condition limiting the number of patrons that can be on the licensed premises at any 1 time to not more than 120 (or a lesser number determined by the licensing authority).

(4) In this section—

Adelaide central business district means the area of the City of Adelaide bounded—

(a) on the north by the northern bank of the River Torrens; and

(b) on the south by the northern alignment of South Terrace; and

(c) on the east by the western alignment of East Terrace and its prolongation north to the northern bank of the River Torrens; and

(d) on the west by the eastern alignment of West Terrace and its prolongation north to the northern bank of the River Torrens;

prescribed area means—

(a) the Adelaide central business district; and

(b) any other area declared by the regulations to be a prescribed area for the purposes of this section;

prescribed bodies means—

(a) if a proposed prescribed area falls wholly or partly within the area of a council—the council; and

(b) any other body prescribed by the regulations for the purposes of this definition.

(5) The Minister must consult in such manner as the Minister thinks fit with the prescribed bodies in relation to any proposed regulations declaring an area to be a prescribed area.

38—Packaged liquor sales licence

(1) Subject to this Act and the conditions of the licence, a packaged liquor sales licence authorises the licensee—

(a) to sell liquor on the licensed premises on any day over a continuous period authorised by the licensing authority (which must not exceed 13 hours) between the hours of 8 am and 10 pm for consumption off the licensed premises; and

(b) to sell liquor at any time through direct sales transactions (provided that, if the liquor is to be delivered to an address in this State, the liquor is delivered only between the hours of 8 am and 10 pm); and

(c) to sell or supply liquor by way of sample for consumption on the licensed premises.

(2) A packaged liquor sales licence is subject to the condition that the licence does not authorise the sale of packaged liquor from a facility commonly known as a drive-in or drive through bottle shop.

(3) In addition, it is a condition of a packaged liquor sales licence that the licensed premises must be devoted entirely to the business conducted under the licence and must be physically separate from premises used for other commercial purposes.

Note—

Goods may be sold in the same premises if they are of the kind normally associated with, and incidental to, the sale of liquor (eg glasses, decanters, cheeses and pates).

(4) For the purposes of subsection (3), licensed premises will not be regarded as physically separate from premises used for other commercial purposes unless—

(a) the licensed premises are separated from the other premises by a permanent barrier that is not transparent and is of a height of at least 2.5 metres; and

(b) subject to subsection (5), the licensed premises cannot be accessed from the other commercial premises.

(5) If licensed premises and other commercial premises, being premises at which goods are sold to the public by retail, are located within a shopping centre and the licensed premises can only be accessed from the other commercial premises by use of a common area within the shopping centre (such as a mall or thoroughfare), it will be taken for the purposes of subsection (4)(b) that the licensed premises cannot be accessed from the other commercial premises.

(6) The licensing authority may grant an exemption from the condition under subsection (3) if, in the opinion of the licensing authority, it is in the public interest to do so.

Note—

For example, a general store in a regional location might satisfy the licensing authority that it is in the public interest that an exemption from the condition in subsection (3) be granted.

(7) A packaged liquor sales licence may only be granted in respect of premises of a prescribed kind if the licensing authority is satisfied that there is a proper reason to do so.

39—Liquor production and sales licence

(1) Subject to this Act and the conditions of the licence, a liquor production and sales licence authorises the licensee—

(a) to sell liquor (including the licensee's product) by wholesale on the licensed premises at any time for consumption off the licensed premises; and

(b) to sell liquor (other than the licensee's product) by retail in an aggregate quantity of 4.5 litres or more on the licensed premises for consumption off the licensed premises; and

(c) to sell the licensee's product by retail on the licensed premises at any time for consumption on or off the licensed premises; and

(d) to sell, at any time through direct sales transactions—

(i) the licensee's product; or

(ii) liquor in an aggregate quantity of 4.5 litres or more; or

(iii) liquor by wholesale,

(provided that, if the liquor is to be delivered to an address in this State, the liquor is delivered only between the hours of 8 am and 10 pm); and

(e) to sell or supply liquor (including the licensee's product or, for the purposes of comparison with the licensee's product, other liquor of the same type as the licensee's product) by way of sample for consumption on the licensed premises; and

(f) to sell liquor at any time on the licensed premises to a resident on licensed premises for consumption on or off the licensed premises; and

(g) to sell liquor at any time for consumption on the licensed premises—

(i) with or ancillary to a meal provided by the licensee; or

(ii) to a person—

(A) attending a function at which food is provided; or

(B) seated at a table.

(2) The following rules apply for the purposes of subsection (1):

(a) if a licensee has production premises—the licensed premises may be comprised of either a production outlet, retail outlet or wholesale outlet or a combination of such outlets;

(b) if a licensee does not have production premises—the licensed premises may be comprised of a retail outlet or wholesale outlet (or both);

(c) a production outlet must be comprised of—

(i) the whole or a part of the licensee's production premises; or

(ii) premises that are adjacent to the licensee's production premises and approved by the licensing authority for the purpose;

(d) a retail outlet and a wholesale outlet must be comprised of premises approved by the licensing authority for the purpose;

(e) licensed premises must not be comprised of—

(i) premises ordinarily known or advertised as a supermarket, convenience store or delicatessen; or

(ii) premises of a prescribed kind.

(3) The same premises may be shared by 2 or more licensees—

(a) as a retail outlet or wholesale outlet for each of the licensees; or

(b) as a production outlet for 1 licensee and as a retail outlet or wholesale outlet for the other licensees,

but the licensing authority must not grant a licence resulting in the same premises being so shared if of the opinion that the trade to be authorised at the premises would, in view of the number of licensees involved or the nature and extent of the trade or for any other reason, be better authorised by a packaged liquor sales licence or a licence of some other category.

(4) To the extent that licensees share the same premises as referred to in subsection (3)—

(a) the part of the premises that is shared is referred to as a ***collective outlet***; and

(b) for the purposes of the application of this Act to the part of the premises that is shared, a single liquor production and sales licence will be taken to be held for that part of the premises jointly by the licensees.

(4a) A liquor production and sales licence is subject to the condition that at least 90% of the licensee's gross turnover from the sale of liquor (other than the licensee's product) for consumption off the licensed premises and through direct sales transactions in each financial year (excluding sales of liquor to the licensee's own employees and sales for the delivery of liquor outside Australia) must be derived from the sale of liquor by wholesale.

(5) The licensing authority may endorse a liquor production and sales licence with an authorisation to sell or supply liquor on a site specified in the endorsement during an event specified in the endorsement for consumption on or off the site as specified in the endorsement (a ***production and sales event endorsement***), except if the licensing authority is of the opinion that the trade to be authorised by the endorsement would, in view of the likely scale or nature of the event or for any other reason, be better authorised by a short term licence or licence of some other category.

(6) A liquor production and sales licence with a production and sales event endorsement authorises the licensee to sell or supply liquor in accordance with the endorsement and the licensed premises are, for the period for which the licensee is so authorised to sell or supply liquor, to be regarded as including any site specified in the endorsement.

(7) For the purposes of this section, liquor is to be regarded as a licensee's product if—

(a) in the case of beer—it was brewed by or at the direction of the licensee (or a related body corporate) and is uniquely the licensee's (or the related body corporate's) own product; or

(b) in the case of spirits—it was produced by or at the direction of the licensee (or a related body corporate) and is uniquely the licensee's (or the related body corporate's) own product; or

(c) in the case of wine—

(i) the wine was fermented by or under the direction of the licensee (or a related body corporate) and is uniquely the licensee's (or the related body corporate's) own product; or

(ii) the wine was produced by blending wine produced from Australian primary produce and a substantial proportion of the blended wine was fermented by or under the direction of the licensee (or a related body corporate) and is uniquely the licensee's (or the related body corporate's) own product; or

(iii) the wine was produced by blending wine produced from Australian primary produce by or at the direction of the licensee (or a related body corporate) in accordance with, and during a period specified in, an approval granted by the licensing authority under subsection (8) and is uniquely the licensee's (or the related body corporate's) own product; or

(d) in the case of other liquor—it was produced by or at the direction of the licensee (or a related body corporate) and is uniquely the licensee's (or the related body corporate's) own product.

(8) The licensing authority may, on application by a licensee, grant an approval for the purposes of subsection (7)(c)(iii) if satisfied that circumstances beyond the control of the licensee warrant the licensee being authorised to produce wine during the period to be specified in the approval other than wine comprised of, or including a substantial proportion of, wine fermented by or under the direction of the licensee (or a related body corporate).

(8a) The licensing authority may exempt a licensee from subsection (2)(e), if, in the opinion of the licensing authority, it is in the public interest to do so.

(9) In this section—

licensee means the holder of a liquor production and sales licence;

production of liquor includes any step in production including the growing of grapes or other primary produce for production of liquor;

production premises of a licensee means premises to be occupied and used by the licensee for the production of liquor.

Subdivision 3—Short term licence

40—Short term licence

(1) Subject to this Act, a short term licence authorises—

(a) the licensee to sell or supply liquor; or

(b) the consumption of liquor,

in accordance with the conditions of the licence, in circumstances in which the sale, supply or consumption of liquor would otherwise be unlawful.

(2) A short term licence may only be granted for an event or occasion or series of events or occasions.

(3) The Commissioner may, in the Commissioner's absolute discretion, grant or refuse to grant a short term licence subject to such conditions as the Commissioner thinks fit.

(4) However, the Commissioner must refuse to grant a short term licence if satisfied that to grant the licence would be contrary to the public interest or would be inconsistent with the objects of the Act.

(5) The Commissioner may, by written notice to the licensee, in the Commissioner's absolute discretion—

(a) vary or revoke a condition of a short term licence (other than a mandatory condition under section 42) or impose further conditions on the licence; or

(b) revoke a short term licence if the Commissioner is satisfied that—

(i) it is in the public interest; or

(ii) there is some other proper reason,

to revoke the licence.

(6) No civil liability attaches to the Commissioner or the Crown in respect of the revocation of a short term licence in good faith under this section.

(7) The conditions of a short term licence may classify the licence for the purposes of the application of the Commissioner's codes of practice (and that classification may be varied by the Commissioner from time to time).

(8) The regulations may make further provision in relation to short term licences, including—

(a) providing for the classes of short term licences; and

(b) prescribing requirements relating to applications for each class of short term licence; and

(c) prescribing fees for each class of short term licence, including, in the case of a short term licence for a term of more than 1 year, an ongoing or annual fee; and

(d) prescribing requirements in relation to fees in respect of short term licences, including by providing for the cancellation of a short term licence if a fee in respect of the licence is not paid by the date on which the fee is due; and

(e) providing for the maximum term for which each class of short term licence may be granted, provided that the regulations cannot provide for any short term licence to be of a term of more than 5 years; and

(f) providing that a provision of Part 4 does not apply, or applies with prescribed variations, to an application for, or in relation to, a short term licence.

(9) Without limiting subsection (8), regulations made for the purposes of that subsection may provide for a matter referred to in subsection (8) to be determined according to—

(a) the trade to be authorised by the licence; or

(b) the type and duration of any event or events to be held under the licence; or

(c) the resources related to the administration or enforcement of the Act in connection with the licence; or

(d) any other matter,

and for a matter to be determined according to the discretion of the Commissioner.

(10) Without limiting subsection (8)(c), section 50A does not apply to an application for, or in relation to, a short term licence.

Subdivision 4—Interstate direct sales licence

41—Interstate direct sales licence

(1) Subject to this Act and the conditions of the licence, an interstate direct sales licence authorises the licensee to sell liquor at any time through direct sales transactions (provided that, if the liquor is to be delivered to an address in this State, the liquor is delivered only between the hours of 8 am and 10 pm).

(2) An interstate direct sales licence may be granted to a person who—

(a) holds a corresponding authorisation; and

(b) provides evidence in such manner and form as determined by the Commissioner that the person holds a corresponding authorisation; and

(c) does not hold a licence of a class set out in section 31(2).

(3) If a corresponding authorisation of an interstate direct sales licencee is, under the relevant law of another State or Territory of the Commonwealth, suspended or revoked, the Commissioner may suspend or revoke (as the case requires) the relevant licensee's interstate direct sales licence.

(4) The regulations may provide that specified provisions of this Act do not apply, or apply with prescribed variations, to or in relation to—

(a) an application for an interstate direct sales licence; or

(b) the holder of an interstate direct sales licence.

(5) In this section—

corresponding authorisation means an authorisation under a law of another State or Territory of the Commonwealth for the sale or supply of liquor of a kind that authorises the sale of liquor by direct sales transactions.

Division 3—Conditions of licence

42—Mandatory conditions

(1) It is a condition of every licence that the licensee must comply with the Commissioner's codes of practice.

(1a) It is a condition of every licence (other than a short term licence) that, if there is a change in the name of the licensed premises, the licensee must, within 14 days, give the Commissioner written notice of the change in the form determined by the Commissioner.

(1b) It is a condition of every licence that the licensee must not use a name for licensed premises if the Commissioner has issued a notice in writing to the licensee within 28 days of receiving notice of the name, or a change of name, of the licensed premises, prohibiting the licensee from using that name for the licensed premises.

(1c) It is a condition of every licence that the licensee must, within 14 days of any change of the name, address or contact details of the licensee, give the Commissioner notice of the details of the change in a form determined by the Commissioner.

(2) It is a condition of a licence authorising the sale of liquor for consumption off the licensed premises that liquor sold under that authorisation—

(a) must be delivered to the purchaser in sealed containers or containers of a kind approved by the licensing authority; and

(b) if the liquor is not delivered personally to the purchaser at the licensed premises—must, except in the case of a packaged liquor sales licence that authorises the licensee to sell liquor only through direct sales transactions, an interstate direct sales licence or where the licensing authority gives an authorisation to the contrary, be despatched to the purchaser from the licensed premises; and

(c) must not be consumed on the licensed premises unless the licence also authorises the sale of liquor for consumption on the licensed premises and the liquor could have been lawfully sold and consumed on the licensed premises under that authorisation.

42A—New Year's Eve trading in relation to certain licences

(1) For the purposes of New Year's Eve trading, it is a condition of a licence authorising the sale of liquor for consumption on the licensed premises that the sale of liquor for consumption on the premises may continue until 2 am on New Year's Day.

(2) Nothing in this section limits the powers of the licensing authority under section 43.

43—Power of licensing authority to impose conditions

(1) Subject to this section, the licensing authority may—

(a) impose a condition on a licence (including a condition that varies the trading hours in respect of the licence fixed or required by or under this Act); and

(b) vary, suspend or revoke a condition of a licence (including a condition imposed by this Act, but not including a mandatory condition contemplated by section 42).

(2) The licensing authority may impose, vary, suspend or revoke a condition under subsection (1)—

(a) on the grant, transfer or removal of a licence; or

(b) on application by the licensee; or

(c) on application by the Commissioner of Police; or

(d) on application by a prescribed person or body; or

(e) if the licensing authority is the Court—on application by the Commissioner; or

(f) in any other proceedings under this Act involving the licensee; or

(g) if the Commissioner considers the imposition, variation, suspension or revocation of the condition to be in the public interest—on the Commissioner's own initiative.

(3) A reference in this section to a condition of a licence includes a reference to a rule applying under section 39(2).

45—Compliance with licence conditions

(1) If a condition of a licence is not complied with—

(a) the licensee is guilty of an offence; and

(b) if the breach of the condition involves conduct of another person that the other person knows might render the licensee liable to a penalty—the other person is also guilty of an offence.

Maximum penalty:

(a) in the case of the licensee—

(i) for a first offence—$10 000;

(ii) for a second or subsequent offence—$20 000;

(ab) for an offence against a code of practice—

(i) for a category A offence—$20 000;

(ii) for a category B offence—$10 000;

(iii) for a category C offence—$5 000;

(iv) for a category D offence—$2 500;

(b) in any other case—$2 500.

Expiation fee:

(a) for an offence of a kind prescribed by the regulations—

(i) in the case of the licensee—$1 200;

(ii) in any other case—$210;

(b) for an offence against a code of practice—

(i) for a category A expiable offence—$1 200;

(ii) for a category B expiable offence—$315;

(iii) for a category C expiable offence—$210;

(iv) for a category D expiable offence—$160.

(2) For the purposes of subsection (1), a contravention of, or failure to comply with, a provision of a code of practice is a category A, B, C or D offence, or a category A, B, C or D expiable offence, if it has been declared to be such an offence by the Commissioner in accordance with section 11A(3a).

Division 4—General provisions

46—Unauthorised sale or supply of liquor

(1) A licensee who sells liquor in circumstances in which the sale of liquor is not authorised by the licence is guilty of an offence.

Maximum penalty:

(a) for a first offence—$20 000;

(b) for a second or subsequent offence—$40 000.

(2) A licensee who supplies liquor to a person in or in the vicinity of licensed premises in circumstances in which the licensee would not be authorised to sell liquor to that person is guilty of an offence.

Maximum penalty:

(a) for a first offence—$20 000;

(b) for a second or subsequent offence—$40 000.

47—How licences are to be held

(1) A licence may be held jointly by two or more persons.

(2) Where a licence is held jointly by two or more persons, those persons are jointly and severally liable to any civil or criminal liability that attaches to the licensee under this Act.

(3) If the trustee of a trust holds a licence for the purposes of a business conducted by the trustee under a trust—

(a) the name of the trust is to be specified in the licence; and

(b) the trust is to be considered as an entity holding the licence jointly with the trustee.

48—Plurality of licences

(1) A person may hold 2 or more licences.

(3) However, 2 or more licences are not to be granted for the same premises except as follows:

(a) 2 or more licences may be granted for different parts of the same premises that are separated by walls or partitions that effectively prevent their use for a common purpose; and

(b) 2 or more club licences may be granted for the same premises provided that each licensee maintains a register in accordance with conditions specified by the licensing authority containing the details required by the licensing authority (including details relating to the times at which liquor is sold by each licensee at the licensed premises); and

(c) a short term licence may be granted for premises or a part of premises in respect of which a licence of some other class is in force; and

(d) 2 or more liquor production and sales licences may be granted for the same premises constituting a collective outlet.

50—Minors not to be licensees

A minor must not—

(a) hold a licence; or

(b) occupy a position of authority in a trust or corporate entity that holds a licence,

(but a minor may be a shareholder in a proprietary company or a beneficiary of a trust that holds a licence).

50A—Annual fees

(1) A licensee (including the holder of a licence that has been suspended) must, in each year, pay to the Commissioner an annual fee in accordance with the regulations.

(2) Without limiting the matters that may be dealt with in the regulations, the regulations may—

(a) fix the day of the month on or before which the fee is to be paid in each year; and

(b) fix the period of 12 months (the ***annual fee period***) in respect of which the fee is to be paid; and

(c) provide for the fee to be determined by reference to the class of licence or business conducted under the licence, the trading hours authorised by the licence or any other factor and for a matter to be determined according to the discretion of the Commissioner; and

(d) provide for transitional arrangements if the date for payment or the annual fee period is to be varied, including by providing for the payment of 2 fees within the same year for the purposes of the transition to a different date for payment and for an annual fee period that is longer or shorter than 12 months for the purposes of the transition to a different annual fee period.

(3) If the trading hours or conditions of a licence are varied, or circumstances vary, in respect of trade in liquor during an annual fee period such that the annual fee paid in respect of the period is less than the annual fee that would have been payable had the variations been taken into account in the calculation of the fee, the Commissioner may recalculate the annual fee and, by written notice, require the licensee to pay the difference within 28 days after service of the notice.

(4) If a licensee fails to pay the annual fee in accordance with the regulations or to pay an amount in accordance with subsection (3), the Commissioner may, by written notice, require the person to make good the default as specified in the notice and, in addition, pay to the Commissioner the amount prescribed as a penalty for default.

(5) If a licensee fails to comply with a notice under subsection (4) within 28 days after service of the notice, the licence is suspended until the notice has been complied with.

(5a) The Commissioner must give the licensee written notice of a suspension under subsection (5).

(5b) If a notice under subsection (4) has not been complied with within 60 days after the service of the notice under subsection (5a), the Commissioner has an absolute discretion to revoke the licence.

(5c) The Commissioner must, before revoking a licence under subsection (5b)—

(a) give notice to the holder of the licence of the proposed revocation; and

(b) allow the holder of the licence a period of 21 days (or such longer period as the Commissioner may allow) to show cause why the licence should not be revoked.

(5d) The Commissioner must give the licensee written notice of a revocation under subsection (5b).

50B—Notification of certain variations to licences

If a licensee notifies the Commissioner, in a manner and form determined by the Commissioner, that the licensee—

(a) has reduced the number of hours during which the licensee trades in liquor (but not so as to allow trading in liquor at the licensed premises at later hours than those previously fixed in relation to the licence); or

(b) has reduced the number of persons stated in the licence as the maximum capacity of the licensed premises; or

(c) no longer sells or supplies liquor in accordance with a club event endorsement, a club transport endorsement or a production and sales event endorsement,

the Commissioner may vary the relevant licence and any terms and conditions under the licence accordingly.

Part 4—Applications and submissions

Division 1—Formal requirements

51—Form of applications

(1) An application to a licensing authority—

(a) must be made in a manner and form approved by the Commissioner; and

(b) must be accompanied by the plans and specifications required under the regulations and any documents or material required by the Commissioner; and

(c) if a time limitation is prescribed by the regulations—must be made within the prescribed time; and

(d) must be accompanied by the fee required under the regulations.

(2) An applicant or other person who makes a false or deliberately misleading statement in, or in support of, an application is guilty of an offence.

(3) A licensing authority may allow an applicant to vary the application at any time before the application is decided.

(4) If a licensing authority allows variation of an application, the authority must ensure that the other parties to the application and any person who made written submissions in relation to the application are given notice of the variation a reasonable time before the hearing or determination of the application.

(5) An applicant must, at the request of the licensing authority, produce any document or material, or any other information, that the authority considers relevant to the application.

51A—Applications to be given to Commissioner of Police

(1) This section applies to an application for—

(a) the grant of a licence (other than a temporary licence); or

(b) the transfer of a licence; or

(c) approval of a person or persons as a responsible person or responsible persons for a business under a licence; or

(d) approval of a person to assume a position of authority in a trust or corporate entity that holds a licence; or

(e) the conversion of a temporary licence into a permanent licence; or

(f) approval of an agreement or arrangement under which an unlicensed person may participate in the proceeds of the business carried on under a licence.

(2) The Commissioner must give a copy of an application to which this section applies to the Commissioner of Police at least 28 days before the day appointed for the hearing or determination of the application, unless it is not reasonably practicable for the Commissioner to do so.

(2a) The Commissioner may give a copy of any other application to the Commissioner of Police.

(3) As soon as reasonably practicable following receipt of an application under subsection (2) or (2a), the Commissioner of Police—

(a) must make available to the Commissioner information about criminal convictions; and

(b) may make available to the Commissioner other information to which the Commissioner of Police has access,

relevant to whether the application should be granted.

52—Certain applications to be advertised

(1) This section applies to applications for—

(a) the grant of a licence (other than a temporary licence);

(b) the transfer of a licence;

(c) the removal of a licence;

(e) the conversion of a temporary licence into a permanent licence;

(f) a condition under section 36(2) authorising sale of liquor under a club licence for consumption off the licensed premises;

(g) consent of the licensing authority under section 105;

(h) the variation of trading hours previously fixed in relation to the licence, other than a variation to which section 50B(a) applies.

(2) Notice of an application to which this section applies must be given, in accordance with the regulations, to members of the public by notice placed on the licensed premises or, in the case of proposed licensed premises, on the relevant land, so as to be clearly visible to, and legible by, persons passing the premises or land.

(2aa) If an application to which this section applies seeks authorisation for an activity at, or use of, premises that does not also require an approval, consent or exemption under the law relating to planning or carrying out building work, the applicant may serve the application on the council for the area in which the premises are situated (even if the licensing authority has not given a direction that that council be notified of the application under subsection (3)).

(2a) A notice under subsection (2) must specify that the application and certain documents and material relevant to the application may be inspected at a place and during a period specified by the Commissioner.

(2b) The Commissioner must ensure that a copy of a notice under subsection (2) is published on a website maintained by the Commissioner.

(3) The licensing authority—

(a) may, in an appropriate case, dispense with, or modify, a requirement of this section; or

(b) may direct that—

(i) notice be given under this section of other applications to the authority; or

(ii) notice be given to specified authorities and persons in addition to the notice specifically required by this section.

52A—Confidentiality of certain documents and material relevant to application

(1) Subject to this section, the Commissioner must make available for inspection an application required to be advertised under this Act and any documents and material produced to the licensing authority under this Act relevant to the application.

(2) The Commissioner may, in his or her absolute discretion, exclude from inspection information that the Commissioner considers to be—

(a) personal information of a confidential nature; or

(b) information that has a commercial or other value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or

(c) information the disclosure of which would, or could reasonably be expected to, prejudice the commercial position of a person or confer a commercial advantage on a person; or

(d) information the disclosure of which would be contrary to the public interest for any other reason.

(3) A person who inspects an application, a document or material under this section must not use information contained in the application, document or material for a purpose other than making written submissions in relation to the application, or intervening in proceedings, under this Act and must not disclose that information to another person except for that purpose.

Maximum penalty: $10 000.

(4) A person who gains access to information (whether properly or improperly and whether directly or indirectly) as a result of the inspection of an application, a document or material under this section by another person must not use the information for a purpose other than that for which the person inspecting the application, document or material may lawfully use it.

Maximum penalty: $10 000.

Division 2—General powers and discretions of licensing authority

53—Discretionary powers of licensing authority

(1) Subject to this Act, the licensing authority has an unqualified discretion to grant or refuse an application under this Act on any ground, or for any reason, the licensing authority considers sufficient (but is not to take into account an economic effect on other licensees in the locality affected by the application).

(1aa) Subject to this Act, the Commissioner has an absolute discretion to grant or refuse an application for a small venue licence on any ground, or for any reason, the Commissioner considers sufficient (but is not to take into account an economic effect on other licensees in the locality affected by the application).

(1a) An application must be refused if the licensing authority is satisfied that to grant the application would be contrary to the public interest.

(1b) The licensing authority must refuse to grant an application for a licence, or for the removal of a licence, if the licensing authority is satisfied that to grant the application would be inconsistent with the objects of the Act.

(2) A licensing authority should not grant an application as a matter of course without proper inquiry into its merits, taking into account the operation of Division 13.

(2a) A licensing authority may—

(a) grant an application on an interim basis;

(b) specify that a condition of a licence, permit or approval is to be effective for a specified period,

and, in consequence, may give any necessary procedural directions in the matter.

(3) A licensing authority may, on such conditions (if any) as it thinks fit, vary or waive compliance with formal requirements relating to an application or the payment of fees relating to the grant of the application.

(4) If a licensing authority considers that an applicant should satisfy the licensing authority as to a certain matter for the purposes of determining the application, the licensing authority may, if the licensing authority thinks fit, nevertheless grant the application on the condition that the applicant satisfies the licensing authority as to the matter within a period determined by the licensing authority.

(5) If a licence, permit or approval is granted on a condition under subsection (4), the licensing authority may, on failure by the applicant to comply with the condition, revoke the licence, permit or approval, or suspend the licence, permit or approval until further order.

(6) A licensing authority may in proceedings accept an undertaking from a party to, or another person involved in, the proceedings in relation to the conduct of the proceedings and, on failure by the party or other person to fulfil the undertaking, refuse to hear the party or other person further in the proceedings subject to any further order of the licensing authority.

53A—Licensing authority to be satisfied that designated application is in community interest

(1) The licensing authority may only grant a designated application if the licensing authority is satisfied that granting the designated application is in the community interest.

(2) Without limiting subsection (1), in determining whether or not a designated application is in the community interest, the licensing authority—

(a) must have regard to—

(i) the harm that might be caused (whether to a community as a whole or a group within a community) due to the excessive or inappropriate consumption of liquor; and

(ii) the cultural, recreational, employment or tourism impacts; and

(iii) the social impact in, and the impact on the amenity of, the locality of the premises or proposed premises; and

(iv) any other prescribed matter; and

(b) must apply the community impact assessment guidelines.

(3) The applicant in respect of a designated application must comply with any requirements set out in the community impact assessment guidelines, and any other requirements specified by the licensing authority for the purposes of this section.

(4) In this section—

designated application means—

(a) an application for the grant or removal of a designated licence; or

(b) any other application that the licensing authority has determined, in accordance with the community impact assessment guidelines, to be a designated application for the purposes of this section.

53B—Community impact assessment guidelines

(1) The Commissioner must, by notice in the Gazette, publish guidelines for the purposes of determining—

(a) whether or not an application is a designated application for the purposes of section 53A; and

(b) whether or not a designated application is in the community interest,

(the ***community impact assessment guidelines***).

(2) The Commissioner may, by subsequent notice in the Gazette, vary or revoke a notice under this section.

(3) Without limiting section 53A(1) or (2)(a), the community impact assessment guidelines may provide for—

(a) matters relevant to an assessment of the likely impacts of a designated application on a community; and

(b) any other matter considered appropriate by the Commissioner.

(4) The community impact assessment guidelines may set out requirements that apply to a designated application for the purposes of section 53A, including requirements that the applicant—

(a) provide documents, material or other information; and

(b) take certain steps or undertake consultation in accordance with the guidelines.

(5) The provisions of the community impact assessment guidelines may be of general, limited or varied application according to—

(a) the class of designated application or licence; or

(b) the circumstances; or

(c) any other specified factor,

to which the provision is expressed to apply.

54—Order for determining applications

The order in which applications for new licences are determined must be consistent with the requirements of the regulations.

55—Provisions governing whether person is fit and proper

(a1) A person is not a fit and proper person to hold a licence if—

(a) the person has been found guilty or convicted of an offence as prescribed by the regulations; or

(b) in the case of a body corporate—

(i) the body corporate is a body corporate, or is a body corporate of a class, prescribed by the regulations; or

(ii) the body corporate is a prescribed organisation; or

(c) in the case of a natural person, the person—

(i) is—

(A) a member of a prescribed organisation; or

(B) a close associate of a person who is a member of a prescribed organisation or is subject to a control order under the *Serious and Organised Crime (Control) Act 2008*; or

(ii) is an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth.

(a2) A person is not a fit and proper person to occupy a position of authority in a trust or corporate entity that holds a licence if—

(a) the person has been found guilty or convicted of an offence as prescribed by the regulations; or

(b) the person is—

(i) a member of a prescribed organisation; or

(ii) a close associate of a person who is a member of a prescribed organisation or is subject to a control order under the *Serious and Organised Crime (Control) Act 2008*; or

(c) the person is an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth.

(1) In deciding whether a person is a fit and proper person for a particular purpose under this Act, a licensing authority must take into consideration—

(a) the reputation, honesty and integrity (including the creditworthiness) of the person; and

(b) the reputation, honesty and integrity of people with whom the person associates; and

(c) if the person is a body corporate—whether the body corporate is being wound up or is under official management or in receivership; and

(d) any other factor relevant to the particular purpose to which the decision relates, including any relevant offence of which the person has been convicted or found guilty.

Note—

A relevant factor might, for example, be that a person (or, if the person is a body corporate, a director of the body corporate) has been a director of a number of bodies corporate wound up for the benefit of creditors.

(2) If a licensing authority is to decide whether a person is a fit and proper person to supervise or manage, or to be involved in the supervision or management of, the business conducted or to be conducted under a licence, the licensing authority must also give consideration to—

(a) whether the person has the appropriate knowledge, experience and skills for the purpose; and

(b) in particular—whether the person has knowledge, experience and skills in encouraging the responsible supply and consumption of liquor.

(3) For the purposes of determining whether a person is a fit and proper person for a particular purpose under this Act, the Commissioner may cause the person's photograph and fingerprints to be taken.

(4) In this section—

close associate—see subsection (5);

prescribed organisation—the following are prescribed organisations:

(a) a declared organisation within the meaning of the *Serious and Organised Crime (Control) Act 2008*;

(b) a criminal organisation within the meaning of Division 1 or Division 2 of Part 3B of the *Criminal Law Consolidation Act 1935*;

(c) any other organisation prescribed by the regulations for the purposes of this definition.

(5) For the purposes of this section, 2 persons are ***close associates*** if—

(a) 1 is a spouse, domestic partner, parent, brother, sister or child of the other; or

(b) they are members of the same household; or

(c) they are in partnership; or

(d) they are related bodies corporate; or

(e) 1 has a right to participate (otherwise than as a shareholder in a body corporate) in income or profits derived from a business conducted by the other; or

(f) 1 is in a position to exercise control or significant influence over the conduct of the other.

(6) For the purposes of this section, a reference to a parent, brother, sister or child of a person will be taken to include a reference to a step-parent, step-brother, step-sister or step-child (as the case requires) of the person.

Division 3—Application for new licence

56—Applicant to be fit and proper person

(1) An applicant for a licence must satisfy the licensing authority—

(a) that the applicant is a fit and proper person to hold the licence; and

(b) if the applicant is a trust or corporate entity—that each person who occupies a position of authority in the entity is a fit and proper person to occupy such a position in an entity holding a licence of the class sought in the application.

(1a) Subsection (1) does not apply to an applicant for a club licence if the applicant informs the licensing authority of each member of the committee of management of the club and provides the information required by the licensing authority (in a form approved by the licensing authority) about each member.

(1b) If the licensing authority considers that a member of the committee of management of a club to which subsection (1a) applies is not a fit and proper person to be in a position of authority in the club, the licensing authority—

(a) must notify the applicant as soon as is reasonably practicable that the person must be removed from the committee of management; and

(b) may grant the licence on the condition that the club will immediately take action to have the person removed from the committee of management.

(2) If a person referred to in subsection (1) or a member of the committee of management of a club to which subsection (1a) applies is to supervise or manage, or be actively involved in the supervision or management of, the business conducted under the licence but does not have the appropriate knowledge, experience and skills for that purpose, the licensing authority may nevertheless grant the licence on the condition that the person undertake specified training within a specified time after the grant of the licence.

57—Requirements for premises

(1) An applicant for a licence for premises or proposed premises must satisfy the licensing authority—

(a) that the premises for which the licence is sought are, or, in the case of premises not yet constructed, will be, of sufficient standard for the purpose of properly carrying on business under the licence; and

(b) that the operation of the licence would be unlikely—

(i) to result in undue offence, annoyance, disturbance or inconvenience to people who reside, work or worship in the vicinity of the premises; or

(ii) to prejudice the safety or welfare of children attending kindergarten, primary school or secondary school in the vicinity of the premises.

(1a) However, the licensing authority must, in respect of the operation of subsection (1)(b)(i), disregard any entertainment that may be provided on the premises without the consent of the licensing authority under section 105(2).

(2) An application for a licence for premises or proposed premises must not be granted unless the licensing authority is satisfied—

(a) that any approvals, consents or exemptions that are required under the law relating to planning to permit the use of the premises or proposed premises for the sale of liquor have been obtained; and

(b) that any approvals, consents or exemptions that are required by law for the carrying out of building work before the licence takes effect have been obtained; and

(c) that any other relevant approvals, consents and exemptions required for carrying on the proposed business from the premises have been obtained.

(3) The licensing authority may dispense with the requirement that an applicant for a short term licence or packaged liquor sales licence that authorises the licensee to sell liquor only through direct sales transactions—

(a) satisfy the licensing authority as to a matter referred to in this section; or

(b) submit plans.

59—Certificate of approval for proposed premises

(1) The licensing authority may refuse an application for a licence for proposed premises having regard to the extent to which the proposed premises are uncompleted but may, instead, grant a certificate (a ***certificate of approval***) approving the plans submitted by the applicant in respect of the proposed premises if satisfied that any approvals, consents or exemptions that are required under the law relating to planning to permit the use of the proposed premises for the sale of liquor have been obtained.

(2) A certificate of approval—

(a) may be granted on conditions the licensing authority thinks fit; and

(b) must state the trading rights to be conferred by the licence and may state conditions to which the licence should be subject.

(3) If—

(a) a certificate of approval has been granted; and

(b) the holder of the certificate satisfies the licensing authority—

(i) that the conditions (if any) on which the certificate was granted have been complied with; and

(ii) that the premises have been completed in accordance with plans approved by the licensing authority on the grant of the certificate or a variation of those plans later approved by the licensing authority,

a licence conferring the trading rights, and subject to the conditions, specified in the certificate must be granted to the holder of the certificate in respect of the premises.

(4) A certificate under this section is, for the purposes of the provisions of this Act relating to the transfer of a licence, taken to be a licence.

(5) A transaction under which the holder of a certificate of approval agrees to the transfer of the certificate for a monetary or other consideration is void unless the proposed transfer is to a close associate.

59A—Licence fee payable on grant of licence

(1) On the grant of a licence, a licence fee becomes payable to the Commissioner by the licensee.

(3) In relation to the licence fee in respect of a licence—

(a) the amount of the licence fee is a proportion of the annual fee for the licence, being the proportion that the number of months in the period from the grant of the licence until the end of the current annual fee period bears to 12 months (with part of a month being counted as a full month); and

(b) the licence fee is payable within 28 days after the grant of the licence; and

(c) if the trading hours or conditions of the licence are varied, or circumstances vary, in respect of trade during the current annual fee period such that the licence fee paid is less than the licence fee that would have been payable had the variations been taken into account in the calculation of the fee, the Commissioner may recalculate the licence fee and, by written notice, require the licensee to pay the difference on or before a date specified in the notice; and

(d) if the licensee fails to pay the licence fee, or an amount under paragraph (c), within the period allowed, the licence is suspended until the fee or amount is paid; and

(e) the Commissioner must notify the licensee in writing of the suspension of the licence.

(4) In this section—

annual fee period—see section 50A.

Division 4—Removal of licence

60—Premises to which licence is to be removed

(1) An applicant for the removal of a licence to premises or proposed premises must satisfy the licensing authority—

(a) that the premises to which removal of the licence is sought are, or, in the case of premises not yet constructed, will be, of an appropriate standard for carrying on business under the licence; and

(b) that the removal of the licence would be unlikely—

(i) to result in undue offence, annoyance, disturbance or inconvenience to people who reside, work or worship in the vicinity of the premises; or

(ii) to prejudice the safety or welfare of children attending kindergarten, primary school or secondary school in the vicinity of the premises.

(2) An application for the removal of a licence to premises or proposed premises cannot be granted unless the licensing authority is satisfied—

(a) that any approvals, consents or exemptions that are required under the law relating to planning to permit the use of the premises or proposed premises for the sale of liquor have been obtained; and

(b) that any approvals, consents or exemptions that are required by law for carrying out of building work before the removal of the licence takes effect have been obtained; and

(c) that any other relevant approvals, consents and exemptions required for carrying on the proposed business from the premises have been obtained.

(3) The licensing authority may dispense with the requirement that an applicant for the removal of a packaged liquor sales licence that authorises the licensee to sell liquor only through direct sales transactions—

(a) satisfy the authority as to a matter referred to in this section; or

(b) submit plans.

62—Certificate of approval for removal of licence to proposed premises

(1) The licensing authority may refuse an application for the removal of a licence to proposed premises having regard to the extent to which the proposed premises are uncompleted but may, instead, grant a certificate (a ***certificate of approval***) approving the plans submitted by the applicant in respect of the proposed premises if satisfied that any approvals, consents or exemptions that are required under the law relating to planning to permit the use of the proposed premises for the sale of liquor have been obtained.

(2) A certificate of approval—

(a) may be granted on conditions the licensing authority thinks fit; and

(b) may include a statement of conditions to which, in the opinion of the licensing authority, the licence should be subject on its removal (either in addition to, or in substitution for, existing conditions of the licence).

(3) If—

(a) a certificate has been granted under subsection (1); and

(b) the holder of the certificate satisfies the licensing authority—

(i) that the conditions (if any) on which the certificate was granted have been complied with; and

(ii) that the premises have been completed in accordance with plans approved by the licensing authority on the grant of the certificate or a variation of those plans later approved by the licensing authority,

the licence must be removed to the new premises and, if the certificate of approval provides for the addition or substitution of conditions, the licence then becomes subject to the new conditions in accordance with the terms of the certificate.

(4) A transaction under which the holder of a certificate of approval agrees to the transfer of the certificate for a monetary or other consideration is void unless the proposed transfer is to a close associate.

62A—Removal of liquor production and sales licence in respect of outlet

An application for removal of a liquor production and sales licence in respect of—

(a) a production outlet to a different production outlet; or

(b) a retail outlet to a different retail outlet; or

(c) a wholesale outlet to a different wholesale outlet,

is to be dealt with as an application for the removal of the licence to premises or proposed premises under this Division (even if the licence is not removed in respect of some other outlet).

Division 4A—Addition of outlets to liquor production and sales licence

62B—Addition of outlets to liquor production and sales licence

(1) An applicant for the addition to a liquor production and sales licence of premises or proposed premises as a production outlet, retail outlet or wholesale outlet must satisfy the licensing authority—

(a) that the premises sought to be added are, or, in the case of premises not yet constructed, will be, of an appropriate standard for carrying on business under the licence; and

(b) that the addition of the premises to the licence would be unlikely—

(i) to result in undue offence, annoyance, disturbance or inconvenience to people who reside, work or worship in the vicinity of the premises; or

(ii) to prejudice the safety or welfare of children attending kindergarten, primary school or secondary school in the vicinity of the premises.

(2) An application for the addition to a liquor production and sales licence of premises or proposed premises as a production outlet, retail outlet or wholesale outlet cannot be granted unless the licensing authority is satisfied—

(a) that any approvals, consents or exemptions that are required under the law relating to planning to permit the use of the premises or proposed premises for the sale of liquor have been obtained; and

(b) that any approvals, consents or exemptions that are required by law for carrying out of building work before the removal of the licence takes effect have been obtained; and

(c) that any other relevant approvals, consents and exemptions required for carrying on the proposed business from the premises have been obtained.

(3) If adding a production outlet, retail outlet or wholesale outlet to a liquor production and sales licence would result in the establishment of a collective outlet or an increase in the number of licensees for whom the outlet constitutes a collective outlet, the licensing authority must not grant the application for the addition if of the opinion that the trade to be authorised at the outlet would, in view of the number of licensees involved or the nature and extent of the trade or for any other reason, be better authorised by a packaged liquor sales licence or a licence of some other category.

62C—Certificate of approval for addition to liquor production and sales licence of proposed premises as outlet

(1) The licensing authority may refuse an application for the addition to a liquor production and sales licence of proposed premises as a production outlet, retail outlet or wholesale outlet having regard to the extent to which the proposed premises are uncompleted but may, instead, grant a certificate (a ***certificate of approval***) approving the plans submitted by the applicant in respect of the proposed premises if satisfied that any approvals, consents or exemptions that are required under the law relating to planning to permit the use of the proposed premises for the sale of liquor have been obtained.

(2) A certificate of approval—

(a) may be granted on conditions the licensing authority thinks fit; and

(b) may include a statement of conditions to which, in the opinion of the licensing authority, the licence should be subject on the addition of the premises (either in addition to, or in substitution for, existing conditions of the licence).

(3) If—

(a) a certificate has been granted under subsection (1); and

(b) the holder of the certificate satisfies the licensing authority—

(i) that the conditions (if any) on which the certificate was granted have been complied with; and

(ii) that the premises have been completed in accordance with plans approved by the licensing authority on the grant of the certificate or a variation of those plans later approved by the licensing authority,

the new premises must be added to the licence and, if the certificate of approval provides for the addition or substitution of conditions, the licence then becomes subject to the new conditions in accordance with the terms of the certificate.

(4) A transaction under which the holder of a certificate of approval agrees to the transfer of the certificate for a monetary or other consideration is void unless the proposed transfer is to a close associate.

Division 5—Transfer of licence

63—Applicant for transfer must be fit and proper person

(1) An applicant for the transfer of a licence must satisfy the licensing authority—

(a) that the applicant is a fit and proper person to hold the licence; and

(b) where the applicant is a trust or corporate entity—that each person who occupies a position of authority in the entity is a fit and proper person to occupy such a position in an entity holding a licence of the class to which the application relates.

(2) If a person referred to in subsection (1) is to supervise or manage, or be actively involved in the supervision or management of, the business conducted under the licence but does not have the appropriate knowledge, experience and skills for that purpose, the licensing authority may nevertheless transfer the licence and impose a condition of the licence that the person undertake specified accredited training within a specified time after the transfer of the licence.

(3) A club licence or a short term licence is not transferable.

64—Limitation on sale or assignment of rights under licence

(1) A licensee cannot sell or assign rights to carry on business under the licence unless the transfer of the licence to the purchaser or assignee has been approved by the licensing authority.

(2) This section does not prevent a licensee from entering into a contract for the sale or assignment of rights to carry on business under the licence if the contract is subject to a condition precedent under which the sale or assignment will not take effect unless and until the transfer of the licence to the purchaser or assignee has been approved by the licensing authority.

65—Transferee to succeed to transferor's liabilities and rights

(1) Where a licence is transferred, the transferee succeeds to the liabilities of the transferor under this Act.

(3) If a licence authorising the sale of liquor produced by the licensee is transferred, the transferee may sell, under the licence, liquor produced by the transferor before the date of the transfer as if it had been produced by the transferee.

Division 5A—Special provision relating to amalgamation of certain clubs

65A—Special provision relating to amalgamation of certain clubs

(1) If—

(a) 2 or more associations incorporated under the *Associations Incorporation Act 1985* that each hold a club licence (the ***amalgamating clubs***) amalgamate under that Act as a single incorporated association; and

(b) the single incorporated association is to carry on business at the licensed premises in respect of the licence of 1 of the amalgamating clubs,

the Commissioner may, on application on behalf of the amalgamating clubs—

(c) revoke the licence of 1 or more of the amalgamating clubs; and

(d) issue a replacement copy of the licence in the name of the single incorporated association of the club at whose premises the single incorporated association is to carry on business.

(2) Subject to the regulations, this Part, other than sections 51, 52A, 53, 55, 56 and 59A, does not apply to an application under this section.

Division 6—Voluntary suspension and revocation of licence

66—Suspension and revocation of licence

(1) The Commissioner may, on the application of a licensee, suspend the licence held by that licensee.

(2) A suspension—

(a) may be made for a specified period or until revoked by a licensing authority; and

(b) may operate generally or in relation to a particular part of the licensed premises or a particular aspect of the licensee's business.

(3) The Commissioner may revoke a licence if it appears that the licensee has ceased to carry on business under the licence.

67—Surrender of licence

(1) A licensee may, by written agreement with the Commissioner, surrender the licence as from a date fixed in the agreement.

(2) Before agreeing to the surrender of a licence, the Commissioner must inquire into the proposed use of the premises to which the licence applies.

(3) The surrender of a licence does not affect liabilities incurred by the licensee under this Act up to the date on which the surrender takes effect.

Division 7—Alteration and redefinition of licensed premises

68—Alteration and redefinition of licensed premises

(1) The licensing authority may, on the application of a licensee—

(a) approve an alteration or proposed alteration to the licensed premises;

(b) redefine the licensed premises as defined in the licence;

(d) in the case of a liquor production and sales licence—remove a production outlet, retail outlet or wholesale outlet from the licensed premises.

(2) An application for approval of an alteration to licensed premises must not be granted unless the licensing authority is satisfied that all other approvals, consents or exemptions required by law have been obtained.

(3) If licensed premises are altered without approval under this section, the licensee is guilty of an offence.

Division 8—Extension of trading area

69—Extension of trading area

(1) The licensing authority may, on application by a licensee who holds a licence authorising the sale of liquor for consumption on the licensed premises, extend the authority conferred by the licence so that the licensee is authorised to sell liquor in a place adjacent to the licensed premises for consumption in that place.

(2) The place to which the authorisation relates is, when the sale of liquor is authorised, taken to form part of the licensed premises.

(3) Subject to subsection (4), an authorisation cannot be granted under this section unless—

(a) the licensing authority is satisfied that the object of the application could not be more appropriately achieved by redefinition of the licensed premises; and

(b) the licensee will, when the sale of liquor is authorised, be entitled to sell or supply liquor to customers in the relevant place; and

(c) the relevant place can be adequately defined and supervised; and

(d) the owner of the relevant place (if not owned by the licensee) consents to the application; and

(e) if the relevant place is under the control of a council—the council approves the application.

(4) If the licensing authority considers that a council is unreasonably withholding its consent or approval for the purposes of subsection (3)(d) or (e) in relation to a prescribed application, the licensing authority may grant an authorisation under this section in respect of the prescribed application without the council's consent or approval (as the case requires).

(5) In this section—

Adelaide CBD means the area of the City of Adelaide bounded—

(a) on the north by the northern bank of the River Torrens; and

(b) on the south by the northern alignment of South Terrace; and

(c) on the east by the western alignment of East Terrace and its prolongation north to the northern bank of the River Torrens; and

(d) on the west by the eastern alignment of West Terrace and its prolongation north to the northern bank of the River Torrens,

but does not include an area in the City of Adelaide determined by the Commissioner, by notice in the Gazette, not to be part of the Adelaide CBD for the purposes of this section;

prescribed application means an application relating to a relevant place that is in a prescribed area;

prescribed area means—

(a) the Adelaide CBD; and

(b) any other area determined by the Commissioner, by notice in the Gazette, to be a prescribed area for the purposes of this section.

Division 8A—Alteration of endorsements

69A—Alteration of endorsements

The licensing authority may, on the application of—

(a) the holder of a liquor production and sales licence with a production and sales event endorsement; or

(b) the holder of a club licence with a club event endorsement or a club transport endorsement,

alter the terms of the relevant endorsement.

Division 9—Variation of non-statutory conditions of licence

70—Variation of non-statutory conditions of licence

(1) The licensing authority may, on application by a licensee—

(a) vary trading hours previously fixed by the licensing authority in relation to the licence;

(b) vary or revoke a condition of the licence.

(2) Nothing in this section authorises the licensing authority to vary or revoke a condition fixed or imposed by this Act.

Division 10—Approval of management and control

71—Approval of management and control

(1) The licensing authority may, on application, approve a natural person or persons as a responsible person or responsible persons under this Act.

(2) The licensing authority may, on the application of a person who seeks to assume a position of authority in a trust or corporate entity that holds a licence, approve the assumption by that person of that position in the entity.

(3) The licensing authority may only approve a person as a responsible person, or approve the assumption by a person of a position of authority in a trust or corporate entity that holds a licence, if satisfied that he or she is a fit and proper person.

(4) However, if an applicant for approval is to supervise and manage, or be actively involved in the supervision or management of, the business conducted under a licence but does not have the appropriate knowledge, experience and skills for that purpose, the licensing authority may nevertheless approve the person and impose a condition of the licence that the person undertake specified accredited training within a specified time of obtaining the approval.

(5) In addition, a licensing authority may, if the licensing authority thinks fit, approve a natural person as a responsible person on the condition that the applicant satisfies the licensing authority that the natural person is a fit and proper person within a period (of 6 months or less) specified by the licensing authority.

(6) If an approval is granted on a condition under subsection (5)—

(a) the licensing authority may (during the period of 6 months or less specified by the licensing authority under that subsection), on failure by the responsible person to comply with the condition, revoke the approval; and

(b) if the approval is not revoked under paragraph (a), the approval will, at the end of the period of 6 months or less specified by the licensing authority under that subsection, be taken to be an approval not subject to the condition under subsection (5).

71AA—Revocation of approval of responsible person

(1) The Commissioner has an absolute discretion to revoke a person's approval as a responsible person under this Division on such ground or for such reason as the Commissioner thinks fit.

(2) The Commissioner must, before exercising powers under subsection (1) in relation to a person—

(a) give written notice to the person of the proposed revocation, including, subject to section 28A, a statement of the reasons that the Commissioner considers justify the revocation; and

(b) allow the person a period of 21 days (or such longer period as the Commissioner may in a particular case allow) to show cause why the approval should not be revoked.

(3) The Commissioner may suspend an approval pending final determination of the question as to whether the approval should be revoked.

(4) On revoking an approval, the Commissioner must cause notice of the revocation to be given in accordance with the regulations.

Division 11—Lessor's consent

72—Consent of lessor or owner required in certain cases

(1) Subject to this section—

(a) the licensing authority must not grant an application—

(i) for a new licence; or

(ii) for approval of an alteration or proposed alteration to the licensed premises,

if the licensed premises or proposed licensed premises are occupied, or are to be occupied, under a lease and the lessor has not consented to the application;

(b) the licensing authority must not grant an application for the removal of a licence if the premises to which the licence is to be removed are held under lease and the lessor has not consented to the application;

(c) the licensing authority must not grant an application for transfer of a licence if the licensed premises are occupied under a lease and the lessor has not consented to the application.

(2) A lessor is taken to have consented to an application for a licence or for the removal or transfer of a licence if, before the lessor granted or approved the assignment of the lease, the applicant gave the lessor written notice of the applicant's intention to use the premises for trading in liquor.

(3) The licensing authority may dispense with a consent required under this section if, in its opinion, the consent has been capriciously or unreasonably withheld.

(4) A reference in this section to the lessor of premises is, in relation to premises held from the Crown under lease or licence, a reference to the Crown.

Division 12—Devolution of licensee's rights

73—Devolution of licensee's rights

(1) If a licensee or one of two or more joint licensees dies—

(a) the executor of the will or the administrator of the estate; or

(b) a relative of the deceased acting with the permission of the licensing authority,

may, for 1 month after the date of death or a longer period approved by the licensing authority, carry on business as the licensee or one of the licensees (as the case requires) under the licence.

(2) If a licensee or one of two or more joint licensees becomes physically or mentally incapable of carrying on business under the licence—

(a) a person authorised or appointed by law to administer the licensee's affairs; or

(b) a relative of the licensee acting with the permission of the licensing authority,

may, for 1 month after the commencement of the incapacity or a longer period approved by the licensing authority, carry on business as the licensee or one of the licensees (as the case requires) under the licence.

(3) If a licensee ceases to occupy the licensed premises to which the licence relates, a landlord, mortgagee or other person acting with the permission of the licensing authority may, for a period of 1 month or a longer period approved by the licensing authority, carry on business as the licensee under the licence.

(4) If a licence is surrendered or revoked, the licensing authority may, on application by a landlord, mortgagee or other person who satisfies the authority that it stands to suffer loss in consequence of the surrender or revocation, grant a temporary licence—

(a) of the same class, and subject to the same conditions, as the licence that was surrendered or revoked; but

(b) subject to a condition that the licence will expire at the end of a term fixed by the licensing authority not exceeding 6 months.

(5) An approval, permission or temporary licence may be granted under this section by the licensing authority—

(a) on the application of the person seeking it without hearing or inviting representations from any other person; and

(b) on conditions the licensing authority thinks fit.

(6) A temporary licence under this section may be converted into an ordinary licence by revocation of the condition referred to in subsection (4)(b) but an application for revocation of such a condition must not be granted unless the licensing authority is satisfied—

(a) that the person who is to hold the licence on revocation of the condition is a fit and proper person to hold a licence of the relevant class; and

(b) if that person is a trust or corporate entity—that each person who occupies a position of authority in the entity is a fit and proper person to occupy such a position in an entity holding a licence of that class.

(7) If the person who is to hold the licence on revocation of the condition is to supervise or manage, or be actively involved in the supervision and management of, the business conducted under the licence but does not have the appropriate knowledge, experience and skills for that purpose, the licensing authority may nevertheless grant the application for revocation of the condition and impose a condition of the licence that the person undertake specified accredited training within a specified time after the grant of the application.

74—Bankruptcy or winding up of licensee

(1) If a licensee becomes bankrupt or insolvent, the official receiver may carry on business as the licensee under the licence.

(2) If a corporate licensee is being wound up or is under administration, receivership or official management, a person vested by law with power to administer the affairs of the body corporate may carry on business as the licensee under the licence.

75—Notice to be given of exercise of rights under this Division

A person who exercises rights under this Division (except by prior permission of the licensing authority) must, within 7 days after starting to do so, give notice in writing of that fact to the Commissioner.

Division 13—Submissions in relation to applications

76—Commissioner of Police may make written submissions

Without limiting the Commissioner of Police's right under Part 2 to intervene in proceedings before a licensing authority, the Commissioner of Police may, in relation to an application under this Part, by notice lodged in a manner and form approved by the Commissioner, at least 7 days before the day appointed for the determination or hearing of the application (or such lesser period as the licensing authority may allow), make written submissions to the Commissioner in respect of the application.

77—General right to make written submissions

(1) If an application has been advertised under this Part, a person may, by notice lodged in a manner and form approved by the Commissioner, at least 7 days before the day appointed for the determination or hearing of the application (or such lesser period as the licensing authority may allow), make written submissions to the Commissioner in respect of the application.

(2) Subject to subsection (3), written submissions under this section may be made on 1 or more of the following grounds:

(a) that the grant of the application would not be consistent with the objects of this Act or would be contrary to this Act in some other way;

(b) in the case of a designated application—that the granting of the designated application is not in the community interest;

(c) in the case of an application by a natural person for the grant or transfer of a licence, or for the conversion of a temporary licence into an ordinary licence—that the applicant is of bad reputation or character or is in other respects not a fit and proper person to be licensed;

(d) in the case of an application by a trust or corporate entity for the grant or transfer of a licence, or for the conversion of a temporary licence into an ordinary licence—that the applicant is not a fit and proper person to be licensed or that a person who occupies a position of authority in the entity is of bad reputation or character or is in other respects not a fit and proper person to hold such a position in an entity that holds a licence;

(e) in the case of an application for the grant or removal of a licence—that the position, nature or quality of the premises renders them unsuitable to be licensed, or to be licensed under a licence of the kind to which the application relates;

(f) that if the application were granted—

(i) undue offence, annoyance, disturbance or inconvenience to people who reside, work or worship in the vicinity of the premises or proposed premises to which the application relates would be likely to result; or

(ii) the safety or welfare of children attending kindergarten, primary school or secondary school in the vicinity of the premises or proposed premises to which the application relates would be likely to be prejudiced; or

(iii) the amenity of the locality in which the premises or proposed premises to which the application relates are situated would be adversely affected in some other way.

(3) Written submissions in respect of an application that relate to a matter that is, or should be, dealt with or addressed under the law relating to planning or carrying out building work may only be made by or on behalf of a council if a combined assessment panel has been established under the *Planning, Development and Infrastructure Act 2016* to be involved in the assessment of the application under this Act (at the same time as acting as a relevant authority under that Act).

(4) A person who makes written submissions under this section must ensure that the applicant is given a copy of the written submissions at least 7 days before the day appointed for the hearing or determination of the application (or such lesser period as the licensing authority may allow).

(5) A licensing authority must have regard to any written submissions (including further written submissions under section 78) made in accordance with the requirements of this Division.

78—Further written submissions

(1) The Commissioner may, in the Commissioner's absolute discretion, in accordance with the rules of natural justice—

(a) call for further written submissions to be made in relation to a particular application; or

(b) invite a person or body determined by the Commissioner to make written submissions in relation to a particular application.

(2) Written submissions made under subsection (1) may be made on any ground.

(3) If the Commissioner receives written submissions (or further written submissions) under this section, the Commissioner must ensure that the applicant is given a copy of the written submissions (or further written submissions) a reasonable time before the hearing or determination of the application.

79—Conciliation

(1) If an application has been advertised under this Part and 1 or more written submissions have been made opposing the application, the Commissioner may, in the Commissioner's absolute discretion, endeavour to resolve the application by conciliation.

(2) If an application is resolved by conciliation, the Commissioner may determine the application so as to reflect the agreement reached by conciliation if the Commissioner considers it appropriate to do so in accordance with this Part.

80—Commissioner may refer matters to Court

The Commissioner may, in the Commissioner's absolute discretion, refer any application under this Part for hearing and determination by the Court, other than an application relating to a small venue licence (and a person who has made written submissions in relation to an application referred to the Court will be taken to be a party to the proceedings before the Court in relation to the application).

81—Hearings etc

(1) The Commissioner may, in the Commissioner's absolute discretion—

(a) determine an application under this Part entirely on the basis of the application and any written submissions made without holding a hearing; or

(b) hold a hearing in relation to an application under this Part.

(2) If a hearing is held under subsection (1)(b) in respect of an application for, or in relation to, a small venue licence, only the applicant and, if relevant, the Commissioner of Police, may introduce evidence or make representations at the hearing.

(3) Nothing in this section is to be taken to limit the operation of section 53.

82—Variation of written submissions

(1) A licensing authority may allow a person who has made written submissions in relation to an application to vary the submissions at any time before the application is determined.

(2) If a licensing authority allows written submissions to be varied, the authority must ensure that the applicant is given a copy of the submissions as varied a reasonable time before the hearing or determination of the application.

Part 6—Conduct of licensed business

Division 1—Supervision and management

97—Supervision and management of licensee's business

(1) The business conducted under a licence—

(a) must, at all times when the licensed premises are open to the public, be personally supervised and managed by a natural person (a ***responsible person***) who is—

(i) the licensee or a director of the licensee and qualified for the purpose in accordance with subsection (1a); or

(ii) a person approved by the licensing authority as a responsible person for the purposes of this section; or

(b) must be supervised and managed in accordance with arrangements approved by the licensing authority under subsection (2).

(1a) The licensee or a director of the licensee is qualified for supervising and managing the business conducted under a licence if—

(a) the licensee has satisfied the licensing authority that the licensee or the director (as the case may be) is a fit and proper person for the purpose; or

(b) the licence has been made subject to a condition that the licensee or the director (as the case may be) undertake specified accredited training within a specified time and the specified time has not elapsed or the condition has been satisfied.

(2) If the licensing authority is satisfied on the application of the licensee that, in view of the limited scope of a business conducted under a licence, an exemption from the requirements of subsection (1)(a) may be granted without compromising the principle of responsible service and consumption of liquor, the licensing authority may approve alternative arrangements for the supervision and management of the business.

(4) If at any time the business conducted under a licence is not supervised and managed as required under subsection (1), the licensee is guilty of an offence.

Maximum penalty: $20 000.

Expiation fee: $1 200.

(5) A responsible person for licensed premises must, while acting as such on the licensed premises, wear identification in a form and manner approved by the Commissioner.

Maximum penalty: $1 250.

Expiation fee: $160.

97A—Direction to complete training—responsible persons

(1) The Commissioner may direct a designated person to undertake specified accredited training within a period specified in the direction.

(2) A person who fails to comply with a direction under this section is guilty of an offence.

Maximum penalty: $10 000.

Expiation fee: $500.

(3) If a direction under this section applies to a responsible person or a person who sells, offers for sale or serves liquor on licensed premises, the licensee in respect of the premises must ensure that the person complies with the direction.

Maximum penalty: $10 000.

Expiation fee: $500.

(4) In this section—

designated person means—

(a) a licensee; or

(b) a responsible person; or

(c) a person who sells, offers for sale or serves liquor on licensed premises.

98—Approval of assumption of positions of authority in corporate or trust structures

(1) A person must not assume a position of authority in a trust or corporate entity that holds a licence (other than a short term licence or club licence) without the approval of the licensing authority.

(2) A person who contravenes subsection (1) is guilty of an offence.

Division 2—Profit sharing

99—Prohibition of profit sharing

(1) Subject to this Act, if a licensee—

(a) enters into partnership with an unlicensed person in relation to the business carried on under the licence; or

(b) enters into any agreement or arrangement under which an unlicensed person may participate in the proceeds of the business carried on under the licence (but this paragraph does not prevent the members of a licensed club from benefiting as members of the club from the proceeds of the business conducted under the licence); or

(c) remunerates an unlicensed person by reference to the proceeds or profits obtained from the business carried on under the licence or by reference to the quantity of liquor sold; or

(d) permits an unlicensed person (not being a person approved by the licensing authority) to conduct, superintend or manage the business carried on at licensed premises under the licence; or

(e) permits an unlicensed person to exercise control or substantial influence, without authorisation or approval under this Act, over the business conducted under the licence; or

(f) permits an unlicensed person to hold himself or herself out to the public as the licensee,

the licensee and the unlicensed person are each guilty of an offence.

(2) The Commissioner may, on application by an interested person, approve an agreement or arrangement if—

(a) the agreement or arrangement—

(i) is likely to assist the liquor industry and industries with which it is closely associated—such as tourism and the hospitality industry; or

(ii) is otherwise in the public interest,

or there is some other good reason for approving the agreement or arrangement; and

(b) the agreement or arrangement does not adversely affect the rights and reasonable expectations of persons presently in employment.

(3) If an agreement or arrangement approved under subsection (2) provides for a trust or corporate entity to conduct, superintend or manage the business conducted under a licence, that business must nevertheless be conducted under the personal supervision and management of a natural person approved by the licensing authority.

(4) The Commissioner may, on application by the holder of a licence authorising the sale of liquor by wholesale, approve an agreement or arrangement between that holder and an unlicensed agent under which the agent is to be remunerated by reference to the quantity of wholesale sales of liquor made by the agent.

(5) The Commissioner must not approve an agreement or arrangement under subsection (4) unless satisfied—

(a) that the agent is a fit and proper person to act as an agent of the licensee; and

(b) that the nature and scale of the business to be conducted by the agent under the proposed agreement or arrangement is not such that, taken alone or in conjunction with the business conducted under all other similar agencies held by the agent with other holders of licenses authorising the wholesale sale of liquor, the agent should properly hold an appropriate licence under this Act in relation to that business.

(6) Subsection (1) does not apply to—

(a) an agreement or arrangement approved under subsection (2) or (4) or any other provision of this Act, or anything done under any such approved agreement or arrangement; or

(b) any contractual provision for the remuneration of an employee of a licensee (other than a provision that confers on the employee a right to a share of the profits of the business conducted under the licence or provides that the remuneration of the employee is to vary by reference to the quantity of liquor sold); or

(c) an agreement or arrangement providing for the disbursement of profits or proceeds to a person in a position of authority in a trust or corporate entity that holds the licence or to a shareholder or beneficiary approved by the licensing authority as being a fit and proper person.

(7) For the purposes of subsection (2)—

interested person includes an association formed to protect or further the interests of—

(a) the liquor industry or a particular section of the liquor industry; or

(b) employees in the liquor industry or a particular section of the liquor industry.

Division 3—Supply of liquor to residents on licensed premises

100—Supply of liquor to residents on licensed premises

(1) The following conditions must be observed in relation to liquor supplied under a licence authorising the sale of liquor to residents on licensed premises:

(a) if the liquor is supplied to a resident on licensed premises for consumption on the licensed premises and the licence does not (when the liquor is supplied) authorise the sale of liquor to the public for consumption on the licensed premises—

(i) the liquor must be consumed by the resident personally or by a guest of the resident in the presence of the resident and at the resident's expense;

(ii) there must be no more than 6 adult guests of the resident present at the time the liquor is consumed;

(iii) liquor must not be supplied to, or consumed by, a minor;

(b) if the liquor is supplied to a resident on licensed premises for consumption off the licensed premises and the licence does not authorise the sale of liquor to the public for consumption off the licensed premises—the liquor may only be supplied in quantities likely to be consumed by the resident and guests on the day on which it is supplied.

(2) If any of the conditions prescribed by subsection (1) is contravened, the licensee and the resident on licensed premises are each guilty of an offence.

Maximum penalty:

(a) in the case of the licensee—

(i) for a first offence—$10 000;

(ii) for a second or subsequent offence—$20 000;

(b) in the case of a resident on licensed premises—$2 500.

Expiation fee: for an offence of contravening conditions prescribed by subsection (1)(a)—

(a) in the case of the licensee—$1 200;

(b) in the case of a resident on licensed premises—$210.

101—Record of residents on licensed premises

(1) A licensee who holds a licence that authorises the sale of liquor to residents on licensed premises must keep a record of all residents to be provided with accommodation at the licensed premises.

(2) The record—

(a) must be kept in writing or electronically; and

(b) must contain the name and address of the resident; and

(c) must include any other prescribed information.

(3) A person who fails to keep a record as required by this section is guilty of an offence.

Maximum penalty:

(a) for a first offence—$10 000;

(b) for a second or subsequent offence—$20 000.

Expiation fee: $1 200.

Division 4—Removal and consumption of liquor

102—Restriction on taking liquor from licensed premises

(1) Subject to this Division—

(a) if a licensee is not authorised under the licence to sell liquor for consumption off the licensed premises, a person who takes liquor away from the licensed premises is guilty of an offence;

(b) if a licensee is authorised under the licence to sell liquor for consumption off the licensed premises during certain authorised trading hours, a person who takes liquor away from the licensed premises more than 30 minutes after the relevant trading hours is guilty of an offence.

Maximum penalty: $2 500.

Expiation fee: $210.

(2) This section does not prevent the removal of liquor won as a prize.

103—Restriction on consumption of liquor in, and taking liquor from, licensed premises

(1) Subject to this Division, if at a particular time a licensee is not entitled under the licence to sell liquor to a particular person, that person is not then entitled—

(a) to purchase or consume liquor on the licensed premises; or

(b) to be in possession of liquor on the licensed premises; or

(c) to take liquor from the licensed premises,

and a person who does so is guilty of an offence.

Maximum penalty: $2 500.

Expiation fee: $210.

(2) A person who is on licensed premises for the purpose of purchasing or consuming liquor contrary to subsection (1)(a) is guilty of an offence.

(3) In any proceedings for an offence against subsection (2) in which it is proved that the defendant was on licensed premises when not entitled to purchase or consume liquor, it will be presumed, in the absence of proof to the contrary, that the person was there for the purpose of purchasing or consuming liquor in contravention of subsection (1)(a).

(4) A licensee who permits a person to act in contravention of this section is guilty of an offence.

Maximum penalty:

(a) for a first offence—$10 000;

(b) for a second or subsequent offence—$20 000.

Expiation fee: $1 200.

(5) No offence is committed by a person under this section—

(a) because the person, within 15 minutes of the conclusion of the relevant authorised trading hours—

(i) consumes; or

(ii) has possession of,

liquor lawfully sold by the licensee for consumption on the licensed premises; or

(b) because the person, within 30 minutes of the conclusion of the relevant authorised trading hours—

(i) has possession of; or

(ii) takes from licensed premises,

liquor lawfully sold by the licensee for consumption off the licensed premises.

(6) No offence is committed under this section—

(a) because of the consumption of liquor on licensed premises—

(i) by a resident on licensed premises; or

(ii) by—

(A) a licensee or a member of the licensee's family; or

(B) a responsible person for the licensed premises or a member of a responsible person's family,

who is residing on the licensed premises; or

(iii) by a guest of a person referred to in subparagraph (i) or (ii), if the liquor was supplied in the presence, and at the expense, of that person; or

(iv) by a non-resident licensee; or

(v) by an employee of the licensee; or

(b) because of the taking of liquor from licensed premises—

(i) by a resident on licensed premises; or

(ii) by—

(A) a licensee or a member of the licensee's family; or

(B) a responsible person for the licensed premises or a member of a responsible person's family,

who is residing on the licensed premises.

104—Liquor may be brought onto, and removed from, licensed premises in certain cases

If a licence authorises the consumption of liquor (or the sale and consumption of liquor) on the licensed premises with or ancillary to a meal provided by the licensee, then, despite any other provision of this Act, it is lawful for a person—

(a) to bring liquor onto the licensed premises, with the consent of the licensee, intending that it be consumed with or ancillary to a meal provided by the licensee on the licensed premises and later to take from the licensed premises the unconsumed portion of liquor so brought onto the licensed premises in the container in which it was brought onto the licensed premises; or

(b) if a bottle of wine has been purchased on the licensed premises by the person intending that the wine be consumed with or ancillary to a meal provided by the licensee on the licensed premises, to take from the licensed premises the unconsumed portion of wine so purchased in the bottle in which it was purchased.

Division 5—Regulation of prescribed entertainment

105—Prescribed entertainment on licensed premises

(2) A licensee must not use any part of licensed premises for the purpose of providing prescribed entertainment except in accordance with the consent of the licensing authority.

Maximum penalty:

(a) for a first offence—$10 000;

(b) for a second or subsequent offence—$20 000.

Expiation fee: $1 200.

(3) The licensing authority may only grant its consent under this section if satisfied that—

(a) the giving of the consent is consistent with the objects of this Act; and

(b) the prescribed entertainment is unlikely to give undue offence to people who reside, work or worship in the vicinity of the premises.

(4) The consent of the licensing authority under this section—

(a) may be conditional or unconditional; and

(b) may be varied or revoked by the licensing authority.

(5) For the purposes of this section, a reference to ***licensed premises*** will be taken to include a reference to any area adjacent to the licensed premises that is under the control of the licensee for the licensed premises.

(6) In this section—

prescribed entertainment means—

(a) entertainment of a sexually explicit nature; or

(b) a professional or public boxing or martial art event within the meaning of the *Boxing and Martial Arts Act 2000*; or

(c) any other entertainment of a kind prescribed by the regulations for the purposes of this definition,

but does not include entertainment of a kind excluded by the regulations from the ambit of this definition.

Division 6—Noise

106—Complaint about noise etc emanating from licensed premises

(1) If—

(a) an activity on, or the noise emanating from, licensed premises; or

(b) the behaviour of persons making their way to or from licensed premises,

is unduly offensive, annoying, disturbing or inconvenient to a person who resides, works or worships in the vicinity of the licensed premises, a complaint may be lodged with the Commissioner under this section.

(2) A complaint under this section may be lodged by—

(a) the Commissioner of Police; or

(b) the council for the area in which the licensed premises are situated; or

(c) a person claiming to be adversely affected by the subject matter of the complaint.

(3) A complaint cannot be made under subsection (2)(c) unless—

(a) the complainant is authorised to make the complaint by at least 10 persons who reside, work or worship in the vicinity of the licensed premises; or

(b) the Commissioner is satisfied that the nature or gravity of the complaint is such that it should be admitted despite non-compliance with paragraph (a).

(3a) If a complaint is lodged with the Commissioner under this section—

(a) the Commissioner must cause a copy of the complaint to be served on the licensee of the licensed premises to which the complaint relates no later than 7 days after its lodgement; and

(b) no conciliation meeting or other hearing may be held on the complaint until the period of 14 days has elapsed from the day of that service.

(4) Unless either party to the proceedings on a complaint requests that the matter proceed direct to a hearing and the Commissioner is of the opinion that good reason exists for concurring with the request, the Commissioner must endeavour to resolve the subject matter of the complaint by conciliation and—

(a) the Commissioner may, before or during the course of the conciliation proceedings, make an interim order about the subject matter of the complaint; and

(b) if the matter is settled by conciliation, the Commissioner may make a final order against the licensee reflecting the terms of the settlement,

(and the terms of an interim or final order under this subsection become conditions of the licence).

(5) If the subject matter of the complaint is not to be conciliated, or is not resolved by conciliation, as the case may be—

(a) if the parties to the proceedings request the Commissioner to do so—the Commissioner must determine the matter; and

(b) in any other case—the Commissioner must refer the matter for hearing and determination by the Court.

(6) In hearing and determining a complaint under this section, the Commissioner or the Court, as the case may be—

(a) must give the complainant, the licensee and any other person whom the Commissioner or the Court thinks fit to hear an opportunity to be heard; and

(b) must take into account—

(i) the relevant history of the licensed premises in relation to other premises in the vicinity and, in particular, the period of time over which the activity, noise or behaviour complained about has been occurring and any significant change at any relevant time in the level or frequency at which it has occurred; and

(ii) the unreasonableness or otherwise of the activity, noise or behaviour complained about; and

(iii) the trading hours and character of the business carried out by the licensee on the licensed premises; and

(iv) the desired future character of the locality in which the licensed premises are situated as stated in any relevant provision of the Planning and Design Code under the *Planning, Development and Infrastructure Act 2016*; and

(v) whether or not any environment protection policy made under Part 5 of the *Environment Protection Act 1993*, or guidelines published by the Environment Protection Authority established under that Act, applicable to the provision of live music on the licensed premises have been complied with; and

(vi) any other matter that the Commissioner or the Court considers relevant.

(6a) On completing the hearing of the complaint the Commissioner or the Court, as the case may be, may—

(a) dismiss the complaint; or

(b) make an order against the licensee resolving the subject matter of the complaint.

(7) The order may add to or vary the conditions of the licence.

(8) If a proposal for settlement of the subject matter of the complaint is made in the course of proceedings before the Commissioner, evidence of the proposal is inadmissible in proceedings before the Court.

(9) An interim order of the Commissioner under this section continues in force until the making of a final order on the complaint by the Commissioner or the Court, or earlier revocation of the interim order by the Commissioner or the Court.

Division 7—Employment of minors

107—Minors not to be employed to serve liquor in licensed premises

(1) If a minor is employed to sell, supply or serve liquor on licensed premises, the licensee is guilty of an offence.

(2) However, this section does not prevent the employment of a minor to sell, supply or serve liquor on licensed premises if—

(a) the minor is of or above the age of 16 years, a child of the licensee or a responsible person for the licensed premises and resident on the premises; or

(b) —

(i) the minor is of or above the age of 16 years and a child of the licensee or a responsible person for the licensed premises; and

(ii) the licensing authority, on application, approves the employment of the minor for that purpose.

Division 7A—Sale of liquor through direct sales transaction

107A—Sale of liquor through direct sales transaction

(1) A licensee who advertises a sale of liquor by direct sales transaction must cause the identifying number on the licence authorising such sale to be displayed on any advertisement published or distributed by or on behalf of the licensee (whether in printed form or electronically).

Maximum penalty: $2 500.

Expiation fee: $210.

(2) A licensee who sells liquor through direct sales transaction must, at the time the liquor is ordered, require the prospective purchaser to notify the licensee of the prospective purchaser's date of birth, unless the prospective purchaser has previously notified the licensee of the purchaser's date of birth.

Maximum penalty: $2 500.

Expiation fee: $210.

(3) A licensee who sells liquor through direct sales transaction must provide instructions to the person responsible for the delivery of the liquor that the liquor must only be delivered—

(a) to the adult person who purchased the liquor; or

(b) to the adult person nominated by the purchaser; or

(c) in accordance with the instructions of the purchaser.

(4) A person who delivers liquor purchased through direct sales transaction in accordance with subsection (3)(a) or (b) must—

(a) require a person who takes delivery of the liquor to produce evidence as to the person's identity and age, that complies with the requirements of the regulations; and

(b) make a record of such evidence in a manner prescribed by the regulations.

Maximum penalty: $5 000.

Expiation fee: $315.

(5) A minor who makes a false statement or produces false evidence in response to a requirement under subsection (4)(a) is guilty of an offence.

Maximum penalty: $2 500.

Expiation fee: $210.

(6) If delivery of liquor sold through direct sales transaction is taken by a minor—

(a) in the case of a licensee—the delivery will be taken to constitute a supply to which section 110(1a) applies, and the licensee will be taken to have supplied the liquor contrary to section 110(1a); and

(b) in the case of a person by whom the liquor was delivered on the licensee's behalf—the delivery will be taken to constitute a supply to which section 110A(1) applies, and the person will be taken to have supplied the liquor contrary to section 110A(1).

(7) Subsection (6)(a) does not apply to a licensee if the licensee proves—

(a) that the licensee complied with the requirements in subsections (2) and (3); and

(b) that at the time of the alleged offence, the licensee did not know, and could not reasonably be expected to have known, that the alleged offence was committed.

(8) Subsection (6)(b) does not apply to a person if the person proves that—

(a) the person required the minor to produce evidence of age that complies with the requirements of the regulations; and

(b) the minor made a false statement, or produced false evidence, in response to that requirement; and

(c) in consequence the person reasonably assumed that the minor was of or above the age of 18 years.

(9) A person must not direct or request a minor to take delivery of liquor sold through direct sales transaction.

Maximum penalty: $5 000.

(10) A licensee must not employ or engage a minor to deliver liquor sold by the licensee through direct sales transaction.

Maximum penalty: $10 000.

Division 8—Sale or supply to intoxicated persons

108—Liquor not to be sold or supplied to intoxicated persons

(1) If liquor is sold or supplied on licensed premises to an intoxicated person, each of the following persons is guilty of an offence:

(a) the licensee;

(b) if the licence in respect of the licensed premises is held by a trust or corporate entity, each person occupying a position of authority in the trust or corporate entity;

(c) the responsible person for the licensed premises;

(d) the person by whom the liquor is sold or supplied.

Maximum penalty:

(a) for a first offence—$20 000;

(b) for a second or subsequent offence—$40 000.

Expiation fee: $1 200.

(1a) In any proceedings for an offence against subsection (1) where it is alleged that a person was sold or supplied liquor on particular licensed premises, the allegation constitutes proof that the sale or supply occurred on the licensed premises in the absence of proof to the contrary.

(2) It is a defence to a charge of an offence against subsection (1) for the defendant to prove—

(a) if the defendant is the person by whom the liquor was sold or supplied, that the defendant—

(i) believed on reasonable grounds that the person to whom it was sold or supplied was not intoxicated; and

(ii) took reasonable steps to comply with the provisions of the Commissioner's codes of practice relating to the responsible service of alcohol designated by the Commissioner as mandatory provisions for the purposes of this subparagraph; or

(b) if the defendant is—

(i) the licensee; or

(ii) a person occupying a position of authority in a trust or corporate entity (in the case of a licensee that is a trust or corporate entity); or

(iii) the responsible person for the licensed premises,

and did not personally sell or supply the liquor—that the defendant—

(iv) exercised proper care to prevent the sale or supply of liquor in contravention of subsection (1); and

(v) has reasonable processes in place for ensuring that persons by whom liquor is sold or supplied on the licensed premises comply with the provisions of the Commissioner's codes of practice relating to the responsible service of alcohol designated by the Commissioner as mandatory provisions for the purposes of paragraph (a)(ii).

Division 9—Miscellaneous requirements

109—Copy of licence etc to be kept on licensed premises

(1) A licensee must ensure that an up to date copy of the licence, showing all conditions of, and endorsements on, the licence, is displayed at all times, in accordance with the requirements (if any) prescribed by the regulations, at or near the front entrance to the licensed premises so that it is readily visible to members of the public.

(1a) A licensee must ensure that an up to date copy of the plan of the licensed premises is kept at the licensed premises and made available on request to a police officer or inspector.

(2) A person who fails, without reasonable excuse, to comply with a requirement under this section is guilty of an offence.

Maximum penalty: $10 000.

Expiation fee: $160.

109A—Records of liquor transactions

(1) A licensee must keep records of all transactions involving the sale or purchase of liquor.

(2) The records—

(a) must be kept in the form required by the licensing authority; and

(b) must contain the information required by the licensing authority; and

(c) must be made up as soon as practicable after the transactions to which they relate.

(3) A person who is required by this section to keep records must retain the records for 6 years after the date on which they were compiled.

(4) A person who fails to keep or retain records as required by this section is guilty of an offence.

Maximum penalty: $5 000.

Expiation fee: $315.

109B—Returns

(1) A licensee must, if so required by the Commissioner, lodge returns with the Commissioner containing information the Commissioner requires relating to transactions involving the sale or purchase of liquor or other matters specified by the Commissioner for the purposes of this Act.

(2) If returns are required under subsection (1), they must be lodged at the times, or periodic intervals, specified by the Commissioner.

(3) If a licensee—

(a) fails to lodge a return as required under this section; or

(b) includes in such a return information that is false or misleading in a material particular,

the licensee is guilty of an offence.

Maximum penalty: $5 000.

Expiation fee: for an offence against paragraph (a)—$315.

Part 7—Minors

109C—Interpretation

In this Part—

parent in relation to a minor, includes a step-parent or legal guardian of the minor;

responsible adult in relation to a minor, means an adult who is—

(a) a parent of the minor; or

(b) standing in the position, and undertaking responsibilities of the parent of the minor; or

(c) the spouse or domestic partner of the minor.

110—Sale and supply of liquor to minors on licensed premises

(1) If liquor is sold or supplied to a minor on licensed premises by or on behalf of the licensee, each of the following persons is guilty of an offence:

(a) the licensee;

(b) if the licence in respect of the licensed premises is held by a trust or corporate entity, each person occupying a position of authority in the trust or corporate entity;

(c) the responsible person for the licensed premises;

(d) the person by whom the liquor is sold or supplied.

Maximum penalty:

(a) in the case of the licensee, a person in a position of authority in the trust or corporate entity that holds the licence or the responsible person—

(i) for a first offence—$20 000;

(ii) for a second or subsequent offence—$40 000;

(b) in any other case—$5 000.

Expiation fee: $1 200.

(1a) If a licensee sells or supplies liquor to a minor otherwise than on licensed premises, the licensee is guilty of an offence.

Maximum penalty:

(a) for a first offence—$20 000;

(b) for a second or subsequent offence—$40 000.

Expiation fee: $1 200.

(2) A licensee who permits a minor to consume liquor on the licensed premises is guilty of an offence.

Maximum penalty:

(a) for a first offence—$20 000;

(b) for a second or subsequent offence—$40 000.

Expiation fee: $1 200.

(2a) In any proceedings for an offence against subsection (1) where it is alleged that a minor was sold or supplied liquor on particular licensed premises, the allegation constitutes proof that the sale or supply occurred on the licensed premises in the absence of proof to the contrary.

(2b) In any proceedings for an offence against subsection (2) where it is alleged that a minor consumed liquor on particular licensed premises, the allegation constitutes proof that the consumption occurred on the licensed premises in the absence of proof to the contrary.

(3) It is a defence to a charge of an offence against subsection (1), (1a) or (2) for the defendant to prove that—

(a) the licensee or some person acting on behalf of the licensee required the minor to produce evidence of age that complies with the requirements of the regulations; and

(b) the minor made a false statement, or produced false evidence, in response to that requirement; and

(c) in consequence the person who served the minor reasonably assumed that the minor was of or above the age of 18 years.

(4) If a person, acting at the request of a minor, purchases liquor on behalf of the minor on licensed premises, that person and the minor are each guilty of an offence.

Maximum penalty:

(a) in the case of the person acting at the request of the minor—$10 000;

(b) in the case of the minor—$2 500.

Expiation fee:

(a) in the case of the person acting at the request of the minor—$500;

(b) in the case of the minor—$210.

(4a) A minor who consumes or has possession of liquor on licensed premises is guilty of an offence.

Maximum penalty: $ 2 500.

Expiation fee: $210.

(5) This section does not apply to the gratuitous supply of liquor to, or the consumption of liquor by, a minor if—

(a) —

(i) the liquor is supplied by a parent or guardian of the minor; and

(ii) the minor is a child of—

(A) the licensee; or

(B) a responsible person for the licensed premises; or

(C) an employee of the licensee,

and is resident on the licensed premises; or

(b) the minor is enrolled in a tertiary educational course declared by the regulations to be an approved course for the purposes of section 30 and the liquor is supplied to the minor as part of that course.

(6) In this section—

licensed premises includes areas appurtenant to the licensed premises.

110A—Supply of liquor to minors generally

(1) A person who supplies liquor to a minor is guilty of an offence.

Maximum penalty: $10 000.

Expiation fee: $500.

(2) A minor who consumes or has possession of liquor is guilty of an offence.

Maximum penalty: $2 500.

Expiation fee: $210.

(3) This section does not apply if section 110 applies in respect of the supply, consumption or possession of the liquor.

(4) This section does not apply to the gratuitous supply of liquor to, or the consumption or possession of liquor by, a minor in a prescribed place if—

(a) the liquor is supplied to the minor by—

(i) a responsible adult; or

(ii) an adult person (an ***authorised adult***) who has obtained the consent of a responsible adult to that supply of liquor to the minor; and

(b) the supply is consistent with the responsible supervision of the minor.

(5) For the purposes of subsection (4), the following matters are relevant to whether the supply of liquor is consistent with the responsible supervision of the minor:

(a) whether the responsible adult or authorised adult is directly supervising the minor's consumption of the liquor;

(b) whether the responsible adult or authorised adult is intoxicated;

(c) whether the minor is intoxicated;

(d) the age of the minor;

(e) the quantity and type of liquor supplied and the period over which it is supplied.

(6) In this section—

prescribed place means—

(a) a public place, other than—

(i) a public place of a kind referred to in paragraph (d) of the definition of ***regulated premises*** in section 4; or

(ii) any other public place, or kind of public place, declared by regulation not to be a prescribed place; or

(b) a place occupied as a place of residence; or

(c) a church; or

(d) any other place prescribed by the regulations;

supply includes serving liquor to a minor.

111—Areas of licensed premises may be declared out of bounds to minors

(1) The licensing authority or a licensee may declare any area of licensed premises (other than a bedroom) to be out of bounds to minors.

(1a) A licensee must, within 7 days after making a declaration under subsection (1), give the Commissioner a written notice setting out the area of the licensed premises to which the declaration relates.

(2) A licensee must not contravene or fail to comply with a requirement under section 113A relating to the erection of notices in connection with areas declared out of bounds to minors.

Maximum penalty: $10 000.

Expiation fee: $500.

(3) If a minor (not being a child of the licensee or a responsible person for the licensed premises) enters an area of licensed premises that has been declared to be out of bounds to minors, and in respect of which notices have been erected, under this section, an authorised person may require the minor to leave, and, if the minor fails to do so, may exercise reasonable force to remove the minor.

112—Minors not to enter or remain in certain licensed premises

(1) A minor may not enter, or remain in—

(a) licensed premises subject to a packaged liquor sales licence unless the minor is accompanied by a responsible adult at all times; or

(b) licensed premises of a prescribed kind at prescribed times; or

(c) any other area in licensed premises (other than a bedroom)—

(i) between the hours of midnight and 2 am unless the minor is accompanied by a responsible adult at all times; or

(ii) between the hours of 2 am and 5 am,

if liquor may be sold in the area at that time.

(2) If a minor enters or remains in licensed premises in contravention of this section or in contravention of a condition of the licence, an authorised person may require the minor to leave, and, if the minor fails to do so, may exercise reasonable force to remove the minor.

(3) If a minor enters or remains in licensed premises in contravention of this section or in contravention of a condition of the licence, the licensee is guilty of an offence.

Maximum penalty:

(a) for a first offence—$10 000;

(b) for a second or subsequent offence—$20 000.

Expiation fee: $1 200.

(4) If a licensee is charged with an offence against subsection (3), it is a defence to prove that the licensee took reasonable care to prevent minors from entering or remaining in the relevant area of the licensed premises at the relevant time.

(4a) If a minor enters licensed premises in contravention of this section, or in contravention of a condition of the licence, the person who permitted the entry of the minor onto the licensed premises is guilty of an offence.

Maximum penalty:

(a) for a first offence—$10 000;

(b) for a second or subsequent offence—$20 000.

Expiation fee: $1 200.

(4b) If a person is charged with an offence against subsection (4a), it is a defence to prove that the person took reasonable care to prevent minors from entering or remaining in the relevant area at the relevant time.

(4c) A minor who enters or remains in licensed premises in contravention of this section or in contravention of a condition of the licence is guilty of an offence.

Maximum penalty: $2 500.

Expiation fee: $210.

(5) A licensee must not contravene or fail to comply with a requirement under section 113A relating to the display of notices for the purposes of this section.

Maximum penalty: $10 000.

Expiation fee: $500.

(6) This section does not apply in relation to the following:

(a) minors of a prescribed class;

(b) licensed premises of a prescribed class;

(c) an area of the licensed premises exempted from the ambit of this section by the Commissioner;

(d) any other circumstances prescribed by the regulations.

113—Notice to be erected

A licensee must not contravene or fail to comply with a requirement under section 113A relating to the display of notices in relation to access by minors to and in relation to licensed premises.

Maximum penalty: $10 000.

Expiation fee: $500.

113A—Requirements relating to notices

(1) The Commissioner may specify requirements relating to the erection or display of notices for the purposes of this Part.

(2) Without limiting subsection (1), requirements specified by the Commissioner may relate to the following:

(a) the form and content of a notice;

(b) locations where notices must be erected or displayed;

(c) any other matter the Commissioner thinks appropriate.

(3) A requirement under this section may be of general, limited or varied application according to—

(a) the kind of notice; or

(b) the circumstances; or

(c) any other specified factor,

to which the requirement is expressed to apply.

115—Evidence of age may be required

(1) A prescribed person may require—

(a) a person on, about to enter, or in the vicinity of, regulated premises; or

(b) a person who is, or has recently been, in possession of liquor,

and who the prescribed person reasonably suspects is under the age of 18 years, to produce evidence as to the person's age that complies with the requirements of the regulations.

(2) A person who—

(a) fails, without reasonable excuse, to comply with a requirement under this section; or

(b) makes a false statement, or produces false evidence, in response to such a requirement,

is guilty of an offence.

Maximum penalty: $2 500.

Expiation fee: $210.

(3) In this section—

prescribed person means—

(a) a police officer; or

(b) in relation to regulated premises or a public place—an inspector; or

(c) in relation to regulated premises—the occupier or manager of the premises or an agent or employee of the occupier, including—

(i) a licensee of licensed premises; or

(ii) a responsible person for licensed premises; or

(iii) a person who holds a security agent's licence that authorises the person to perform the function of controlling crowds on licensed premises under the *Security and Investigation Industry Act 1995*.

115A—Seizure of evidence of age document

(1) A prescribed person may seize a document that is produced to the person as evidence of a person's age if the prescribed person reasonably believes that—

(a) the person who produced the document is not the person identified in the document; or

(b) the document contains false or misleading information about the name or age of the person who produced the document; or

(c) the document has been forged or fraudulently altered; or

(d) the document is being used in contravention of this Act.

(2) However, a prescribed person may not seize a document under this section that is—

(a) a passport; or

(b) of a kind prescribed by the regulations.

(3) A prescribed person who seizes a document under subsection (1) must, as soon as reasonably practicable after seizing the document—

(a) issue to the person from whom the document was seized a receipt that complies with the prescribed requirements; and

(b) comply with any other requirements prescribed by the regulations.

(4) If a prescribed person (other than a police officer or an inspector) seizes a document under subsection (1), the relevant licensee must, within 7 days, produce the seized document to a police officer.

(5) Regulations made under this section may provide for the following:

(a) procedures relating to the seizure of a document under this section;

(b) the manner in which a document seized under this section may be dealt with, including (but not limited to) the circumstances in which a seized document may be returned to a person, or otherwise dealt with by a prescribed person in possession of the document;

(c) the keeping of records in the prescribed manner in relation to the doing of any thing under this section.

(6) A prescribed person (other than a police officer or an inspector) who fails to comply with a requirement under this section is guilty of an offence.

Maximum penalty: $5 000.

Expiation fee: $315.

(7) In this section—

prescribed person means—

(a) a police officer; or

(b) an inspector; or

(c) in relation to licensed premises—

(i) a licensee; or

(ii) a responsible person for the licensed premises; or

(iii) a person who holds a security agent's licence that authorises the person to perform the function of controlling crowds on licensed premises under the *Security and Investigation Industry Act 1995*.

116—Power to remove or refuse entry to minors

(1) An authorised person may, if necessary, use reasonable force to remove a person from, or prevent the entry of a person onto, licensed premises if—

(a) either—

(i) the person has failed to comply with a requirement under section 115(1); or

(ii) the authorised person suspects on reasonable grounds that the person is under the age of 18 years; and

(b) the authorised person suspects on reasonable grounds that the person is entering the licensed premises for the purpose of consuming liquor in contravention of this Act.

(2) A person who—

(a) is removed from licensed premises, or refused entry to, or prevented from entering, licensed premises under this section; and

(b) enters or attempts to enter the licensed premises within the following 24 hours,

is guilty of an offence.

Maximum penalty: $2 500.

Expiation fee: $210.

Part 7A—Offences relating to conduct on licensed premises etc

117A—Offensive or disorderly conduct

(1) A person must not behave in an offensive or disorderly manner in licensed premises or in the vicinity of licensed premises.

Maximum penalty: $1 250.

Expiation fee: $500.

(2) This section does not apply to any behaviour involving violence or a threat of violence.

Part 7B—Offences relating to criminal organisations

117B—Preliminary

(1) In this Part—

Committee means the Crime and Public Integrity Policy Committee of the Parliament;

declared criminal organisation means an entity declared by regulation to be a declared criminal organisation;

prohibited item means an item of clothing or jewellery or an accessory that displays—

(a) the name of a declared criminal organisation; or

(b) the club patch, insignia or logo of a declared criminal organisation; or

Note—

The things mentioned in paragraph (b) are also known as the ***colours*** of the organisation.

(c) any image, symbol, abbreviation, acronym or other form of writing that indicates membership of, or an association with, a declared criminal organisation, including—

(i) the symbol "***1%***"; and

(ii) the symbol "***1%er***"; and

(iii) any other image, symbol, abbreviation, acronym or other form of writing prescribed by regulation for the purposes of this definition.

(2) Each regulation made for the purposes of the definition of ***declared criminal organisation*** in subsection (1) and required to be laid before each House of Parliament in accordance with the *Subordinate Legislation Act 1978* may only relate to 1 entity.

(3) The Governor may only make a regulation declaring an entity to be a declared criminal organisation for the purposes of the definition of ***declared criminal organisation*** in subsection (1) on the recommendation of the Minister.

(4) A recommendation of the Minister in relation to an entity for the purposes of subsection (3) may only be made—

(a) after the receipt of a report of the Committee in relation to the entity under section 117C (and, in such a case, the recommendation must include a statement as to the opinion of the Committee on whether or not the entity should be declared a declared criminal organisation for the purposes of this Part); or

(b) after the passage of 10 days after a referral in relation to the entity was made to the Committee by the Minister under section 117C(1).

(5) The Minister may, in deciding whether to make a recommendation for the purposes of subsection (3), have regard to the following matters:

(a) if the Minister has received a report of the Committee in relation to the entity—the report of the Committee;

(b) any information suggesting a link exists between the entity and serious criminal activity;

(c) any convictions recorded in relation to—

(i) current or former participants in the entity; or

(ii) persons who associate, or have associated, with participants in the entity;

(d) any information suggesting current or former participants in the entity have been, or are, involved in serious criminal activity (whether directly or indirectly and whether or not the involvement has resulted in any convictions);

(e) any information suggesting participants in an interstate or overseas chapter or branch (however described) of the entity have as their purpose, or 1 of their purposes, organising, planning, facilitating, supporting or engaging in serious criminal activity;

(f) any other matter the Minister considers relevant.

(6) Section 10A of the *Subordinate Legislation Act 1978* does not apply in relation to a regulation declaring an entity to be a declared criminal organisation for the purposes of the definition of ***declared criminal organisation*** in subsection (1).

(7) A change in the name or membership of an organisation declared by regulation to be a declared criminal organisation does not affect the organisation's status as a declared criminal organisation.

(8) If the members of an organisation declared by regulation to be a declared criminal organisation substantially re-form themselves into another organisation, that organisation is taken to form a part of the declared criminal organisation (whether or not the declared criminal organisation is dissolved).

(9) For the avoidance of doubt, nothing prevents the regulations declaring as a criminal organisation an entity that is, at the time of the declaration, based interstate or overseas and not operating in this State.

117C—Report of Crime and Public Integrity Policy Committee

(1) The Minister may, by notice in writing, refer a proposal to declare an entity to be a declared criminal organisation by regulation for the purposes of the definition of ***declared criminal organisation*** to the Committee.

(2) On receipt of a referral under subsection (1), the Committee must request the Commissioner of Police (the ***Commissioner***) to provide to the Committee any information that the Commissioner thinks fit that may support the referral.

(3) The Committee must inquire into and consider a referral under subsection (1) along with any supporting information provided by the Commissioner under subsection (2) and must report to the Minister on whether or not the Committee is of the opinion that the entity should be declared a declared criminal organisation for the purposes of this Part.

(4) The Committee may include grounds for its opinion in a report under subsection (3).

117D—Exclusion of persons wearing or carrying prohibited items

(1) The following persons must not knowingly allow a person who is wearing or carrying a prohibited item to enter or remain in licensed premises:

(a) the licensee for the premises;

(b) the responsible person for the premises;

(c) an employee or agent of the licensee or responsible person working at the premises.

Maximum penalty: $10 000.

(2) It is a defence to a charge of an offence against this section for the defendant to prove that the defendant or another person referred to in subsection (1)(a), (b) or (c) made a request to a police officer in accordance with section 117F(3) in relation to the person wearing or carrying a prohibited item.

117E—Entering and remaining in licensed premises wearing or carrying a prohibited item

A person must not enter or remain in licensed premises if the person is wearing or carrying a prohibited item.

Maximum penalty:

(a) for a first offence—$25 000;

(b) for a second offence—$50 000 or imprisonment for 6 months;

(c) for a third or subsequent offence—$100 000 or imprisonment for 18 months.

117F—Removal of person wearing or carrying prohibited item from premises

(1) If an authorised person requires a person who is wearing or carrying a prohibited item (the ***prohibited person***) to leave licensed premises, the prohibited person must immediately leave the premises.

Maximum penalty:

(a) for a first offence—$25 000;

(b) for a second offence—$50 000 or imprisonment for 6 months;

(c) for a third or subsequent offence—$100 000 or imprisonment for 18 months.

(2) If a prohibited person fails to leave when required under subsection (1), an authorised person may use necessary and reasonable force to remove the person.

(3) If a person referred to in section 117D(1)(a), (b) or (c) requests a police officer to exercise a power conferred by this section in relation to a person, the police officer must do so if satisfied that the power may be exercised in relation to the person under this section.

(4) A prohibited person must not resist an authorised person who is removing the person under subsection (2).

Maximum penalty:

(a) for a first offence—$50 000 or imprisonment for 6 months;

(b) for a second or subsequent offence—$100 000 or imprisonment for 18 months.

Part 8—Disciplinary action

118—Application of Part

(1) This Part applies to—

(a) a person who is or has been licensed or approved under this Act;

(b) a person who has sold liquor without a licence;

(c) a person who occupies or has occupied a position of authority in a licensed entity or an entity that has sold liquor without a licence;

(d) a person who supervises or manages or has supervised or managed a business conducted under a licence or a business in the course of which liquor has been sold without a licence;

(da) a person who has sold or supplied liquor on licensed premises;

(e) an unlicensed person who has entered into an arrangement contrary to this Act with a licensee;

(f) a lessor of licensed premises;

(g) a person who has acted contrary to section 110A(1).

119—Cause for disciplinary action

(1) There is proper cause for disciplinary action against a person to whom this Part applies—

(a) if the person has improperly obtained a licence or approval under this Act; or

(b) in relation to a business or activity that is being or has been conducted under a licence—

(i) if liquor has been sold or supplied contrary to this Act or without proper authority under this Act; or

(ii) if there has been a breach of a condition of the licence; or

(iii) if the licensed premises have been altered without the approval of the licensing authority; or

(iv) if the licensed premises are or have been in disrepair or in an unsatisfactory condition; or

(v) if the safety, health or welfare of persons resorting to the licensed premises is or has been endangered by neglect of the premises or neglect in the conduct, supervision or management of the business or activity; or

(vi) if a person has been convicted of unlawful gaming in respect of events occurring (wholly or partly) on the licensed premises; or

(via) if a person has acted contrary to a provision of this Act or the *Gaming Machines Act 1992* relating to the prevention of a person from entering, or the removal of a person from, licensed premises; or

(vii) if a contravention or failure to comply with an industrial award or enterprise agreement has occurred; or

(viii) if—

(A) in the course of conducting, or being employed or otherwise engaged in, the business or activity a person has acted contrary to this Act or otherwise unlawfully, or negligently; or

(B) the business or activity has otherwise not been properly conducted, supervised or managed in accordance with this or any other Act; or

(c) if the person is or has been licensed or approved under this Act but is not a fit and proper person; or

(d) if the person has acted contrary to—

(i) this Act (which may be the basis on which this Part applies to the person); or

(ii) a term or condition of a licence; or

(iii) an order under this Act; or

(iv) an undertaking under section 119A(1)(a); or

(e) if the person is or has been licensed or approved under this Act but it would be contrary to the public interest if the person were to be or continue to be licensed or approved.

(1a) For the purposes of subsection (1)(c), a trust or corporate entity that is or has been licensed under this Act will be taken not to be a fit and proper person if any person who occupies a position of authority in the trust or corporate entity is not a fit and proper person.

(2) In determining whether there is proper cause for disciplinary action against a person who is or has been licensed or approved under this Act, regard may be had to such evidence of the conduct (no matter when the conduct is alleged to have occurred) of the person or persons with whom the person associates (or has associated at any relevant time) as the Court considers relevant, including information that existed at the time the licence or approval was granted, regardless of whether that information was before or could have been brought before the licensing authority at that time.

119A—Commissioner's power to deal with disciplinary matter by consent

(1) If the Commissioner is of the opinion that proper grounds for disciplinary action exist, and the person liable to the disciplinary action consents to such a course of action, the Commissioner may determine not to lodge a complaint with the Court and instead—

(a) obtain from the person an undertaking directed against continuation or repetition of the relevant conduct; or

(b) in the case of a person licensed under this Act—

(i) impose a condition on the licence (including a condition that varies the trading hours in respect of the licence fixed or required by or under this Act); and

(ii) vary, suspend or revoke a condition of the licence (other than a mandatory condition contemplated by section 42); or

(c) in the case of a person licensed or approved under this Act, suspend or revoke the licence or approval.

(2) The Commissioner may, in determining whether to exercise a power under this section in relation to a person, take into account any previous action under this section or a previous finding by the Court that there was proper cause for taking disciplinary action against the person.

119B—Disciplinary action before Commissioner for certain matters

(1) The Commissioner may hold an inquiry to determine whether there is proper cause for disciplinary action against a prescribed licensee.

(2) The Commissioner must give the prescribed licensee at least 21 days' written notice of an inquiry under this section and afford the prescribed licensee a reasonable opportunity to call and give evidence, to examine and cross-examine witnesses, and to make submissions to the Commissioner.

(3) If a party does not attend at the time and place fixed by the Commissioner for the commencement or resumption of proceedings under this section, the Commissioner may proceed to hear and determine the matter in the absence of the party.

(4) On giving notice to a prescribed licensee under this section, the Commissioner may, in the same or a subsequent notice, suspend the licence pending determination of the disciplinary proceedings.

(5) If, on an inquiry, the Commissioner is satisfied there is proper cause for disciplinary action against a prescribed licensee, the Commissioner may take disciplinary action against the prescribed licensee by doing 1 or more of the following:

(a) suspend the licence;

(b) impose a condition on the licence (including a condition that varies the trading hours in respect of the licence fixed or required by or under this Act);

(c) vary, suspend or revoke a condition of the licence (other than a mandatory condition contemplated by section 42).

(6) A person who is dissatisfied with a decision made by the Commissioner under this section may apply to the Court in accordance with section 22 for a review of the Commissioner's decision.

(7) No civil liability attaches to the Commissioner or the Crown in respect of the exercise of a power in good faith under this section.

(8) In this section—

prescribed licensee means a licensee—

(a) who has been convicted of or expiated an offence against this Act of a kind prescribed by the regulations; or

(b) who—

(i) has been convicted of or expiated an offence against this Act (the ***second offence***); and

(ii) has been convicted of or expiated at least 1 other offence against this Act within the period of 5 years before the date of commission of the second offence.

120—Disciplinary action before the Court

(1) A complaint may be lodged with the Court alleging that proper grounds for disciplinary action exist against a specified person.

(1a) The complaint must, subject to section 28A, state the grounds for disciplinary action.

(2) A complaint may be lodged—

(a) by the Commissioner; or

(b) by the Commissioner of Police; or

(c) if the subject matter of the complaint is relevant to the responsibilities of the council in whose area the licensed premises are situated—by the council.

(3) A complaint may be lodged and disciplinary action taken against a person for conduct that constitutes an offence despite the fact that the person has not been prosecuted for the offence.

(4) Notice of a complaint and of the time and place appointed for the hearing of the complaint must be served on the person to whom the complaint relates.

120A—Commissioner's power to suspend or impose conditions pending disciplinary action

(a1) The Commissioner may, if of the opinion that it is desirable to do so in the public interest—

(a) impose a condition on a licence (including a condition that varies the trading hours in respect of the licence fixed or required by or under this Act); or

(b) vary, suspend or revoke a condition of a licence,

to which a complaint relates pending hearing and determination of the complaint (including, to avoid doubt, a condition relating to the subject matter of the complaint).

(1) The Commissioner may, if of the opinion that it is desirable to do so in the public interest—

(a) suspend the approval of a person the subject of a complaint; or

(b) impose conditions on the person's approval limiting the authority conferred by the approval (including, to avoid doubt, a condition relating to the subject matter of the complaint),

pending hearing and determination of the complaint.

(1a) The Commissioner may, despite the fact that a complaint has not been lodged against a person, exercise a power under subsection (a1) or (1) in respect of the person if the Commissioner believes on reasonable grounds that—

(a) proper cause for disciplinary action exists against the person; and

(b) it is necessary to do so in the public interest; and

(c) a complaint will in due course be lodged against the person.

(2) If the Commissioner has exercised a power under this section, the Court may revoke or vary the suspension or conditions imposed by the Commissioner.

(3) A person who is dissatisfied with a decision made by the Commissioner under this section may apply to the Court for a review of the Commissioner's decision as if he or she were a party to proceedings before the Commissioner.

Note—

See section 22.

(4) Nothing in this section limits the Commissioner's powers under section 128B.

(5) No civil liability attaches to the Commissioner or the Crown in respect of the exercise of a power in good faith under this section.

121—Disciplinary action

(1) On the hearing of a complaint, the Court may, if it is satisfied on the balance of probabilities that there is proper cause for taking disciplinary action against the person to whom the complaint relates, by an order or orders do one or more of the following:

(a) in the case of a person licensed under this Act—

(i) impose a condition on the licence (including a condition that varies the trading hours in respect of the licence fixed or required by or under this Act); or

(ii) vary, suspend or revoke a condition of the licence (other than a condition under section 42);

(b) in the case of a person licensed or approved under this Act, suspend or revoke the licence or approval;

(c) in the case of any person—

(i) reprimand the person;

(ii) impose a fine not exceeding $15 000 on the person;

(iii) disqualify the person from being licensed or approved under this Act.

(2) The Court may—

(a) direct that a disqualification is to apply permanently;

(b) direct that a suspension or disqualification is to apply—

(i) for a specified period; or

(ii) until the fulfilment of stipulated conditions; or

(iii) until further order;

(c) direct that an order is to have effect at a specified future time or is to have effect at a specified future time unless stipulated conditions are fulfilled;

(d) vary an order imposing a suspension or disqualification.

(3) If—

(a) a person has been found guilty of an offence; and

(b) the circumstances of the offence form, in whole or in part, the subject matter of the complaint,

the person is not liable to a fine under this section for conduct giving rise to the offence.

(4) If a licensee is convicted of a prescribed offence and a complaint is lodged on the ground of the breach of duty leading to the conviction, the Court must—

(a) take disciplinary action against the licensee; and

(b) if the conviction follows a previous conviction for a prescribed offence of a similar kind or previous disciplinary action for an incident involving the commission of a prescribed offence of a similar kind—suspend or revoke the licence unless the licensee shows cause why that action should not be taken.

(4a) If—

(a) the Court finds that there is proper cause for taking disciplinary action against a licensee for an incident involving the commission of an offence against this Act on licensed premises during the hours between 4 am and 7 am on any day; and

(b) the finding follows a conviction of the licensee for such an offence committed within the previous 2 years or previous disciplinary action for an incident involving the commission of such an offence within the previous 2 years,

the Court must alter the conditions of the licence so that the licence no longer authorises trade during the hours between 4 am and 7 am on any day unless the licensee shows cause why that action should not be taken.

(5) A condition may be imposed under this section—

(a) limiting the kinds of liquor that may be sold under the licence;

(b) limiting the times when liquor, or liquor of a particular kind, may be sold under the licence;

(c) limiting in some other way the authority conferred by the licence.

(6) An order imposing a fine may be registered in the Magistrates Court or the District Court and enforced as an order of the court in which it is registered.

(7) In this section—

prescribed offence means—

(a) an offence involving the unlawful sale or supply of liquor to a minor; or

(b) an offence involving the unlawful sale or supply of liquor to an intoxicated person; or

(c) an offence involving trafficking in a controlled drug (within the meaning of the *Controlled Substances Act 1984*) in respect of events occurring (wholly or partly) on the licensed premises; or

(d) an offence of a kind prescribed by the regulations.

Part 9—Special powers and enforcement

Division 1—Powers of entry etc

122—Powers of authorised officers

(1) An authorised officer may, at any reasonable time, do 1 or more of the following:

(a) enter, remain on and inspect licensed premises (and, if entry is refused, may employ such force as is reasonably necessary to gain entry);

(b) require any person (whether on licensed premises or otherwise) who has possession of books of account, records required to be kept under this Act or any other records relevant to a business conducted under a licence, or to transactions involving the sale or purchase of liquor, to produce those books of account or records for inspection;

(c) examine, copy or take extracts from such books of account or records;

(d) remove and retain such books of account or records for so long as is reasonably necessary for the purpose of making a copy of the book of account or record;

(e) require any person who is in a position to provide information relating to the sale, purchase or supply of liquor to answer any question put by the authorised officer on that subject;

(f) require any such person to state his or her full name and address and date of birth.

(3) A person who—

(a) hinders or obstructs an authorised officer in the exercise of powers under this section; or

(b) fails, without reasonable excuse, to comply with a requirement of an authorised officer under this section; or

(c) fails, without reasonable excuse, to answer, to the best of the person's knowledge, information and belief, a question put by an authorised officer; or

(d) falsely represents that he or she is an authorised officer,

is guilty of an offence.

(4) A person may decline to answer a question put under this section if the answer would tend to incriminate the person of an offence.

(6) In this section—

authorised officer means—

(a) the Commissioner; or

(b) an inspector; or

(c) a police officer.

123—Power to enter and search premises and confiscate liquor

(1) If a police officer suspects on reasonable grounds—

(a) that an offence against this Act is being committed on any premises; or

(b) that there is on licensed or other premises evidence of an offence against this Act,

the officer may enter and search the premises, using the force necessary for the purpose.

(2) A police officer may confiscate liquor that the officer suspects on reasonable grounds to have been illegally sold or supplied, or to be in the possession of a person unlawfully or for an unlawful purpose.

Division 2—Power to remove or refuse entry

124—Power to refuse entry or remove intoxicated persons or persons guilty of offensive behaviour

(1) An authorised person may, if necessary, use reasonable force to remove a person from, or prevent the entry of a person onto, licensed premises if—

(a) the person is intoxicated; or

(c) the person is behaving in an offensive or disorderly manner.

(2) An authorised person may, if necessary, use reasonable force to remove a person from licensed premises if the authorised person reasonably suspects that the person has supplied, or is about to supply, liquor to an intoxicated person on the licensed premises.

(2a) If a licensee or a responsible person for licensed premises requests a police officer to exercise a power conferred by this section in relation to a person, the police officer must do so if satisfied that the power may be exercised in relation to the person under this section.

(3) A person removed from licensed premises under this section who re-enters the licensed premises within 24 hours of being removed from them is guilty of an offence.

(4) A person who—

(a) is removed from licensed premises, or refused entry to, or prevented from entering, licensed premises under this section; and

(b) enters or attempts to enter the licensed premises within the following 24 hours,

is guilty of an offence.

(5) A police officer may arrest, without warrant, any person who commits an offence against subsection (4).

Division 3—Power to bar

Subdivision 1—Interpretation

124A—Interpretation

(1) In this Division—

family member of a person means—

(a) a spouse or former spouse;

(b) a domestic partner or former domestic partner;

(c) a parent, brother, sister or child;

licensed premises or ***premises*** includes an area adjacent to the licensed premises that is under the control of the licensee for the licensed premises.

(2) For the purposes of determining whether the welfare of a person, a person residing with a person or a family member of a person, is seriously at risk as a result of the consumption of alcohol by the person, a licensee, responsible person or police officer acting under this Division must take into account the fact that harm caused by the excessive or inappropriate consumption of liquor includes—

(a) the risk of harm to children, vulnerable people and communities; and

(b) the adverse effects on a person's health; and

(c) alcohol abuse or misuse; and

(d) domestic violence or anti-social behaviour, including causing personal injury and property damage.

Subdivision 2—Licensee barring orders

125—Licensee barring orders

(1) A licensee or a responsible person for licensed premises may, by order served on a person, bar the person from entering or remaining on the licensed premises for a specified period, not exceeding any applicable limit fixed by this section—

(aa) if the licensee or responsible person is satisfied that the welfare of the person, a person residing with the person or a family member of the person, is seriously at risk as a result of the consumption of alcohol by the person; or

(a) if the person commits an offence, or behaves in an offensive or disorderly manner, on, or in an area adjacent to, the licensed premises; or

(b) on any other reasonable ground.

(1a) A police officer may provide a licensee or responsible person for licensed premises with information about a person (including photographic and other information that may identify the person) for either or both of the following purposes:

(a) for the purposes of subsection (1);

(b) to identify a person who has been barred from premises under that subsection.

(2) A person who enters or remains on licensed premises from which he or she is barred under this section is guilty of an offence.

Maximum penalty: $5 000.

Expiation fee: $315.

(3) A licensee or a responsible person for licensed premises may, by subsequent order served on a person, revoke an order.

(4) A licensee, a responsible person for licensed premises or an employee of the licensee who allows a person to enter or remain on licensed premises from which the person is barred is guilty of an offence.

Maximum penalty: $5 000.

Expiation fee: $315.

(5) A person may be barred under this section—

(a) if the person is barred under subsection (1)(aa)—for an indefinite period or any specified period; or

(b) in any other case—

(i) if the person has not previously been barred from entering or remaining on the licensed premises—for a period not exceeding 3 months or such longer period as may be approved by the Commissioner; or

(ii) if the person has on one previous occasion been barred from entering or remaining on the licensed premises—for a period not exceeding 6 months or such longer period as may be approved by the Commissioner; or

(iii) if the person has on at least 2 previous occasions been barred from entering or remaining on the licensed premises—for an indefinite period or any specified period.

(6) If a person is barred under this section for an indefinite period or a period exceeding 6 months, the order will cease to have effect unless, within 7 days of the service of the order, the Commissioner is provided with—

(a) in the case of an order under subsection (1)(aa)—details of the information in response to which the order was made; or

(b) in any other case—details of the conduct giving rise to the order.

Subdivision 3—Police barring orders

125A—Commissioner of Police barring orders

(1) The Commissioner of Police may, by order served on a person, bar the person from entering or remaining on—

(a) specified licensed premises; or

(b) licensed premises of a specified class; or

(c) licensed premises of a specified class within a specified area; or

(d) all licensed premises within a specified area,

for an indefinite period or a period specified in the order on any reasonable ground.

(2) The Commissioner of Police may revoke an order under this section barring a person from premises by subsequent order served on the person.

(3) The Commissioner of Police may delegate his or her power under this section to a Deputy Commissioner or an Assistant Commissioner of Police.

(4) A delegation under this section—

(a) must be by instrument in writing; and

(b) may be absolute or conditional; and

(c) does not derogate from the power of the Commissioner of Police to act in any matter; and

(d) is revocable at will by the Commissioner of Police.

125B—Police officer barring orders

(1) Subject to this section, a police officer may, on the authorisation of a senior police officer, by order (a ***barring order***) served on a person, bar the person from entering or remaining on—

(a) specified licensed premises; or

(b) licensed premises of a specified class; or

(c) licensed premises of a specified class within a specified area; or

(d) all licensed premises within a specified area,

for a specified period not exceeding any applicable limit fixed by this section—

(e) if the police officer is satisfied that the welfare of the person, a person residing with the person or a family member of the person, is seriously at risk as a result of the consumption of alcohol by the person; or

(f) if the person commits an offence, or behaves in an offensive or disorderly manner, on, or in an area adjacent to, the licensed premises; or

(g) on any other reasonable ground.

(2) A police officer may, on the authorisation of a senior police officer, vary or revoke an order under this section barring a person from premises by subsequent order served on the person.

(3) The following provisions apply in relation to an order under this section:

(a) in the case of a barring order made on the grounds referred to in subsection (1)(e)—the order remains in force for an indefinite period, or the period specified in the order;

(b) in the case of a barring order made on the grounds referred to in subsection (1)(f) or (g) and authorised by a senior police officer of or above a rank determined under paragraph (b) in the definition of ***senior police officer*** in subsection (6)—the order remains in force—

(i) if the person has not previously been barred under this Subdivision—for the period specified in the order (which may not exceed 3 months); or

(ii) if the person has on 1 previous occasion been barred under this Subdivision—for the period specified in the order (which may not exceed 6 months); or

(iii) if the person has on at least 2 previous occasions been barred under this Subdivision—for an indefinite period or the period specified in the order.

(4) An authorisation to issue a barring order under this section may be granted orally or in writing but a written record must be kept of—

(a) the name, rank and identification number of the senior police officer giving the authorisation; and

(b) the name, rank and identification number of the police officer requesting the authorisation; and

(c) details of the conduct giving rise to the request; and

(d) the following details relating to the barring order:

(i) the name of the person barred under the order; and

(ii) the licensed premises from which the person has been barred under the order; and

(iii) the grounds on which the issuing of the order is authorised; and

(iv) the period for which the order remains in force.

(5) For the purposes of subsection (2), a condition or limitation under this section in relation to the making of a particular barring order extends to a variation or revocation of the order under that subsection.

(6) In this section—

senior police officer means—

(a) in the case of a barring order that is to be made on the grounds referred to in subsection (1)(e)—

(i) if the order is to be made for a period exceeding 72 hours—a police officer of or above the rank of Inspector; or

(ii) in any other case—a police officer of or above the rank of Sergeant; or

(b) in the case of a barring order that is to be made on the grounds referred to in subsection (1)(f) or (g)—

(i) if the order is to be made for a period exceeding 3 months—a police officer of or above the rank of Inspector; or

(ii) if the order is to be made for a period exceeding 72 hours but not exceeding 3 months—a police officer of or above the rank of Sergeant; or

(iii) in any other case—a police officer of or above the rank of Sergeant or in charge for the time being of a police station.

125C—Offences

(1) A person who enters or remains on licensed premises from which he or she is barred under this Subdivision is guilty of an offence.

Maximum penalty: $5 000.

Expiation fee: $315.

(2) A licensee, a responsible person for licensed premises, or an employee of the licensee, who knows or ought reasonably to know that a person has been barred from licensed premises under this Subdivision and who allows a person to enter or remain on those premises, is guilty of an offence.

Maximum penalty: $1 250.

125D—Evidence

(1) In proceedings for an offence against this Subdivision, a certificate apparently signed by a police officer of or above the rank of Inspector stating that a person was barred from licensed premises under this Subdivision for the period specified in the certificate will be accepted, in the absence of proof to the contrary, as proof of the matters stated in the certificate.

(2) In proceedings for an offence against this Subdivision, a certificate apparently signed by a police officer of or above the rank of Inspector stating—

(a) that an authorisation under section 125B was given; and

(b) that the authorisation authorised the making of an order under this Subdivision; and

(c) the grounds on which the authorisation was given,

will be accepted, in the absence of proof to the contrary, as proof of the matters stated in the certificate.

Subdivision 4—Miscellaneous

125E—Power to require personal details

(1) A police officer may, for the purposes of this Division, require a person to state all or any of the person's personal details.

(2) If a police officer has reasonable cause to suspect that a personal detail as stated in response to a requirement under subsection (1) is false, the officer may require the person making the statement to produce evidence of the correctness of the personal detail as stated.

(3) A person who—

(a) refuses or fails, without reasonable excuse, to comply with a requirement under subsection (1) or (2); or

(b) in response to a requirement under subsection (1) or (2)—

(i) states a personal detail that is false; or

(ii) produces false evidence of a personal detail,

is guilty of an offence.

Maximum penalty: $1 250.

(4) A police officer who has required a person to state all or any of the person's personal details under this section is required to comply with a request to identify himself or herself, by—

(a) producing his or her police identification; or

(b) stating orally or in writing his or her surname, rank and identification number.

(5) In this section—

personal details, in relation to a person, means—

(a) the person’s full name; and

(b) the person's date of birth; and

(c) the person's residential address; and

(d) the person's business address.

126—Orders

(1) An order under this Division must be in writing in a form prescribed by regulation.

(1a) If a person has been barred from premises by order under Subdivision 3, the relevant licensee must, within 14 days of the service of the order, be provided with—

(a) a copy of the order; and

(b) information that identifies the person,

(but a failure to comply with this subsection does not affect the operation of the order).

(2) A copy of the order must be kept at the licensed premises to which the order relates.

127—Power to remove person who is barred

(1) If a person is on premises from which the person is barred under this Division, an authorised person may require that person to leave the premises.

(2) If a person who is barred from premises under this Division—

(a) seeks to enter the premises; or

(b) refuses or fails to comply with a requirement under subsection (1),

an authorised person may prevent the person from entering the premises, or remove the person from the premises, using the force reasonably necessary for the purpose.

128—Review of orders

(1) A person in respect of whom one or more orders have been made under this Division barring the person from premises—

(a) for a period exceeding 1 month; or

(b) for periods exceeding 1 month in aggregate during a period of 3 months,

may apply to the licensing authority for a review of the order under which the person is barred from the premises.

(1a) The licensee of the premises must be given reasonable notice by the licensing authority of the hearing of an application under this section and is entitled to appear at the hearing personally or by a representative.

(2) The licensing authority may, on the hearing of an application under this section, confirm, vary or revoke the order.

(2a) If, on the hearing of an application under this section in relation to an order under which the applicant has been barred from premises for an indefinite period or a period exceeding 6 months, the licensing authority is of the opinion that it is appropriate to vary the order so that the person is barred from entering or remaining on the premises until further order of the Commissioner, the licensing authority may so vary the order.

(2b) When the Commissioner is determining whether to make an order under subsection (2a), the Commissioner must have regard to whether the person has undertaken a behaviour management course, obtained medical assistance or taken other action to address the problem.

(3) A decision of the Commissioner under this section is not subject to review.

(4) The licensing authority has an absolute discretion to suspend an order pending determination of an application for review of the order.

(5) In this section—

licensing authority means—

(a) if the order was made barring the person from premises for an extended period approved by the Commissioner under section 125(5)(b)(i) or (ii)—the Court;

(b) in any other case—the Commissioner.

128A—Reports on barring orders

(1) The Commissioner must, on or before 30 September in each year (other than the calendar year in which this section comes into operation), provide a report to the Minister specifying the following information in relation to the financial year ending on the preceding 30 June:

(a) in relation to an order made under Subdivision 2 barring a person from licensed premises for an indefinite period or a period exceeding 6 months—

(i) in the case of orders made under section 125(1)(aa) (a ***welfare order***)—

(A) the number of welfare orders made; and

(B) the location of the licensed premises from which the persons were barred;

(ii) in any other case—

(A) the number of orders made; and

(B) statistical information about the type of conduct giving rise to the orders; and

(C) the location of the licensed premises from which the persons were barred;

(c) the number of reviews of orders conducted under section 128 and the outcome of any such review.

(2) The Minister must, within 12 sitting days after receipt of a report under this section, cause copies of the report to be laid before each House of Parliament.

128AB—Commissioner of Police to report to Minister for Police on barring orders

The Commissioner of Police must include in the Commissioner of Police's report to the Minister responsible for the administration of the *Police Act 1998* the following information in respect of each order made under Subdivision 3 in the financial year to which the report relates because of information classified by the Commissioner of Police as criminal intelligence:

(a) the number of orders made;

(b) the location of the licensed premises from which the persons were barred;

(c) statistical information about—

(i) the period for which the orders have effect; and

(ii) the age, gender, race and residential postcode of the persons barred.

Division 4—Public order and safety

128B—Power of Commissioner to issue public order and safety notice

(1) The Commissioner may, in his or her absolute discretion, issue a public order and safety notice in respect of a licence if the Commissioner considers that the notice is necessary or desirable to address an issue or perceived issue of public order and safety or to mitigate adverse consequences arising from an issue or perceived issue of public order and safety.

(2) A public order and safety notice may—

(a) vary or suspend a condition of the licence; or

(b) impose a condition on the licence (including a condition that varies the trading hours in respect of the licence fixed or required by or under this Act); or

(c) vary the trading hours in respect of the licence fixed or required by or under this Act; or

(d) require the licensed premises to be closed and remain closed for specified hours, despite a requirement of this Act to keep the premises open to the public during those hours; or

(e) suspend the licence.

(3) Unless the urgency of the circumstances require otherwise, the Commissioner must, before issuing a public order and safety notice in respect of a licence, give the licensee a reasonable opportunity to make submissions about the making of the notice and its proposed terms (however, failure to comply with this subsection does not affect the validity of the notice).

(4) A public order and safety notice in respect of a licence takes effect when served on the licensee or at a later time specified in the notice and remains in force for a period of not more than 72 hours specified in the notice.

(5) A public order and safety notice in respect of a licence may not be issued except with the approval of the Minister if the licence has been subject to another public order and safety notice within the 72 hours immediately preceding the period for which the notice would apply.

(6) A public order and safety notice in respect of a licence may be varied or revoked by the Commissioner by notice in writing served on the licensee.

(7) The Commissioner must provide a report to the Minister on the operation of this section at least once in every 12 month period.

(8) No civil liability attaches to the Commissioner or the Crown in respect of an act or omission in good faith in the making, variation or revocation of a public order and safety notice.

(9) In legal proceedings, a certificate apparently signed by the Minister certifying an approval of a period for the purposes of subsection (4) is, in the absence of proof to the contrary, proof of the matter certified.

128C—Power of police to clear or close licensed premises etc

(1) If a senior police officer believes on reasonable grounds that it would be unsafe for members of the public to enter or remain in a licensed premises or part of a licensed premises because of conditions temporarily prevailing there, the officer may—

(a) order persons to leave the premises or part of the premises immediately; or

(b) order the licensee immediately to remove persons from the premises or part of the premises; or

(c) order the licensee to take other specified action to rectify the situation immediately or within a specified period; or

(d) if an order under paragraph (a), (b) or (c) is not obeyed, take action to carry out the order; or

(e) if satisfied that the safety of persons cannot reasonably be ensured by other means, order the licensee to close the premises or part of the premises immediately and for such period as the officer considers necessary (but not exceeding 24 hours) for the alleviation of the danger; or

(f) if a closure order under paragraph (e) cannot for any reason be given to the licensee, or if a closure order, having been given to the licensee, is not immediately obeyed, take action to close the premises or part of the premises for such period as the officer considers necessary (but not exceeding 24 hours) for the alleviation of the danger.

(2) If a person given an order under this section refuses or fails to obey the order, the person is guilty of an offence.

Maximum penalty: $2 500 or imprisonment for 6 months.

(3) An order under this section may be given orally or by notice in writing.

(4) If a closure order under this section is given orally, the officer must as soon as practicable cause a written notice containing the order to be served on the licensee.

(5) When a senior police officer is satisfied that the danger has been alleviated, he or she may revoke an order under this section.

(6) A senior police officer may authorise another police officer to issue an order under subsection (1) if satisfied (whether on the basis of his or her own observations or the report of another police officer) that urgent action is required.

(7) A police officer may use such force to enter a place, or to take other action under this section, as is reasonably necessary for the purpose.

(8) The Commissioner of Police must include in his or her annual report to the Minister to whom the administration of the *Police Act 1998* is for the time being committed a record of—

(a) the number of orders made under this section during the period to which the report relates; and

(b) in relation to each order made during that period—

(i) the licensed premises or part of licensed premises in relation to which the order was made; and

(ii) the period for which the order was in force; and

(iii) the grounds on which the order was made; and

(c) any other matters the Commissioner of Police considers relevant.

(9) This section does not derogate from the powers of a police officer under any other Act or law.

(10) In this section—

senior police officer means a police officer of or above the rank of inspector.

Part 9A—Liquor accords

128D—Interpretation

In this Part—

accord area means an area, as determined under section 128H(2), to which a local liquor accord applies (as varied from time to time under section 128H(3));

alcohol-related violence includes anti-social behaviour, disorder, harm and violence, including domestic violence, if alcohol is involved in the conduct constituting the behaviour, disorder, harm or violence;

coordinator, for a local liquor accord, is the coordinator specified under section 128E(2)(b);

local liquor accord means any written code of practice, memorandum of understanding or other arrangement that—

(a) affects the supply of liquor, the opening and closing of licensed premises or other aspects of the management of, or conduct of business on, licensed premises; and

(b) is made under this Part for the purpose of preventing or reducing alcohol-related violence.

128E—Preparation of draft local liquor accords

(1) 1 or more licensees and 1 or more of the following persons or bodies may prepare a draft local liquor accord and give it to the Commissioner for approval:

(a) the Commissioner;

(b) the Commissioner of Police;

(c) a council;

(d) any other person or body, or person or body of a class, prescribed by the regulations.

(2) A draft local liquor accord must include the following details:

(a) the name of each party to the draft;

(b) the name and address of the coordinator for the local liquor accord (being a party to the draft or a representative of a party to the draft);

(c) the proposed accord area;

(d) any other details prescribed by the regulations.

128F—Terms of local liquor accords

Without limiting the terms that may be included in a local liquor accord, a local liquor accord may make provision for or with respect to authorising or requiring any licensees who are parties to it to do 1 or more of the following:

(a) to cease or restrict either or both of the following on their licensed premises:

(i) the sale of liquor on those premises (including the sale of liquor for consumption off premises);

(ii) allowing the consumption of liquor on those premises;

(b) to restrict the public's access to the licensed premises in the manner and to the extent provided by the local liquor accord;

(c) to take any other measure prescribed by the regulations as a measure that may be taken to prevent or reduce alcohol-related violence.

128G—Competition and Consumer Act and Competition Code

Any conduct on the part of any person engaged in for the purpose of—

(a) preparing a draft local liquor accord; or

(b) the approval of a local liquor accord; or

(c) promoting or giving effect to the terms of a local liquor accord,

is authorised for the purposes of section 51 of the *Competition and Consumer Act 2010* of the Commonwealth and the *Competition Code of South Australia*.

128H—Approval of local liquor accords

(1) The Commissioner may approve a local liquor accord and the accord takes effect when so approved.

(2) In approving a local liquor accord, the Commissioner must determine the area to which the accord is to apply by taking into account the area proposed in the draft local liquor accord by the parties to the draft and any other relevant matters.

(3) The Commissioner may, on the Commissioner's own initiative or on application of the parties to a local liquor accord, by written notice to the coordinator of the accord, vary the accord (including the accord area).

(4) The power to vary an accord under subsection (3) includes the power—

(a) to determine that a party is removed as a party to the local liquor accord; or

(b) to add a person or body under section 128E(1) as a party to the accord.

(5) However, the Commissioner may only exercise a power under subsection (4) if the relevant party has given the Commissioner a written request to be removed or added as a party to the local liquor accord.

(6) The Commissioner may terminate a local liquor accord on the Commissioner's own initiative or on application of the coordinator.

(7) The coordinator may only make an application under subsection (6) with the consent of the parties to the local liquor accord.

(8) The Commissioner must, as soon as is reasonably practicable after approving, varying or terminating a local liquor accord, give the parties notice of the approval, variation or termination (as the case requires).

Part 10—Unlawful consumption of liquor

129—Consumption of liquor on regulated premises

(1) If regulated premises are unlicensed, a person who consumes liquor on the premises is guilty of an offence.

Maximum penalty: $5 000.

Expiation fee: $315.

(2) If regulated premises are unlicensed, a person who supplies liquor on or in the vicinity of the premises for consumption on the premises is guilty of an offence.

Maximum penalty: $5 000.

130—Unlawful consumption of liquor

(1) If—

(a) a prescribed entertainment is held on unlicensed premises; and

(b) the organisers of the entertainment have stipulated, in a manner calculated to come to the attention of those attending the entertainment, that no liquor is to be consumed on, or brought onto, the premises during the entertainment,

a person who consumes liquor on or in a place adjacent to the premises during a period commencing 30 minutes before the entertainment commences and ending 30 minutes after it concludes is guilty of an offence.

(2) This section does not prevent the consumption of liquor on licensed premises.

(3) It is a defence to a charge of an offence against this section to prove the defendant—

(a) did not come to the relevant place for the purpose of attending or participating in the entertainment or for any other purpose connected with the entertainment; and

(b) did not know and could not reasonably be expected to have known of the circumstances rendering the consumption of liquor in that place unlawful.

(4) In this section—

prescribed entertainment means—

(a) a dance;

(b) any other entertainment declared by regulation to be a prescribed entertainment for the purposes of this section.

131—Control of consumption etc of liquor in public places

(1) The Minister may, by notice in the Gazette, prohibit the consumption or possession or both of liquor in the public place or public places specified in the notice.

(1a) The Commissioner may, by notice in the Gazette, prohibit the consumption or possession or both of liquor in the public place or public places specified in the notice during the period (not exceeding 14 days) specified in the notice.

(1ab) Subject to this section, a council may, by notice in the Gazette, prohibit the consumption or possession or both of liquor in the public place or public places within the area of the council specified in the notice during the period (not exceeding 48 hours) specified in the notice.

(1ac) A notice under subsection (1ab) cannot take effect unless the notice is published in the Gazette at least 14 days before the commencement of the period specified in the notice (being the period during which the prohibition under the notice is to apply).

(1ad) A council must, within 7 days after publishing a notice under subsection (1ab), give a copy of the notice to the Commissioner of Police.

(1b) A person who contravenes a prohibition under subsection (1), (1a) or (1ab) is guilty of an offence.

Maximum penalty: $1 250.

Expiation fee: $160.

(1c) A notice under—

(a) subsection (1) may be varied or revoked by the Minister by further notice in the Gazette; or

(b) subsection (1a) may be varied or revoked by the Commissioner by further notice in the Gazette; or

(c) subsection (1ab) may be varied or revoked by the council by further notice in the Gazette.

(2) A notice under subsection (1), (1a) or (1ab)—

(a) may relate to a specified public place or to public places of a specified kind;

(b) may be absolute or conditional;

(c) may operate continuously or at specified times;

(d) may exempt a specified person, or class of persons, from the operation of the prohibition.

(3) If, in proceedings for an offence against subsection (1b) constituted of the possession of liquor, the question arises as to whether the possession was lawful under section 104, the onus of proving that the possession was lawful lies on the defendant.

(4) The regulations may make further provisions in relation to a prohibition under this section (including, to avoid doubt, by exempting a person, or a person of a class, from the operation of this section).

Part 10A—Prohibition of manufacture, sale or supply of certain liquor

131AA—Prohibition of manufacture, sale or supply of certain liquor

(1) A person must not, in the course of a trade or business, manufacture, sell or supply liquor to which this section applies.

Maximum penalty: $10 000.

(2) This section applies to such liquor as may be declared—

(a) by the Minister by notice in the Gazette; or

(b) by the regulations.

(3) A declaration under subsection (2) may only be made in relation to particular liquor if the Minister is satisfied that—

(a) the liquor is likely to have a special appeal to minors; or

(b) the liquor is likely to be confused with confectionery or a non-alcoholic beverage; or

(c) it is otherwise in the public interest to prohibit the manufacture, sale or supply (as the case requires) of the liquor.

(4) A notice under subsection (2)(a) expires 42 days after it comes into operation or on such earlier day as is specified by the Minister in the notice or by subsequent notice in the Gazette.

(5) Before a regulation is made under subsection (2)(b) in relation to liquor, the Minister must give manufacturers, importers and distributors of the liquor known to the Minister at least 7 days within which to comment on the proposed regulation (but failure to do so does not affect the validity of the regulation).

Part 11—Miscellaneous

Division 1—Offences and procedure

131A—Failing to leave licensed premises on request

(1) If a person to whom this section applies fails, without reasonable excuse, to leave licensed premises immediately on being requested to do so by an authorised person, the person is guilty of an offence.

Maximum penalty: $5 000.

(2) This section applies to a person who is on licensed premises if—

(a) the person is under the age of 18 years and is on the licensed premises for the purpose of consuming liquor in contravention of this Act; or

(b) the person is intoxicated; or

(d) it is reasonable to suspect that the person has supplied, or is about to supply, liquor to an intoxicated person on the licensed premises; or

(e) the person is behaving in an offensive or disorderly manner; or

(f) the person is barred from the licensed premises under Part 9 Division 3; or

(g) the person's presence on the licensed premises is otherwise in contravention of this Act.

132—Penalties

A person who is guilty of an offence against this Act for which no penalty is specifically provided is liable to the following penalty:

(a) if the person is, or was at the time of the offence, a licensee, a responsible person for licensed premises or an officer of a trust or corporate entity that holds a licence—a fine not exceeding $10 000;

(b) in any other case—a fine not exceeding $2 500.

133—Recovery of financial advantage illegally obtained

(1) If a person, by contravention of, or non-compliance with, a provision of this Act or a condition of a licence gains any financial advantage, the Court may, on the application of the Commissioner, assess the amount of that advantage and the amount so assessed may be recovered from that person as a debt due to the Crown.

(2) This section applies whether or not the contravention or non-compliance referred to in subsection (1) has been prosecuted as an offence.

134—Vicarious liability

(3) If there is proper cause for disciplinary action against a trust or corporate entity under Part 8, there is proper cause for disciplinary action under that Part against each person occupying a position of authority in the entity unless it is proved that the person could not, by the exercise of reasonable care, have prevented the misconduct.

135—Evidentiary provision

(1) In proceedings for an offence against this Act or in disciplinary proceedings under Part 8, an allegation in the complaint—

(a) that a substance referred to in the complaint was liquor;

(b) that a person named in the complaint is, or was on a specified date, a licensed person or an unlicensed person;

(c) that premises referred to in the complaint are, or were on a specified date, licensed premises;

(d) that a person named in the complaint is, or was on a specified date, a minor;

(e) that a licence referred to in the complaint is, or was on a specified date, subject to specified conditions;

(f) that a person named in the complaint is, or was on a specified date, a responsible person for licensed premises;

(g) that a person named in the complaint is, or was on a specified date, occupying a position of authority in a trust or corporate entity that holds a licence under this Act;

(h) that a person named in the complaint is, or was on a specified date, an inspector,

must be accepted as proved in the absence of proof to the contrary.

(2) In legal proceedings, a document apparently certified by the Commissioner to be a licence, certificate, notice or other document issued under this Act, or to be a copy of a licence, certificate, notice or other document issued under this Act, must be accepted as such in the absence of proof to the contrary.

(3) In legal proceedings, proof that a person has advertised, or has by any other means given the impression, that the person will sell liquor must, in the absence of proof to the contrary, be accepted as proof that the person has sold liquor.

(4) In legal proceedings, a document apparently signed by the Commissioner stating—

(a) that a specified person has, or had on a specified date, a specified power or function because of a delegation by the Commissioner under this Act; or

(b) that a delegation by the Commissioner under this Act is, or was on a specified date, subject to specified conditions,

is, in the absence of proof to the contrary, proof of the facts as stated.

135A—Determination of second or subsequent offence in case of previous offence that has been expiated

In determining whether an offence under Part 6 Division 8 or Part 7 of this Act is a first, second, third or subsequent offence for the purposes of this Act, any previous offence for which the person has been convicted or that the person has expiated will be taken into account.

Division 2—General

136—Service

(1) A notice or other document may be served on a licensee—

(a) personally; or

(b) by leaving it at the licensed premises, in an envelope addressed to the licensee, with a person apparently employed or engaged in the business conducted under the licence; or

(c) by posting it to the licensee in an envelope addressed to the licensee at the licensed premises or some other appropriate address of which the person who is to serve the notice or document has had notice; or

(d) by transmitting it to the licensee by fax or email to the fax number or email address last provided to the Commissioner by the licensee for that purpose.

(2) A notice or other document may be served on any other person—

(a) personally; or

(b) if the person has nominated an address for service—by leaving it at or posting it to that address in an envelope addressed to the person; or

(c) by posting it to the person's usual place of business or residence in an envelope addressed to the person; or

(d) by leaving it at or posting it to the address of the person's solicitor in an envelope addressed to the solicitor; or

(e) by transmitting it to the person by fax or email to—

(i) in the case of an order under Part 9 Division 3 Subdivision 3—the fax number or email address last provided to the Commissioner of Police or the police officer issuing the barring order by the person for that purpose; or

(ii) in any other case—the fax number or email address last provided to the Commissioner by the person for that purpose.

(2a) If a licensee or other person is party to an arrangement with the Commissioner that notices or documents are to be given in a manner not specified in subsection (1) or (2), a notice or document required to be given under this Act may be given in that manner (or may be given in a manner specified in subsection (2)).

(3) A notice or other document posted to a person under this section will be conclusively presumed to have been served on the person at the time when it would, in the ordinary course of post, reach the address to which it was posted.

(4) A notice or other document transmitted to a person under this section will be conclusively presumed to have been served on the person at the time of transmission.

137A—Destruction of fingerprints

(1) This section applies—

(a) to fingerprints taken under section 55 in connection with an application for a licence or approval if the application is refused; or

(b) to fingerprints taken under section 55 in connection with an application for a licence or approval if the application is granted and—

(i) in the case of a licence—the licence expires or is revoked or surrendered, or the holder, being a body corporate, dissolved; or

(ii) in the case of an approval—the approval is revoked.

(2) A person whose fingerprints have been taken for the purposes of this Act may, if the fingerprints are fingerprints to which this section applies, apply to the Commissioner of Police to have the fingerprints, and any copies of the fingerprints, destroyed.

(3) The Commissioner of Police may grant or refuse the application as the Commissioner of Police sees fit.

137B—Procedures to be observed by authorised persons in prevention of persons from entering, and removal of persons from, licensed premises

(1) The regulations may prescribe procedures to be observed by authorised persons in or in connection with the prevention of persons from entering, or the removal of persons from, licensed premises or a part of licensed premises.

(2) The regulations may prescribe procedures to be observed by authorised persons in or in connection with the removal of minors from licensed premises or a part of licensed premises.

(3) An authorised person must comply with the procedures (if any) prescribed under this section.

137C—Special transitional provision—disapplication or modification of certain restrictions or requirements in respect of licences

(1) The regulations may provide that a designated restriction or requirement does not apply, or applies with modifications specified by the regulations, from the commencement of this section.

(2) The regulations may provide that a condition of a licence that gives effect to a designated restriction or requirement does not apply, or applies with modifications specified by the regulations, from the commencement of this section.

(3) In this section—

designated restriction or requirement means a restriction or requirement relating to operations under a licence—

(a) that is provided for by the existing licensing Division that will not be provided for by the new licensing Division (when the existing licensing Division is substituted by the new licensing Division); and

(b) that is prescribed by the regulations for the purposes of this section;

existing licensing Division means Part 3 Division 2 of this Act as in existence immediately before the commencement of this section;

new licensing Division means Part 3 Division 2 to be substituted by section 22 of the *Liquor Licensing (Liquor Review) Amendment Act 2017*.

138—Regulations

(1) The Governor may make regulations for the purposes of this Act.

(1a) Without limiting the generality of subsection (1), the regulations may—

(a) prescribe fees or charges in respect of any matter under this Act and provide for the payment, recovery, reduction or waiver of fees or charges (including fees payable under another provision of this Act); and

(b) grant or provide for the granting of exemptions (conditionally or unconditionally) of persons or operations from this Act or specified provisions of this Act; and

(c) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or the Commissioner.

(1b) The regulations may (without limiting any other provision of this section or section 50A) prescribe differential fees, or provide for a discount on or reduction of any fees, for licences under this Act based on any factor including, for example, the geographical location of licensed premises or whether the licensee holds any other licence under this Act or under the *Gaming Machines Act 1992*.

(2) A regulation may be of general or limited application and may vary in operation according to factors stated in the regulation.

(2a) A regulation may make provisions of a saving or transitional nature consequent on the amendment of this Act by another Act.

(2b) A regulation required to be laid before each House of Parliament in accordance with the *Subordinate Legislation Act 1978* that prescribes fees for the purposes of this Act may not prescribe or provide for any matter that is not prescribed in connection with such fees.

(3) A regulation may provide that contravention of or non-compliance with the regulation constitutes a summary offence punishable—

(a) if the convicted person is, or was at the time of the offence, a licensee, a responsible person for licensed premises or an officer of a trust or corporate entity that holds a licence—by a fine not exceeding $10 000;

(b) in any other case—by a fine not exceeding $1 250.

(4) A regulation may prescribe an expiation fee for an alleged offence against the regulations not exceeding—

(a) if the alleged offender is, or was at the time of the offence, a licensee, a responsible person for licensed premises or an officer of a trust or corporate entity that holds a licence—$1 200; or

(b) in any other case—$160.

(5) A provision of a regulation made under subsection (2a) may, if the regulation so provides, take effect from the commencement of the amendment or from a later day.

(6) To the extent to which a provision takes effect under subsection (5) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—

(a) decreasing the person's rights; or

(b) imposing liabilities on the person.

(7) Without limiting the operation of any other provision in this section, the regulations may, for transitional purposes—

(a) provide that this Act or specified provisions of this Act will not apply in relation to a particular person or thing, or a class of person or thing, until a specified day; or

(b) modify the application of this Act or provisions of this Act in relation to a particular person or thing, or a class of person or thing, until a specified day.

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation repealed by principal Act

The *Liquor Licensing Act 1997* repealed the following:

Liquor Licensing Act 1985

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1997	65	*Liquor Licensing Act 1997*	7.8.1997	1.10.1997 (*Gazette 25.9.1997 p874*) except ss 80—93, s 96 and the third example in Sch cl 4 were deleted by 49/1998 without coming into operation
1998	2	*Liquor Licensing (Licensed Clubs) Amendment Act 1998*	5.3.1998	19.3.1998 (*Gazette 19.3.1998 p1514*)
1998	49	*Liquor Licensing (Licence Fees) Amendment Act 1998*	3.9.1998	8.10.1998 (*Gazette 8.10.1998 p1058*)
2000	35	*Liquor Licensing (Regulated Premises) Amendment Act 2000*	6.7.2000	6.7.2000
2000	55	*Liquor Licensing (Miscellaneous) Amendment Act 2000*	20.7.2000	1.9.2000 (*Gazette 24.8.2000 p592*)
2001	18	*Statutes Amendment (Gambling Regulation) Act 2001*	31.5.2001	Pt 6 (ss 42 & 43)—1.10.2001 (*Gazette 13.9.2001 p4116*)
2002	2	*Liquor Licensing (Miscellaneous) Amendment Act 2002*	25.7.2002	8.8.2002 (*Gazette 8.8.2002 p3009*)
2002	34	*Statutes Amendment (Corporations—Financial Services Reform) Act 2002*	28.11.2002	Pt 8 (s 21)—1.8.2003 (*Gazette 10.7.2003 p2913*)
2004	3	*Liquor Licensing (Miscellaneous) Amendment Act 2004*	4.3.2004	25.3.2004 (*Gazette 25.3.2004 p937*)

2005	22	*Statutes Amendment (Liquor, Gambling and Security Industries) Act 2005*	9.6.2005	Pt 3 (ss 25—34, 35(1), 36—38, 39(1), 40(1), 41 & 42) & Sch 1 (cl 2)—8.12.2005 (*Gazette 8.12.2005 p4195*); ss 35(2), (3), 39(2), (3) & 40(2), (3) impliedly repealed by 37/2006 ss 8(2), 9(2) & 10—the provisions amended were subsequently deleted
2005	57	*Liquor Licensing (Exemption for Tertiary Institutions) Amendment Act 2005*	17.11.2005	17.11.2005
2006	17	*Statutes Amendment (New Rules of Civil Procedure) Act 2006*	6.7.2006	Pt 46 (ss 158—161)—4.9.2006 (*Gazette 17.8.2006 p2831*)
2006	37	*Liquor Licensing (Authorised Persons) Amendment Act 2006*	14.12.2006	1.2.2007: s 2
2006	43	*Statutes Amendment (Domestic Partners) Act 2006*	14.12.2006	Pt 52 (s 148)—1.6.2007 (*Gazette 26.4.2007 p1352*)
2007	52	*Liquor Licensing (Certificates of Approval) Amendment Act 2007*	29.11.2007	13.12.2007 (*Gazette 13.12.2007 p4811*)
2008	48	*Statutes Amendment (Power to Bar) Act 2008*	4.12.2008	Pt 2 (ss 4—11)—1.3.2009 (*Gazette 26.2.2009 p765*) except new s 28A(5f) (as inserted by s 5(2))—4.12.2010 (s 7(5) *Acts Interpretation Act 1915*)
2009	61	*Liquor Licensing (Producers, Responsible Service and Other Matters) Amendment Act 2009*	26.11.2009	3.5.2010 (*Gazette 18.2.2010 p816*) except ss 5 & 7—26.11.2011 (s 7(5) *Acts Interpretation Act 1915*)
2009	84	*Statutes Amendment (Public Sector Consequential Amendments) Act 2009*	10.12.2009	Pt 84 (ss 199 & 200)—1.2.2010 (*Gazette 28.1.2010 p320*)
2011	31	*Statutes Amendment (Budget 2011) Act 2011*	4.8.2011	Pt 3 (ss 11—15)—3.5.2012 (*Gazette 3.5.2012 p1556*)
2011	40	*Liquor Licensing (Miscellaneous) Amendment Act 2011*	3.11.2011	30.1.2012 except ss 4, 5, 12—42 & Sch 1—5.3.2012 (*Gazette 27.1.2012 p372*)
2012	19	*Statutes Amendment (Criminal Intelligence) Act 2012*	24.5.2012	Pt 5 (s 9)—12.7.2012 (*Gazette 12.7.2012 p3110*)
2013	3	*Liquor Licensing (Small Venue Licence) Amendment Act 2013*	28.2.2013	26.4.2013 (*Gazette 26.4.2013 p1185*)
2013	16	*Statutes Amendment (Directors' Liability) Act 2013*	23.5.2013	Pt 34 (s 64)—17.6.2013 (*Gazette 6.6.2013 p2498*)
2013	52	*Liquor Licensing (Miscellaneous) Amendment Act 2013*	31.10.2013	1.11.2013 (*Gazette 31.10.2013 p4159*) except ss 5(1), (2), 7, 9—23, 27, 31—35, 36(1), 37 & 39—14.11.2013 (*Gazette 14.11.2013 p4225*) and except ss 5(3), 26, 36(2), 38 & 41—5.12.2013 (*Gazette 5.12.2013 p4445*) and except ss 8, 24, 25, 28—30 & Sch 1 cl 1—16.1.2014 (*Gazette 16.1.2014 p121*) and except s 40—5.1.2015 (*Gazette 30.10.2014 p6217*)
2015	19	*Statutes Amendment (Serious and Organised Crime) Act 2015*	6.8.2015	Pt 3 (s 9)—6.8.2015 (*Gazette 6.8.2015 p3752*)

2015	32	*Liquor Licensing (Prohibition of Certain Liquor) Amendment Act 2015*	5.11.2015	17.12.2015 (*Gazette 10.12.2015 p5201*)
2015	37	*Liquor Licensing (Entertainment on Licensed Premises) Amendment Act 2015*	26.11.2015	20.12.2015 (*Gazette 10.12.2015 p5201*)
2016	14	*Planning, Development and Infrastructure Act 2016*	21.4.2016	Sch 6 (cl 19)—31.7.2020 (*Gazette 18.6.2020 p3390*); (cl 20)—uncommenced
2017	5	*Statutes Amendment (Planning, Development and Infrastructure) Act 2017*	28.2.2017	Pt 15 (s 47)—19.3.2021 (*Gazette 4.3.2021 p823*)
2017	49	*Liquor Licensing (Liquor Review) Amendment Act 2017* as amended by 7/2019	28.11.2017	Pt 2 (ss 5(3), (10), (12), (16), (18) to (20), (23), (27), 8, 16, 18, 21, 24, 33(3), (4), 39(1), 53(1), (3), 54, 65, 66, 70 to 72, 77, 81, 82(1), (2), 96(1), 97, 98) & Sch 2 (cll 1, 2, 11, 13)—18.12.2017 (*Gazette 12.12.2017 p4959*); ss 57(3), 58, 67, 78, 79, 84 to 90, 92 to 95, 96(2) & Sch 2 (cl 12)—24.9.2018; s 91—1.1.2019 (*Gazette 6.9.2018 p3412*); ss 4, 5(1), (2), (4) to (9), (11), (13) to (15), (17), (21), (22), (24) to (26), (28), 6, 7, 9 to 15, 17, 19, 20, 22, 23, 25 to 32, 33(1), (2), 34 to 38, 39(2), 40 to 52, 53(2), 55, 56, 57(1), (2), 59 to 64, 68, 69, 73 to 76, 80, 82(3), 83 & Sch 2 Pt 3—18.11.2019 (*Gazette 7.11.2019 p3759*)
2018	29	*Statutes Amendment (Attorney-General's Portfolio) Act 2018* as amended by 7/2019	15.11.2018	Pt 3 (s 7)—9.5.2019: s 2(4); ss 6 & 8—18.11.2019: s 2(4a)
2018	35	*Statutes Amendment and Repeal (Budget Measures) Act 2018*	22.11.2018	Pt 9 (s 114)—22.11.2018: s 2(1); ss 112 & 113—1.12.2018 (*Gazette 29.11.2018 p4058*)
2018	40	*Summary Offences (Liquor Offences) Amendment Act 2018*	13.12.2018	Sch 1 (cl 3)—13.12.2020 (s 7(5) *Acts Interpretation Act 1915*)
2019	7	*Statutes Amendment (Liquor Licensing) Act 2019*	9.5.2019	Pt 2 (s 3) amendment of Sch 2 Pt 3 of 49/2017—9.5.2019
2019	21	*Statutes Amendment (Attorney-General's Portfolio) (No 2) Act 2019*	19.9.2019	Pt 8 (s 15)—19.9.2019: s 2(1)
2019	**28**	***Liquor Licensing (Miscellaneous) Amendment Act 2019***	**24.10.2019**	**18.11.2019 immediately after s 22 of 49/2017: s 2(1) except ss 6, 13 & 14(2)—22.10.2021 (*Gazette 21.10.2021 p3790*)**
2019	44	*Statutes Amendment (Gambling Regulation) Act 2019*	12.12.2019	Pt 5 (s 137)—3.12.2020 (*Gazette 30.7.2020 p4103*)
2019	45	*Supreme Court (Court of Appeal) Amendment Act 2019*	19.12.2019	Sch 1 (cll 55 & 56)—1.1.2021 (*Gazette 10.12.2020 p5638*)
2020	19	*Liquor Licensing (Liquor Production and Sales Licence) Amendment Act 2020*	25.6.2020	25.6.2020

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended under *Legislation Revision and Publication Act 2002*	1.8.2003
Pt 1		
s 2	*deleted by 2/2002 Sch*	*8.8.2002*
s 3		
s 3(1)	s 3 amended and redesignated as s 3(1) by 2/2002 s 3(a), (b)	8.8.2002
	amended by 52/2013 s 4	1.11.2013
	substituted by 49/2017 s 4(1)	18.11.2019
s 3(1a)	inserted by 49/2017 s 4(1)	18.11.2019
s 3(2)	inserted by 2/2002 s 3(b)	8.8.2002
	amended by 49/2017 s 4(2)	18.11.2019
s 4		
approved crowd controller	*inserted by 22/2005 s 25(1)*	*8.12.2005*
	deleted by 49/2017 s 5(1)	*18.11.2019*
assessment period	*deleted by 49/1998 s 3*	*8.10.1998*
authorised person	inserted by 37/2006 s 4	1.2.2007
	amended by 49/2017 s 5(2)	18.11.2019
body corporate	inserted by 49/2017 s 5(3)	18.12.2017
close associate	substituted by 49/2017 s 5(4)	18.11.2019
club event endorsement	inserted by 49/2017 s 5(5)	18.11.2019
club transport endorsement	inserted by 49/2017 s 5(5)	18.11.2019
code of practice	inserted by 40/2011 s 4(1)	5.3.2012
collective outlet	inserted by 61/2009 s 4(1)	3.5.2010
	amended by 49/2017 s 5(6)	18.11.2019
Commissioner	amended by 18/2001 s 42	1.10.2001
community impact assessment guidelines	inserted by 49/2017 s 5(7)	18.11.2019
criminal intelligence	inserted by 22/2005 s 25(2)	8.12.2005
	amended by 48/2008 s 4	1.3.2009
designated application	inserted by 49/2017 s 5(9)	18.11.2019
designated dining area	*deleted by 49/2017 s 5(8)*	*18.11.2019*
designated licence	inserted by 49/2017 s 5(9)	18.11.2019

designated reception area	deleted by 49/2017 s 5(8)	18.11.2019
direct sales transaction	inserted by 55/2000 s 3(a)	1.9.2000
domestic partner	inserted by 49/2017 s 5(10)	18.12.2017
entertainment	substituted by 52/2013 s 5(1)	14.11.2013
extended trade	*amended by 3/2004 s 4*	*25.3.2004*
	deleted by 40/2011 s 4(2)	*5.3.2012*
extended trading authorisation	amended by 40/2011 s 4(3)	5.3.2012
	deleted by 49/2017 s 5(11)	18.11.2019
inspector	substituted by 49/2017 s 5(12)	18.12.2017
intoxicated	inserted by 52/2013 s 5(3)	5.12.2013
licence fee	*deleted by 49/1998 s 3*	*8.10.1998*
licence period	*deleted by 49/1998 s 3*	*8.10.1998*
licensed person or licensee	amended by 49/2017 s 5(13)	18.11.2019
liquor merchant	amended by 49/2017 s 5(14)	18.11.2019
live entertainment	*deleted by 49/2017 s 5(15)*	*18.11.2019*
lodger	*deleted by 49/2017 s 5(15)*	*18.11.2019*
low alcohol liquor	*deleted by 49/1998 s 3*	*8.10.1998*
manager	*deleted by 2/1998 s 3*	*19.3.1998*
minor	inserted by 49/2017 s 5(16)	18.12.2017
offensive or disorderly	inserted by 40/2011 s 4(4)	5.3.2012
party	amended by 49/2017 s 5(17)	18.11.2019
police officer	*deleted by 2/2002 Sch*	*8.8.2002*
position of authority in a trust or corporate entity	inserted by 49/2017 s 5(18)	18.12.2017
premises	amended by 49/2017 s 5(19), (20)	18.12.2017
producer's event endorsement	*inserted by 61/2009 s 4(2)*	*3.5.2010*
	deleted by 49/2017 s 5(21)	*18.11.2019*
production and sales event endorsement	inserted by 49/2017 s 5(21)	18.11.2019
production outlet	inserted by 61/2009 s 4(2)	3.5.2010
	amended by 49/2017 s 5(22)	18.11.2019
public conveyance	amended by 35/2000 s 2(a)	6.7.2000
public interest	inserted by 52/2013 s 5(2)	14.11.2013
public order and safety	inserted by 40/2011 s 4(5)	5.3.2012
public order and safety notice	inserted by 40/2011 s 4(5)	5.3.2012
record	inserted by 49/2017 s 5(23)	18.12.2017

records	*deleted by 49/2017 s 5(23)*	*18.12.2017*
regulated premises	amended by 35/2000 s 2(b), (c)	6.7.2000
related body corporate	amended by 2/2002 Sch	8.8.2002
relevant assessment period	*deleted by 49/1998 s 3*	*8.10.1998*
resident	inserted by 49/2017 s 5(24)	18.11.2019
responsible person	inserted by 55/2000 s 3(b)	1.9.2000
retail licence	*deleted by 49/2017 s 5(25)*	*18.11.2019*
retail outlet	inserted by 61/2009 s 4(3)	3.5.2010
	amended by 49/2017 s 5(26)	18.11.2019
sample	inserted by 61/2009 s 4(3)	3.5.2010
spouse	inserted by 49/2017 s 5(27)	18.12.2017
wholesale outlet	inserted by 49/2017 s 5(28)	18.11.2019
s 5		
s 5(1)	amended by 49/2017 s 6(1), (2)	18.11.2019
s 5(2)	amended by 55/2000 s 4	1.9.2000
	amended by 49/2017 s 6(3)	18.11.2019
s 7		
s 7(1)	s 7 amended by 2/2002 Sch	8.8.2002
	s 7 amended and redesignated as s 7(1) by 34/2002 s 21(a)—(c)	1.8.2003
	amended by 43/2006 s 148(1)	1.6.2007
	amended by 44/2019 s 137(1), (2)	3.12.2020
s 7(2)	inserted by 34/2002 s 21(c)	1.8.2003
	amended by 43/2006 s 148(2)	1.6.2007
	amended by 44/2019 s 137(3)	3.12.2020
domestic partner	*inserted by 43/2006 s 148(3)*	*1.6.2007*
	deleted by 49/2017 s 7(1)	*18.11.2019*
spouse	*inserted by 43/2006 s 148(4)*	*1.6.2007*
	deleted by 49/2017 s 7(2)	*18.11.2019*
substantial holding	inserted by 44/2019 s 137(4)	3.12.2020
s 7A	inserted by 28/2019 s 4	18.11.2019
Pt 2		
Pt 2 Div 1		
s 8		
s 8(1)	amended by 18/2001 s 43	1.10.2001
s 8(3)	substituted by 84/2009 s 199	1.2.2010
s 9		
s 9(1)	amended by 35/2018 s 112(1)	1.12.2018
s 9(2)	amended by 35/2018 s 112(2)	1.12.2018
s 10		
s 10(2)	amended by 35/2018 s 113	1.12.2018
s 11AA	inserted by 49/2017 s 8	18.12.2017

s 11A	inserted by 61/2009 s 5	26.11.2011
s 11A(2)	amended by 40/2011 s 5(1)	5.3.2012
	substituted by 52/2013 s 6(1)	1.11.2013
s 11A(2a)	inserted by 49/2017 s 9	18.11.2019
s 11A(3)	substituted by 40/2011 s 5(2)	5.3.2012
s 11A(3a)	inserted by 28/2019 s 5	18.11.2019
s 11A(4a)	inserted by 52/2013 s 6(2)	1.11.2013
s 11A(7)	inserted by 52/2013 s 6(3)	1.11.2013
s 11B	inserted by 52/2013 s 7	14.11.2013
s 11C	inserted by 14/2016 Sch 6 cl 19	31.7.2020
Pt 2 Div 2		
s 13A	inserted by 40/2011 s 6	30.1.2012
s 15		
s 15(3)—(6)	inserted by 40/2011 s 7	30.1.2012
s 15(7)	inserted by 40/2011 s 7	30.1.2012
	amended by 21/2019 s 15	19.9.2019
s 15A	inserted by 49/2017 s 10	18.11.2019
s 16A	inserted by 40/2011 s 8	30.1.2012
Pt 2 Div 3		
s 17 before substitution by 49/2017		
s 17(1)	*s 17 amended and redesignated as s 17(1) by 22/2005 s 26(1), (2)*	*8.12.2005*
	amended by 3/2013 s 4(1)	*26.4.2013*
s 17(1a)	*inserted by 3/2013 s 4(2)*	*26.4.2013*
s 17(2)	*inserted by 22/2005 s 26(2)*	*8.12.2005*
s 17	substituted by 49/2017 s 11	18.11.2019
Pt 2 Div 4		
s 20		
s 20(1)	amended by 17/2006 s 158	4.9.2006
	amended by 49/2017 s 12(1)—(3)	18.11.2019
s 20(2)	amended by 49/2017 s 12(4)	18.11.2019
s 21		
s 21(1)	s 21 redesignated as s 21(1) by 3/2013 s 5	26.4.2013
	amended by 49/2017 s 13	18.11.2019
s 21(2)	inserted by 3/2013 s 5	26.4.2013
s 22 before substitution by 49/2017		
s 22(2a) and (2b)	*inserted by 3/2013 s 6*	*26.4.2013*
s 22(4)	*amended by 49/1998 s 4*	*8.10.1998*
s 22	substituted by 49/2017 s 14	18.11.2019
s 22(1)	amended by 19/2020 s 3	25.6.2020

Pt 2 Div 5		
ss 22A—22C	inserted by 40/2011 s 9	30.1.2012
s 24		
s 24(1a)	inserted by 40/2011 s 10(1)	30.1.2012
s 24(2)	amended by 40/2011 s 10(2)	30.1.2012
s 24(3)	(b) deleted by 49/2017 s 15	18.11.2019
s 24A	inserted by 40/2011 s 11	30.1.2012
ss 24B and 24C	inserted by 49/2017 s 16	18.12.2017
s 25		
s 25(1)	amended by 17/2006 s 159	4.9.2006
s 25A	inserted by 49/2017 s 17	18.11.2019
s 26	substituted by 49/2017 s 18	18.12.2017
s 27		
s 27(1)	amended by 17/2006 s 160	4.9.2006
	amended by 45/2019 Sch 1 cl 55(1)	1.1.2021
s 27(4)	amended by 45/2019 Sch 1 cl 55(2)	1.1.2021
s 27(5)	amended by 45/2019 Sch 1 cl 55(1)	1.1.2021
s 28 before substitution by 45/2019		
s 28(1)	*amended by 17/2006 s 161(1)*	*4.9.2006*
s 28(2)	*amended by 17/2006 s 161(2)*	*4.9.2006*
s 28	substituted by 45/2019 Sch 1 cl 56	1.1.2021
Pt 2 Div 5A	inserted by 49/2017 s 19	18.11.2019
Pt 2 Div 6	inserted by 22/2005 s 27	8.12.2005
s 28A		
s 28A(1)	substituted by 48/2008 s 5(1)	1.3.2009
s 28A(2)	amended by 49/2017 s 20(1)	18.11.2019
s 28A(2a)	inserted by 40/2011 s 12	5.3.2012
s 28A(3)	amended by 49/2017 s 20(2)—(5)	18.11.2019
s 28A(5)	substituted by 48/2008 s 5(2)	1.3.2009
s 28A(5a)	inserted by 48/2008 s 5(2)	1.3.2009
	substituted by 19/2012 s 9(1)	12.7.2012
s 28A(5b)—(5e)	*inserted by 48/2008 s 5(2)*	*1.3.2009*
	deleted by 19/2012 s 9(1)	*12.7.2012*
s 28A(5f)	*inserted by 48/2008 s 5(2)*	*4.12.2010*
	deleted by 19/2012 s 9(1)	*12.7.2012*
s 28A(5g) and (5h)	*inserted by 48/2008 s 5(2)*	*1.3.2009*
	deleted by 19/2012 s 9(1)	*12.7.2012*
s 28A(7)	*inserted by 48/2008 s 5(3)*	*1.3.2009*
	deleted by 19/2012 s 9(2)	*12.7.2012*
Pt 3 Div 1		
s 29		

s 29(1)	s 29 amended by 40/2011 s 13	5.3.2012
	s 29 amended by 49/2017 s 21	18.12.2017
	s 29 redesignated as s 29(1) by 40/2018 Sch 1 cl 3	13.12.2020
s 29(2)—(4)	inserted by 40/2018 Sch 1 cl 3	13.12.2020
s 30	amended by 52/2013 s 8	16.1.2014
Pt 3 Div 2 before substitution by 49/2017		
s 31		
s 31(1)	*amended by 40/2011 s 14*	*5.3.2012*
	amended by 52/2013 s 9	*14.11.2013*
s 31(2)	*amended by 55/2000 s 5*	*1.9.2000*
	amended by 3/2013 s 7	*26.4.2013*
s 32		
s 32(1)	*amended by 55/2000 s 6*	*1.9.2000*
	substituted by 40/2011 s 15	*5.3.2012*
	amended by 52/2013 s 10(1)	*14.11.2013*
s 32(2)	*amended by 52/2013 s 10(2)*	*14.11.2013*
s 33		
s 33(1)	*amended by 40/2011 s 16*	*5.3.2012*
	amended by 52/2013 s 11	*14.11.2013*
s 34		
s 34(1)	*amended by 40/2011 s 17*	*5.3.2012*
	amended by 52/2013 s 12	*14.11.2013*
s 34(2)	*substituted by 55/2000 s 7*	*1.9.2000*
s 35		
s 35(1)	*amended by 55/2000 s 8*	*1.9.2000*
	amended by 3/2004 s 5(1)	*25.3.2004*
	substituted by 40/2011 s 18	*5.3.2012*
	amended by 52/2013 s 13	*14.11.2013*
s 35(2)	*amended by 3/2004 s 5(2)*	*25.3.2004*
s 36		
s 36(1)	*amended by 55/2000 s 9*	*1.9.2000*
	substituted by 40/2011 s 19(1)	*5.3.2012*
	amended by 52/2013 s 14	*14.11.2013*
s 36(2)	*deleted by 40/2011 s 19(2)*	*5.3.2012*
s 36(3)	*inserted by 2/1998 s 4*	*19.3.1998*
s 37		
s 37(1)	*amended by 55/2000 s 10*	*1.9.2000*
	amended by 52/2013 s 15	*14.11.2013*
s 38		
s 38(1)	*amended by 55/2000 s 11(a)*	*1.9.2000*
	amended by 52/2013 s 16	*14.11.2013*

s 38(2)	*amended by 49/1998 s 5*	*8.10.1998*
	amended by 55/2000 s 11(b)	*1.9.2000*
s 39		
s 39(1)	*amended by 55/2000 s 12(a)*	*1.9.2000*
	substituted by 61/2009 s 6(1)	*3.5.2010*
	amended by 52/2013 s 17(1)	*14.11.2013*
s 39(1a)—(1f)	*inserted by 61/2009 s 6(1)*	*3.5.2010*
s 39(2)	*amended by 55/2000 s 12(b)*	*1.9.2000*
	amended by 61/2009 s 6(2)	*3.5.2010*
s 39(3)	*substituted by 61/2009 s 6(3)*	*3.5.2010*
s 39(4)	*inserted by 61/2009 s 6(3)*	*3.5.2010*
production of liquor	*inserted by 40/2011 s 20*	*5.3.2012*
wine region	*amended by 52/2013 s 17(2)*	*14.11.2013*
s 39A	*inserted by 55/2000 s 13*	*1.9.2000*
s 39A(1)	*amended by 52/2013 s 18*	*14.11.2013*
s 40		
s 40(1)	*substituted by 40/2011 s 21(1)*	*5.3.2012*
	amended by 52/2013 s 19	*14.11.2013*
s 40(4)	*inserted by 55/2000 s 14*	*1.9.2000*
s 40(5)	*inserted by 40/2011 s 21(2)*	*5.3.2012*
s 40A	*inserted by 3/2013 s 8*	*26.4.2013*
s 40A(1)	*amended by 52/2013 s 20*	*14.11.2013*
s 41		
s 41(1)	*substituted by 35/2000 s 3*	*6.7.2000*
	amended by 52/2013 s 21	*14.11.2013*
s 41(6)	*inserted by 40/2011 s 22*	*5.3.2012*
Pt 3 Div 2	substituted by 49/2017 s 22	18.11.2019
Pt 3 Div 2 Subdiv 1		
s 31		
s 31(4)	**inserted by 28/2019 s 6**	**22.10.2021**
Pt 3 Div 2 Subdiv 2		
s 32	amended by 28/2019 s 7	18.11.2019
s 33	amended by 28/2019 s 8	18.11.2019
s 36		
s 36(1)	amended by 28/2019 s 9	18.11.2019
s 38		
s 38(1)	amended by 28/2019 s 10	18.11.2019
s 39		
s 39(1)	amended by 28/2019 s 11	18.11.2019
	amended by 19/2020 s 4(1)	25.6.2020
s 39(2)	amended by 19/2020 s 4(2)	25.6.2020
s 39(4a)	inserted by 19/2020 s 4(3)	25.6.2020

s 39(8a)	inserted by 19/2020 s 4(4)	25.6.2020
Pt 3 Div 2 Subdiv 3		
s 40		
s 40(8)	amended by 28/2019 s 12	18.11.2019
Pt 3 Div 2 Subdiv 4	**inserted by 28/2019 s 13**	**22.10.2021**
Pt 3 Div 3		
s 42		
s 42(1)	substituted by 61/2009 s 7	26.11.2011
	amended by 40/2011 s 23	5.3.2012
s 42(1a)	inserted by 49/2017 s 23(1)	18.11.2019
s 42(1b) and (1c)	inserted by 28/2019 s 14(1)	18.11.2019
s 42(2)	amended by 55/2000 s 15	1.9.2000
	amended by 49/2017 s 23(2)	18.11.2019
	amended by 28/2019 s 14(2)	**22.10.2021**
s 42A	inserted by 49/2017 s 24	18.12.2017
s 43 before substitution by 49/2017		
s 43(1)	*amended by 49/1998 s 6*	*8.10.1998*
	amended by 55/2000 s 16	*1.9.2000*
	substituted by 52/2013 s 22(1)	*14.11.2013*
s 43(2)	*amended by 52/2013 s 22(2), (3)*	*14.11.2013*
s 43(3)	*deleted by 52/2013 s 22(4)*	*14.11.2013*
s 43(4)	*inserted by 40/2011 s 24*	*5.3.2012*
	amended by 52/2013 s 22(5)	*14.11.2013*
s 43	substituted by 49/2017 s 25	18.11.2019
s 43(1)	amended by 28/2019 s 15(1)	18.11.2019
s 43(3)	inserted by 28/2019 s 15(2)	18.11.2019
s 44 before deletion by 29/2018		
s 44(1)	*amended by 40/2011 s 25(1)*	*5.3.2012*
s 44(2)	*amended by 3/2004 s 6(1)*	*25.3.2004*
s 44(4)	*(a) deleted by 3/2004 s 6(2)*	*25.3.2004*
	deleted by 40/2011 s 25(2)	*5.3.2012*
s 44	*deleted by 29/2018 s 6*	*18.11.2019*
s 45		
s 45(1)	amended by 55/2000 s 17	1.9.2000
	amended by 61/2009 s 8	3.5.2010
	amended by 40/2011 s 26	5.3.2012
	amended by 49/2017 s 26	18.11.2019
	s 45 amended and redesignated as s 45(1) by 28/2019 s 16(1)—(3)	18.11.2019
s 45(2)	inserted by 28/2019 s 16(3)	18.11.2019
s 46		

s 46(1)	amended by 40/2011 s 27(1)	5.3.2012
s 46(2)	amended by 40/2011 s 27(2)	5.3.2012
s 48		
s 48(1)	substituted by 49/1998 s 7(a)	8.10.1998
s 48(2)	*deleted by 49/1998 s 7(a)*	*8.10.1998*
s 48(3)	amended by 49/1998 s 7(b)	8.10.1998
	amended by 61/2009 s 9	3.5.2010
	amended by 49/2017 s 27(1)—(3)	18.11.2019
s 49 before deletion by 49/2017		
s 49(1)	*amended by 52/2013 s 23*	*14.11.2013*
s 49	*deleted by 49/2017 s 28*	*18.11.2019*
s 50A	inserted by 31/2011 s 11	3.5.2012
s 50A(3)	amended by 49/2017 s 29(1)	18.11.2019
s 50A(5)	amended by 49/2017 s 29(2)	18.11.2019
s 50A(5a)	inserted by 49/2017 s 29(3)	18.11.2019
s 50A(5b)	inserted by 49/2017 s 29(3)	18.11.2019
	amended by 28/2019 s 17(1)	18.11.2019
s 50A(5c) and (5d)	inserted by 49/2017 s 29(3)	18.11.2019
s 50A(6)	*amended by 49/2017 s 29(4)*	*18.11.2019*
	deleted by 28/2019 s 17(2)	*18.11.2019*
s 50B	inserted by 28/2019 s 18	18.11.2019
Pt 4		
heading	amended by 49/2017 s 30	18.11.2019
Pt 4 Div 1		
s 51		
s 51(1)	amended by 61/2009 s 10	3.5.2010
s 51(4)	amended by 49/2017 s 31(1), (2)	18.11.2019
s 51(5)	amended by 49/2017 s 31(3)	18.11.2019
s 51A	inserted by 22/2005 s 28	8.12.2005
s 51A(1)	amended by 49/2017 s 32(1)	18.11.2019
s 51A(2)	substituted by 49/2017 s 32(2)	18.11.2019
s 51A(2a)	inserted by 49/2017 s 32(2)	18.11.2019
s 51A(3)	amended by 49/2017 s 32(3)	18.11.2019
s 52		
s 52(1)	amended by 37/2015 s 4	20.12.2015
	amended by 49/2017 s 33(1)	18.11.2019
	(d) deleted by 49/2017 s 33(2)	18.11.2019
	amended by 28/2019 s 19(1), (2)	18.11.2019
s 52(2)	substituted by 49/2017 s 33(3)	18.12.2017
s 52(2aa)	inserted by 49/2017 s 33(3)	18.12.2017
s 52(2b)	inserted by 49/2017 s 33(4)	18.12.2017
s 52(2a)	inserted by 61/2009 s 11	3.5.2010

s 52A	inserted by 61/2009 s 12	3.5.2010
s 52A(1)	amended by 28/2019 s 20	18.11.2019
s 52A(3)	amended by 49/2017 s 34	18.11.2019
Pt 4 Div 2		
s 53		
s 53(1aa)	inserted by 3/2013 s 9	26.4.2013
s 53(1a)	inserted by 22/2005 s 29	8.12.2005
s 53(1b)	inserted by 49/2017 s 35(1)	18.11.2019
s 53(2)	amended by 49/2017 s 35(2)	18.11.2019
s 53(2a)	inserted by 2/2002 s 4	8.8.2002
s 53(3)	amended by 31/2011 s 12	3.5.2012
s 53(4) and (5)	inserted by 3/2004 s 7	25.3.2004
s 53(6)	inserted by 3/2004 s 7	25.3.2004
	amended by 49/2017 s 35(3)—(5)	18.11.2019
ss 53A and 53B	inserted by 49/2017 s 36	18.11.2019
s 55		
s 55(a1) and (a2)	inserted by 49/2017 s 37(1)	18.11.2019
s 55(1)	substituted by 22/2005 s 30(1)	8.12.2005
	amended by 49/2017 s 37(2)	18.11.2019
s 55(3)	inserted by 22/2005 s 30(2)	8.12.2005
s 55(4)—(6)	inserted by 49/2017 s 37(3)	18.11.2019
Pt 4 Div 3		
s 56		
s 56(1a) and (1b)	inserted by 49/2017 s 38(1)	18.11.2019
s 56(2)	amended by 49/2017 s 38(2)	18.11.2019
s 57		
s 57(1)	amended by 55/2000 s 18(a), (b)	1.9.2000
s 57(1a)	inserted by 37/2015 s 5	20.12.2015
	amended by 49/2017 s 39(1)	18.12.2017
s 57(3)	inserted by 55/2000 s 18(c)	1.9.2000
	amended by 49/2017 s 39(2)	18.11.2019
s 58	*deleted by 49/2017 s 40*	*18.11.2019*
s 59		
s 59(1)	substituted by 55/2000 s 19	1.9.2000
	substituted by 52/2007 s 4	13.12.2007
s 59A	inserted by 31/2011 s 13	3.5.2012
s 59A(2)	*deleted by 49/2017 s 41(1)*	*18.11.2019*
s 59A(3)	amended by 49/2017 s 41(2)	18.11.2019
Pt 4 Div 4		
s 60		
s 60(1)	amended by 55/2000 s 20(a), (b)	1.9.2000
s 60(3)	inserted by 55/2000 s 20(c)	1.9.2000
	amended by 49/2017 s 42	18.11.2019

s 61 before deletion by 49/2017		
s 61(1)	*amended by 2/2002 s 5*	*8.8.2002*
s 61(2)	*amended by 55/2000 s 21*	*1.9.2000*
s 61	*deleted by 49/2017 s 43*	*18.11.2019*
s 62		
s 62(1)	substituted by 55/2000 s 22	1.9.2000
	substituted by 52/2007 s 5	13.12.2007
s 62A	inserted by 61/2009 s 13	3.5.2010
	amended by 49/2017 s 44	18.11.2019
Pt 4 Div 4A	inserted by 61/2009 s 14	3.5.2010
heading	amended by 49/2017 s 45	18.11.2019
s 62B		
s 62B(1) and (2)	amended by 49/2017 s 46(1), (2)	18.11.2019
s 62B(3)	amended by 49/2017 s 46(1)—(3)	18.11.2019
s 62C		
s 62C(1)	amended by 49/2017 s 47(1), (2)	18.11.2019
s 63		
s 63(3)	amended by 49/2017 s 48	18.11.2019
Pt 4 Div 5		
s 65		
s 65(2)	*deleted by 49/1998 s 8*	*8.10.1998*
Pt 4 Div 5A	inserted by 49/2017 s 49	18.11.2019
s 65A		
s 65A(1)	amended by 28/2019 s 21(1), (2)	18.11.2019
Pt 4 Div 7		
s 68		
s 68(1)	amended by 61/2009 s 15	3.5.2010
	(c) deleted by 49/2017 s 50(1)	18.11.2019
	amended by 49/2017 s 50(2)	18.11.2019
s 69		
s 69(3)	amended by 49/2017 s 51(1)	18.11.2019
s 69(4) and (5)	inserted by 49/2017 s 51(2)	18.11.2019
Pt 4 Div 8A	inserted by 61/2009 s 16	3.5.2010
	substituted by 49/2017 s 52	18.11.2019
Pt 4 Div 10		
s 71		
s 71(1)	amended by 55/2000 s 23(a)	1.9.2000
	amended by 52/2013 s 24	16.1.2014
	amended by 49/2017 s 53(1)	18.12.2017
s 71(1a)	*inserted by 2/1998 s 5*	*19.3.1998*
	deleted by 49/2017 s 53(2)	*18.11.2019*
s 71(3)	amended by 55/2000 s 23(b)	1.9.2000

s 71(5)	*deleted by 55/2000 s 23(c)*	*1.9.2000*
s 71(5) and (6)	inserted by 49/2017 s 53(3)	18.12.2017
Pt 4 Div 10A before deletion by 49/2017	*inserted by 22/2005 s 31*	*8.12.2005*
s 71AA	*inserted by 49/2017 s 54*	*18.12.2017*
Pt 4 Div 10A	*deleted by 49/2017 s 55*	*18.11.2019*
Pt 4 Div 12		
s 73		
s 73(8)	*deleted by 49/1998 s 9*	*8.10.1998*
Pt 4 Div 13 before substitution by 49/2017		
s 75A	*inserted by 22/2005 s 32*	*8.12.2005*
s 76		
s 76(1)	*deleted by 22/2005 s 33*	*8.12.2005*
s 76(2a)	*inserted by 14/2016 Sch 6 cl 20*	*uncommenced—not incorporated*
s 76(5)	*inserted by 3/2013 s 10*	*26.4.2013*
s 77		
s 77(1a)	*inserted by 3/2013 s 11*	*26.4.2013*
s 77(2)	*amended by 22/2005 s 34*	*8.12.2005*
s 77(5)	*amended by 55/2000 s 24*	*1.9.2000*
	amended by 2/2002 s 6	*8.8.2002*
s 77(6)	*inserted by 37/2015 s 6*	*20.12.2015*
s 77A	*inserted by 3/2013 s 12*	*26.4.2013*
Pt 4 Div 13	substituted by 49/2017 s 56	18.11.2019
Pt 5	*deleted by 49/1998 s 10*	*8.10.1998*
Pt 6		
Pt 6 Div 1		
s 97	substituted by 2/1998 s 6	19.3.1998
s 97(1)	amended by 55/2000 s 25(a), (b)	1.9.2000
	(a)(iii) deleted by 55/2000 s 25(c)	1.9.2000
	amended by 52/2013 s 25	16.1.2014
s 97(1a)	inserted by 55/2000 s 25(d)	1.9.2000
s 97(2)	amended by 49/2017 s 57(1)	18.11.2019
s 97(3)	*deleted by 49/2017 s 57(2)*	*18.11.2019*
s 97(4)	amended by 49/2017 s 57(3)	24.9.2018
s 97(5)	substituted by 55/2000 s 25(e)	1.9.2000
	amended by 61/2009 s 17	3.5.2010
s 97(6) and (7)	*deleted by 55/2000 s 25(e)*	*1.9.2000*
s 97A	inserted by 49/2017 s 58	24.9.2018
s 98		
s 98(1)	amended by 2/1998 s 7	19.3.1998
	amended by 49/2017 s 59	18.11.2019
Pt 6 Div 2		

s 99		
s 99(5)	amended by 49/2017 s 60	18.11.2019
Pt 6 Div 3		
heading	amended by 49/2017 s 61	18.11.2019
s 100		
s 100(1)	amended by 49/2017 s 62(1)—(7)	18.11.2019
s 100(2)	amended by 61/2009 s 18	3.5.2010
	amended by 40/2011 s 28	5.3.2012
	amended by 49/2017 s 62(8)	18.11.2019
s 101		
s 101(1)	amended by 49/2017 s 63(1), (2)	18.11.2019
s 101(2)	amended by 49/2017 s 63(3), (4)	18.11.2019
s 101(3)	amended by 61/2009 s 19	3.5.2010
	amended by 40/2011 s 29	5.3.2012
s 102		
s 102(1)	amended by 61/2009 s 20	3.5.2010
s 103		
s 103(1)	amended by 61/2009 s 21	3.5.2010
s 103(4)	amended by 40/2011 s 30	5.3.2012
	amended by 49/2017 s 64(1)	18.11.2019
s 103(6)	amended by 55/2000 s 26	1.9.2000
	amended by 49/2017 s 64(2)—(5)	18.11.2019
s 104	amended by 61/2009 s 22	3.5.2010
Pt 6 Div 5		
heading	substituted by 49/2017 s 65	18.12.2017
s 105 before substitution by 37/2015		
s 105(1)	*substituted by 61/2009 s 23(1)*	*3.5.2010*
	amended by 3/2013 s 13(1)	*26.4.2013*
s 105(1a)	*inserted by 3/2013 s 13(2)*	*26.4.2013*
s 105(5)	*amended by 61/2009 s 23(2)*	*3.5.2010*
	amended by 40/2011 s 31	*5.3.2012*
s 105	substituted by 37/2015 s 7	20.12.2015
s 105(1)	*deleted by 49/2017 s 66(1)*	*18.12.2017*
s 105(3)	amended by 49/2017 s 66(2)	18.12.2017
Pt 6 Div 6		
s 106		
s 106(3a)	inserted by 2/2002 s 7(a)	8.8.2002
s 106(4)	amended by 2/2002 s 7(b)	8.8.2002
s 106(5)	substituted by 2/2002 s 7(c)	8.8.2002
s 106(6)	substituted by 2/2002 s 7(c)	8.8.2002
	amended by 5/2017 s 47	19.3.2021

s 106(6a)	inserted by 2/2002 s 7(c)	8.8.2002
s 106(9)	inserted by 55/2000 s 27	1.9.2000
Pt 6 Div 7		
s 107		
s 107(2)	substituted by 55/2000 s 28	1.9.2000
Pt 6 Div 7A	inserted by 49/2017 s 67	24.9.2018
s 107A		
s 107A(1)	amended by 28/2019 s 22(1)	18.11.2019
s 107A(2)	amended by 28/2019 s 22(2)	18.11.2019
Pt 6 Div 8		
s 108		
s 108(1)	amended by 55/2000 s 29	1.9.2000
	substituted by 61/2009 s 24(1)	3.5.2010
	amended by 40/2011 s 32	5.3.2012
	substituted by 52/2013 s 26(1)	5.12.2013
	substituted by 49/2017 s 68(1)	18.11.2019
s 108(1a)	inserted by 49/2017 s 68(1)	18.11.2019
s 108(2)	amended by 55/2000 s 29	1.9.2000
	amended by 61/2009 s 24(2)	3.5.2010
	(a)(ii) deleted by 52/2013 s 26(2)	5.12.2013
	amended by 49/2017 s 68(2)	18.11.2019
s 109		
s 109(1)	amended by 49/2017 s 69(1)	18.11.2019
	substituted by 28/2019 s 23	18.11.2019
s 109(1a)	inserted by 49/2017 s 69(2)	18.11.2019
s 109(2)	amended by 61/2009 s 25	3.5.2010
	amended by 52/2013 s 27	14.11.2013
	amended by 49/2017 s 69(3)	18.11.2019
s 109A	inserted by 49/1998 s 11	8.10.1998
s 109A(3)	amended by 28/2019 s 24	18.11.2019
s 109B	inserted by 49/1998 s 11	8.10.1998
s 109B(3)	amended by 61/2009 s 26	3.5.2010
Pt 7		
s 109C	inserted by 49/2017 s 70	18.12.2017
s 110		
s 110(1)	amended by 55/2000 s 30(a), (b)	1.9.2000
	amended by 40/2011 s 33(1)	5.3.2012
	amended by 49/2017 s 71(1)—(3)	18.12.2017
s 110(1a)	inserted by 55/2000 s 30(c)	1.9.2000
	amended by 40/2011 s 33(2)	5.3.2012
	amended by 49/2017 s 71(4)	18.12.2017
s 110(2)	amended by 40/2011 s 33(3)	5.3.2012
	amended by 49/2017 s 71(5)	18.12.2017

s 110(2a) and (2b)	inserted by 49/2017 s 71(6)	18.12.2017
s 110(3)	amended by 55/2000 s 30(d)	1.9.2000
	amended by 61/2009 s 27(1)	3.5.2010
	amended by 49/2017 s 71(7)	18.12.2017
s 110(4)	amended by 49/2017 s 71(8)	18.12.2017
s 110(4a)	inserted by 49/2017 s 71(9)	18.12.2017
s 110(5)	amended by 55/2000 s 30(a)	1.9.2000
	amended by 57/2005 s 3	17.11.2005
	amended by 61/2009 s 27(2)	3.5.2010
s 110A	inserted by 49/2017 s 72	18.12.2017
s 111		
s 111(1)	amended by 52/2013 s 28(1)	16.1.2014
	substituted by 49/2017 s 73(1)	18.11.2019
s 111(1a)	inserted by 49/2017 s 73(1)	18.11.2019
s 111(2)	amended by 52/2013 s 28(2), (3)	16.1.2014
	substituted by 49/2017 s 73(1)	18.11.2019
s 111(3)	amended by 55/2000 s 31	1.9.2000
	amended by 37/2006 s 5	1.2.2007
	amended by 52/2013 s 28(4)	16.1.2014
s 111(4)	*deleted by 49/2017 s 73(2)*	*18.11.2019*
s 112		
s 112(1)	amended by 52/2013 s 29(1), (2)	16.1.2014
	substituted by 49/2017 s 74(1)	18.11.2019
s 112(2)	amended by 37/2006 s 6	1.2.2007
s 112(3)	amended by 52/2013 s 29(3)	16.1.2014
	amended by 49/2017 s 74(2)	18.11.2019
s 112(4)	amended by 52/2013 s 29(4)	16.1.2014
s 112(4a)—(4c)	inserted by 49/2017 s 74(3)	18.11.2019
s 112(5)	amended by 52/2013 s 29(5)	16.1.2014
	substituted by 49/2017 s 74(4)	18.11.2019
s 112(6)	substituted by 49/2017 s 74(4)	18.11.2019
s 113 before substitution by 49/2017		
s 113(1)	*amended by 52/2013 s 30*	*16.1.2014*
s 113(2)	*amended by 61/2009 s 28*	*3.5.2010*
s 113	substituted by 49/2017 s 75	18.11.2019
s 113A	inserted by 49/2017 s 76	18.11.2019
s 114 before deletion by 49/2017		
s 114(3)	*substituted by 55/2000 s 32*	*1.9.2000*
	amended by 57/2005 s 4	*17.11.2005*
s 114	*deleted by 49/2017 s 77*	*18.12.2017*
s 115		

s 115(1)	amended by 37/2006 s 7(1), (2)	1.2.2007
	substituted by 49/2017 s 78(1)	24.9.2018
	amended by 28/2019 s 25	18.11.2019
s 115(2)	amended by 49/2017 s 78(2)	24.9.2018
s 115(3)		
prescribed person	authorised person amended to read prescribed person by 37/2006 s 7(3)	1.2.2007
	amended by 49/2017 s 78(3)	24.9.2018
	amended by 29/2018 s 7	9.5.2019
	(d) deleted by 29/2018 s 7	9.5.2019
s 115A	inserted by 49/2017 s 79	24.9.2018
s 116 before substitution by 49/2017		
s 116(3a) and (3b)	*inserted by 22/2005 s 35(1)*	*8.12.2005*
	deleted by 37/2006 s 8(1)	*1.2.2007*
s 116(4)		
authorised person	*amended by 55/2000 s 33*	*1.9.2000*
	amendment by 22/2005 s 35(2), (3) impliedly repealed by 37/2006	—
	deleted by 37/2006 s 8(2)	*1.2.2007*
s 116	substituted by 49/2017 s 80	18.11.2019
s 117	*deleted by 49/2017 s 81*	*18.12.2017*
Pt 7A	inserted by 40/2011 s 34	5.3.2012
heading	substituted by 52/2013 s 31	14.11.2013
s 117A		
s 117A(1)	amended by 52/2013 s 32	14.11.2013
Pt 7B	inserted by 19/2015 s 9	6.8.2015
Pt 8		
s 118		
s 118(1)	s 118 redesignated as s 118(1) by 22/2005 s 36	8.12.2005
	amended by 49/2017 s 82(1), (2)	18.12.2017
s 118(2)	*inserted by 22/2005 s 36*	*8.12.2005*
	deleted by 49/2017 s 82(3)	*18.11.2019*
s 119		
s 119(1)	amended by 55/2000 s 34(a)	1.9.2000
	amended by 22/2005 s 37(1), (2)	8.12.2005
	amended by 49/2017 s 83(1)—(5)	18.11.2019
s 119(1a)	inserted by 52/2013 s 33	14.11.2013
s 119(2)	deleted by 55/2000 s 34(b)	1.9.2000
	inserted by 22/2005 s 37(3)	8.12.2005
s 119A	inserted by 55/2000 s 35	1.9.2000
s 119A(1)	amended by 52/2013 s 34	14.11.2013
s 119B	inserted by 49/2017 s 84	24.9.2018

s 120		
s 120(1)	amended by 22/2005 s 38(1)	8.12.2005
s 120(1a)	inserted by 22/2005 s 38(2)	8.12.2005
s 120A	inserted by 40/2011 s 35	5.3.2012
s 120A(a1)	inserted by 52/2013 s 35(1)	14.11.2013
s 120A(1)	amended by 52/2013 s 35(2)	14.11.2013
s 120A(1a)	inserted by 52/2013 s 35(3)	14.11.2013
s 120A(2)	amended by 52/2013 s 35(4)	14.11.2013
s 120A(3)—(5)	inserted by 52/2013 s 35(5)	14.11.2013
s 121		
s 121(1)	amended by 52/2013 s 36(1)	14.11.2013
s 121(2)	amended by 3/2004 s 8	25.3.2004
s 121(4)	substituted by 40/2011 s 36(1)	5.3.2012
s 121(4a)	inserted by 40/2011 s 36(1)	5.3.2012
s 121(7)	inserted by 40/2011 s 36(2)	5.3.2012
prescribed offence	amended by 52/2013 s 36(2)	5.12.2013
Pt 9		
heading	substituted by 40/2011 s 37	5.3.2012
Pt 9 Div 1		
s 122		
s 122(1)	substituted by 52/2013 s 37	14.11.2013
s 122(2)	*deleted by 52/2013 s 37*	*14.11.2013*
s 122(5)	*deleted by 49/1998 s 12*	*8.10.1998*
Pt 9 Div 2		
s 124		
s 124(1)	substituted by 61/2009 s 29(1)	3.5.2010
	(b) deleted by 52/2013 s 38(1)	5.12.2013
s 124(1a) and (1b)	*inserted by 22/2005 s 39(1)*	*8.12.2005*
	deleted by 37/2006 s 9(1)	*1.2.2007*
s 124(2)	amended by 55/2000 s 36	1.9.2000
	substituted by 61/2009 s 29(1)	3.5.2010
	substituted by 52/2013 s 38(2)	5.12.2013
s 124(2a)	inserted by 61/2009 s 29(1)	3.5.2010
s 124(3)	amended by 61/2009 s 29(2)	3.5.2010
s 124(6) before deletion by 37/2006		
authorised person	*amended by 55/2000 s 36*	*1.9.2000*
	amendment by 22/2005 s 39(2), (3) impliedly repealed by 37/2006	—
s 124(6)	*deleted by 37/2006 s 9(2)*	*1.2.2007*
Pt 9 Div 3		
Pt 9 Div 3 Subdiv 1	inserted by 48/2008 s 6	1.3.2009
s 124A	substituted by 49/2017 s 85	24.9.2018

Pt 9 Div 3 Subdiv 2	heading inserted by 48/2008 s 6	1.3.2009
s 125		
s 125(1)	amended by 55/2000 s 37(a)—(c)	1.9.2000
	amended by 48/2008 s 7(1)	1.3.2009
	amended by 49/2017 s 86(1)	24.9.2018
s 125(1a)	inserted by 48/2008 s 7(2)	1.3.2009
s 125(2)	amended by 48/2008 s 7(3)	1.3.2009
	amended by 49/2017 s 86(2)	24.9.2018
s 125(3)	amended by 55/2000 s 37(a)	1.9.2000
s 125(4)	amended by 55/2000 s 37(a)	1.9.2000
	amended by 48/2008 s 7(4)	1.3.2009
	amended by 49/2017 s 86(3)	24.9.2018
s 125(5)	inserted by 55/2000 s 37(d)	1.9.2000
	amended by 48/2009 s 7(5), (6)	1.3.2009
s 125(6)	inserted by 55/2000 s 37(d)	1.9.2000
Pt 9 Div 3 Subdiv 3	inserted by 48/2008 s 8	1.3.2009
s 125B		
s 125B(1)	amended by 49/2017 s 87(1)	24.9.2018
s 125B(3)	amended by 49/2017 s 87(2), (3)	24.9.2018
	(c) deleted by 49/2017 s 87(4)	24.9.2018
s 125B(6)		
senior police officer	substituted by 49/2017 s 87(5)	24.9.2018
s 125C		
s 125C(1)	amended by 49/2017 s 88	24.9.2018
Pt 9 Div 3 Subdiv 4	heading inserted by 48/2008 s 8	1.3.2009
s 125E	inserted by 48/2008 s 8	1.3.2009
s 126		
s 126(1a)	inserted by 48/2008 s 9	1.3.2009
s 127		
s 127(2a) and (2b)	*inserted by 22/2005 s 40(1)*	*8.12.2005*
	deleted by 37/2006 s 10	*1.2.2007*
s 127(3) before deletion by 37/2006		
authorised person	*amended by 55/2000 s 38*	*1.9.2000*
	amendment by 22/2005 s 40(2), (3) impliedly repealed by 37/2006	—
s 127(3)	*deleted by 37/2006 s 10*	*1.2.2007*
s 128		
s 128(1)	amended by 48/2008 s 10(1)	1.3.2009
s 128(1a)	inserted by 55/2000 s 39	1.9.2000
	amended by 48/2008 s 10(2)	1.3.2009
s 128(2)	substituted by 55/2000 s 39	1.9.2000

	substituted by 48/2008 s 10(3)	1.3.2009
s 128(2a) and (2b)	inserted by 48/2008 s 10(3)	1.3.2009
s 128(4)	substituted by 48/2008 s 10(4)	1.3.2009
s 128(5)	inserted by 48/2008 s 10(4)	1.3.2009
s 128A	inserted by 48/2008 s 11	1.3.2009
s 128A(1)	(b) deleted by 49/2017 s 89	24.9.2018
s 128AB	inserted by 49/2017 s 90	24.9.2018
Pt 9 Div 4	inserted by 40/2011 s 38	5.3.2012
s 128B		
s 128B(2)	amended by 52/2013 s 39(1), (2)	14.11.2013
s 128B(7)	substituted by 52/2013 s 39(3)	14.11.2013
s 128B(9)	inserted by 52/2013 s 39(4)	14.11.2013
Pt 9A	inserted by 49/2017 s 91	1.1.2019
Pt 10		
s 129		
s 129(1)	amended by 49/2017 s 92(1)	24.9.2018
s 129(2)	amended by 49/2017 s 92(2)	24.9.2018
s 131		
s 131(1)	substituted by 52/2013 s 40(1)	5.1.2015
s 131(1a)	inserted by 52/2013 s 40(1)	5.1.2015
s 131(1ab)—(1ad)	inserted by 49/2017 s 93(1)	24.9.2018
s 131(1b)	inserted by 52/2013 s 40(1)	5.1.2015
	amended by 49/2017 s 93(2)	24.9.2018
s 131(1c)	inserted by 49/2017 s 93(3)	24.9.2018
s 131(2)	amended by 52/2013 s 40(2), (3)	5.1.2015
	amended by 49/2017 s 93(4)	24.9.2018
s 131(3)	inserted by 61/2009 s 30	3.5.2010
	amended by 49/2017 s 93(5)	24.9.2018
s 131(4)	inserted by 52/2013 s 40(4)	5.1.2015
Pt 10A	inserted by 61/2009 s 31	3.5.2010
s 131AA		
s 131AA(3)	substituted by 32/2015 s 4	17.12.2015
Pt 11		
s 131A before substitution by 61/2009	*inserted by 22/2005 s 41*	*8.12.2005*
s 131A(2)	*deleted by 37/2006 s 11*	*1.2.2007*
s 131A	substituted by 61/2009 s 32	3.5.2010
s 131A(1)	amended by 49/2017 s 94	24.9.2018
s 131A(2)	(c) deleted by 52/2013 s 41(1)	5.12.2013
	amended by 52/2013 s 41(2)	5.12.2013
s 132	amended by 55/2000 s 40	1.9.2000
s 134		

s 134(1) and (2)	*deleted by 16/2013 s 64*	*17.6.2013*
s 135		
s 135(1)	amended by 55/2000 s 41	1.9.2000
s 135(2)	amended by 40/2011 s 39	5.3.2012
s 135A	inserted by 49/2017 s 95	24.9.2018
s 136		
s 136(1)	amended by 40/2011 s 40(1)	5.3.2012
s 136(2)	amended by 40/2011 s 40(2)	5.3.2012
	amended by 49/2017 s 96(1)	18.12.2017
s 136(2a)	inserted by 49/2017 s 96(2)	24.9.2018
s 136(4)	inserted by 40/2011 s 40(3)	5.3.2012
s 137	*deleted by 84/2009 s 200*	*1.2.2010*
s 137A	inserted by 22/2005 s 42	8.12.2005
s 137B	inserted by 37/2006 s 12	1.2.2007
s 137C	inserted by 49/2017 s 97	18.12.2017
s 138		
s 138(1a)	inserted by 49/2017 s 98(1)	18.12.2017
s 138(1b)	inserted by 35/2018 s 114	22.11.2018
s 138(2a)	inserted by 52/2013 s 42	1.11.2013
	amended by 49/2017 s 98(2)	18.12.2017
s 138(2b)	inserted by 49/2017 s 98(3)	18.12.2017
s 138(3)	amended by 55/2000 s 42	1.9.2000
s 138(4)	inserted by 61/2009 s 33	3.5.2010
s 138(5)	inserted by 40/2011 s 41	5.3.2012
	substituted by 49/2017 s 98(4)	18.12.2017
s 138(6) and (7)	inserted by 49/2017 s 98(4)	18.12.2017
Sch before deletion by 40/2011		
cl 2	*omitted under Legislation Revision and Publication Act 2002*	*1.8.2003*
cl 4	*amended by 49/1998 s 13*	*8.10.1998*
Sch	*deleted by 40/2011 s 42*	*5.3.2012*

Transitional etc provisions associated with Act or amendments

Liquor Licensing (Licence Fees) Amendment Act 1998

14—Exclusion of liability to liquor licence fees on and from 5 August 1997

Despite the provisions of the *Liquor Licensing Act 1985*, no liability to licence fees is to be taken to have accrued under that Act in respect of sales or purchases of liquor made on or after 5 August 1997.

Statutes Amendment (Liquor, Gambling and Security Industries) Act 2005, Sch 1—Transitional provisions

2—Liquor Licensing Act 1997

(1) An amendment to the *Liquor Licensing Act 1997* effected by a provision of this Act applies in respect of an application under that Act if the application is determined after the commencement of that provision irrespective of whether the application was lodged before or after that commencement.

(2) An amendment to the *Liquor Licensing Act 1997* effected by a provision of this Act applies in respect of a licence or approval granted under that Act, or a person licensed or approved under that Act, whether the licence or approval was granted before or after the commencement of that provision.

Liquor Licensing (Producers, Responsible Service and Other Matters) Amendment Act 2009, Sch 1—Transitional provisions

1—Certain existing special circumstances licences

(1) If a special circumstances licence in force under the *Liquor Licensing Act 1997* immediately before the commencement of section 6 of this Act authorises the licensee to sell the licensee's product (within the meaning of section 39 of the *Liquor Licensing Act 1997*) on the licensed premises at any time for consumption off the licensed premises, the licence will lapse 2 years after that commencement unless within that period the licensing authority, on application by the licensee—

(a) converts the licence into a producer's licence; or

(b) confirms that the licence may continue in force as a special circumstances licence.

(2) The licensing authority may not confirm that a licence may continue in force as a special circumstances licence unless satisfied by the licensee that—

(a) a producer's licence (either with or without an extended trading authorisation) could not adequately cover the kind of business authorised by the licensee's special circumstances licence; and

(b) the licensee's business would be substantially prejudiced if the licensee's trading rights were limited to those possible under a producer's licence.

Liquor Licensing (Miscellaneous) Amendment Act 2011, Sch 1—Transitional provisions

1—Amendments apply to existing licences, approvals and authorisations

(1) An amendment to the *Liquor Licensing Act 1997* effected by a provision of this Act applies in respect of a licence, approval or extended trading authorisation granted under that Act, or the holder of a licence, approval or authorisation under that Act, whether the licence, approval or authorisation was granted before or after the commencement of that provision (and any existing licence, approval or authorisation is taken to be modified accordingly).

(2) However, the trading rights under a special circumstances licence in respect of which a decision was made under clause 3(10)(b) of the Schedule of the *Liquor Licensing Act 1997* as in force before its repeal by this Act are not diminished by reason of subclause (1) and to the extent that an extended trading authorisation or other special licence condition would be required to replicate those trading rights, the licence will, on the commencement of this clause, be taken to include such an authorisation or condition.

2—Issue of replacement licence, approval or authorisation

The Commissioner may issue to the holder of a licence, approval or extended trading authorisation under the *Liquor Licensing Act 1997* in force immediately before the commencement of a provision of this Act a replacement copy of the licence, approval or authorisation in order to take account of modifications effected by the provision or, in the case of a licence, to include on the licence a statement of the trading hours or the classification of the licence for the purposes of the Commissioner's codes of practice.

3—Consequential modification of gaming machine licence

The Commissioner must, in relation to each gaming machine licence that is in force under the *Gaming Machines Act 1992* at the commencement of this clause, vary the condition fixing the hours during which gaming operations may be conducted on the licensed premises to such extent (if any) as is necessary to ensure the hours are not outside the hours during which the licensed premises are authorised to be open for the sale of liquor.

Statutes Amendment (Budget 2011) Act 2011

15—Transitional provision

(1) The regulations first made under section 50A as inserted in the *Liquor Licensing Act 1997* by this Act may provide—

(a) for the first annual fee period to be longer or shorter than 12 months; and

(b) for the payment of 2 fees within the first 12 months (so that licensees have a longer period within which to make the first payment); and

(c) for the first annual fee period to commence at any time on or after 1 July 2011.

(2) If, after the day on which this Act is assented to by the Governor and before the day fixed by the Commissioner for the payment of the first annual fee, an application is made under the *Liquor Licensing Act 1997* for a reduction in trading hours authorised by a licence so that, following the reduction, the licence authorises only the hours during which it is proposed the licensed premises will be open for trade—

(a) no fee is payable for the application; and

(b) section 52 of the *Liquor Licensing Act 1997* does not apply to the application.

Liquor Licensing (Miscellaneous) Amendment Act 2013, Sch 1—Transitional provisions

1—Responsible persons

(1) Subject to this clause, a person who was, immediately before the commencement of this clause, approved as a responsible person for the business conducted under a particular licence in accordance with section 71 of the *Liquor Licensing Act 1997* (as in force before the commencement of this clause) will be taken to be approved as a responsible person under section 71 of that Act, as amended by this Act.

Note—

A natural person may be a responsible person in respect of any licensed premises pursuant to section 71, as amended.

(2) Subject to the *Liquor Licensing Act 1997*, an approval contemplated by subclause (1) will be taken to be subject to any conditions, or suspension, that applied to the approval immediately before the commencement of this clause.

(3) Nothing in this clause operates to revive an approval that was revoked under the *Liquor Licensing Act 1997* (as in force before the commencement of this clause).

2—Certain conditions taken to be validly imposed etc

A condition limiting the times when liquor may be sold under a licence, or limiting in some other way the authority conferred by the licence, purportedly imposed on a licence before the commencement of this clause will for all purposes be taken to have been validly imposed or varied (as the case requires).

3—Certain codes of practice taken to be valid

(1) A code of practice, and any provision of a code of practice, that—

(a) was published under section 11A of the *Liquor Licensing Act 1997* (as in force before the commencement of this clause); and

(b) is purportedly in force on the commencement of this clause,

will be taken to be valid, and always to have been valid, if the code of practice or provision would have been valid had it been published under section 11A of the *Liquor Licensing Act 1997* as amended by this Act.

(2) The requirements of section 11A(4a) do not apply in relation to a code of practice referred in to subclause (1).

(3) However, no action may be taken under the *Liquor Licensing Act 1997* in respect of a person's refusal or failure to comply with a provision of the Late Night Trading Code of Practice during the period commencing on 1 October 2013 and concluding on the day on which this clause comes into operation.

(4) In this clause—

Late Night Trading Code of Practice means the Late Night Trading Code of Practice under the *Liquor Licensing Act 1997*.

Note—

The Late Night Trading Code of Practice was published by notice in the Gazette on 6 June 2013 and came into operation on 1 October 2013.

Liquor Licensing (Entertainment on Licensed Premises) Amendment Act 2015, Sch 1—Transitional Provisions

1—Interpretation

(1) In this Schedule—

consent means a consent granted under section 105 of the *Liquor Licensing Act 1997* (as in force before the commencement of section 7 of this Act);

entertainment has the same meaning as in the *Liquor Licensing Act 1997*;

entertainment condition means a condition of a licence or consent that has the effect of limiting the entertainment that may be provided on licensed premises, or any area adjacent to licensed premises, or the methods by which such entertainment may be provided or promoted, but does not include—

(a) a condition referred to in section 35(2) or 40A(3) of the *Liquor Licensing Act 1997*; or

(b) a condition relating to the provision of prescribed entertainment; or

(c) a condition declared by the Commissioner not to be an entertainment condition;

licence, ***licensed premises*** and ***licensee*** have the same meanings as in the *Liquor Licensing Act 1997*;

prescribed entertainment has the same meaning as in section 105 of the *Liquor Licensing Act 1997* (as enacted by this Act).

(2) Nothing in this Schedule affects—

(a) a condition added to a licence, or varied, by an order made under section 106 of the *Liquor Licensing Act 1997* after the commencement of this clause; or

(b) the operation of any other Act or law.

Note—

For example, requirements relating to approvals under the *Development Act 1993*.

2—Certain consents under section 105 of the *Liquor Licensing Act 1997* to continue in force

(1) Subject to this Schedule, a consent that is in force immediately before the commencement of this clause will be taken to—

(a) continue in force according to its terms; and

(b) be subject to any conditions to which it was subject immediately before the commencement of this clause; and

(c) be a consent granted by the licensing authority under section 105 of the *Liquor Licensing Act 1997* (as enacted by this Act).

(2) An entertainment condition of a consent referred to in subclause (1) that purports to have effect between the hours of 11 am and midnight on any day will be taken to be of no effect during those hours.

3—Commissioner may grant transitional entertainment consents

(1) This clause applies in relation to a licensee who, in the 12 months preceding the commencement of this clause, was lawfully using licensed premises the subject of the licence, or any area adjacent to the licensed premises, for the purpose of providing prescribed entertainment.

(2) The Commissioner may, on application or on his or her own motion, grant his or her consent for a licensee to whom this clause applies to use part of licensed premises for the purpose of providing prescribed entertainment.

(3) An application under this clause must be made in a manner and form determined by the Commissioner.

(4) A consent under this clause may be conditional or unconditional.

(5) A consent under this clause will be taken to be a consent granted under section 105 of the *Liquor Licensing Act 1997* (as enacted by this Act).

(6) If the Commissioner grants a consent under this clause—

(a) any previous consent granted to the licensee under section 105 of the *Liquor Licensing Act 1997* before the commencement of this clause is, by force of this subclause, revoked; and

(b) any condition of the previous consent that, pursuant to that section, has effect as a condition of the licence will be taken to be of no effect.

(7) To avoid doubt, the following provisions of the *Liquor Licensing Act 1997* do not apply in respect of the operation of this clause:

(a) section 22;

(b) Part 4;

(c) section 105(3) (as enacted by this Act).

4—Certain entertainment conditions of licences to be of no effect

Without limiting clause 2 or 3, an entertainment condition of a licence that purports to have effect between the hours of 11 am and midnight on any day will be taken to be of no effect during those hours.

5—Commissioner may revoke or vary conditions of licences etc for transitional purposes

(1) The Commissioner may, on application or on his or her own motion, add, substitute, vary or revoke a condition of a licence or a consent if, in the opinion of the Commissioner, it is necessary or desirable to do so as a consequence of the enactment of this Act.

(2) An application under this clause must be made in a manner and form determined by the Commissioner.

(3) To avoid doubt, the following provisions of the *Liquor Licensing Act 1997* do not apply in respect of the operation of this clause:

(a) section 22;

(b) section 43;

(c) Part 4;

(d) section 105(3) (as enacted by this Act).

Liquor Licensing (Liquor Review) Amendment Act 2017, Sch 2—Transitional Provisions

Part 1—Preliminary

1—Preliminary

In this Schedule—

licence, ***licensed premises*** and ***licensee*** have the same meanings as in the principal Act;

new Part 3 Division 2 means Part 3 Division 2 of the principal Act (as substituted by this Act);

old Part 3 Division 2 means Part 3 Division 2 of the principal Act as in force immediately before the relevant day;

principal Act means the *Liquor Licensing Act 1997*;

relevant day means the day on which new Part 3 Division 2 comes into operation.

Part 2—General

2—Amendments apply to existing licences and approvals

Subject to this Schedule, an amendment to the principal Act effected by a provision of this Act applies in respect of a licence or approval granted under that Act, and in respect of the holder of a licence or approval under that Act, whether the licence or approval was granted before or after the commencement of that provision.

Part 3—Transitional provisions

3—Licences to continue

(1) A licence under old Part 3 Division 2 of a class listed in a row in column 1 of the table will, on the relevant day, be taken to be a licence under new Part 3 Division 2 of a class listed in the same row in column 2 of the table.

Old Part 3 Division 2 licence	**New Part 3 Division 2 licence**
Hotel licence	General and hotel licence
Residential licence	Residential licence
Restaurant licence	Restaurant and catering licence
Entertainment venue licence	On premises licence
Club licence Limited club licence	Club licence
Retail liquor merchant's licence Direct sales licence	Packaged liquor sales licence
Wholesale liquor merchant's licence Producer's licence	Liquor production and sales licence

Old Part 3 Division 2 licence	New Part 3 Division 2 licence
Small venue licence	Small venue licence

(2) A special circumstances licence under old Part 3 Division 2 will, on the relevant day, be taken to be—

(a) in a case where the licensee also holds a gaming machine licence in respect of the premises to which the special circumstances licence relates—a general and hotel licence under new Part 3 Division 2; or

(b) in the case of a special circumstances licence that authorises the sale of liquor on the licensed premises for consumption off the licensed premises—a packaged liquor sales licence under new Part 3 Division 2; or

(c) in any other case—an on premises licence under new Part 3 Division 2.

(3) Despite subclause (2), the Commissioner may, on the Commissioner's own initiative or on application by the licensee, issue the holder of a special circumstances licence under old Part 3 Division 2 a licence of a class under new Part 3 Division 2 that the Commissioner considers appropriate taking into account the trade authorised under the licence.

4—Trading hours

(1) Except as notified by the Commissioner under subclause (2), the trading hours authorised under the conditions of a licence under old Part 3 Division 2 (taking into account the operation of section 42A of the principal Act (as inserted by section 24 of this Act) and any regulations made under section 137C of the principal Act) will remain in force as the trading hours authorised under the conditions of a licence under new Part 3 Division 2 (and will have effect despite any provision of the principal Act until varied under this clause).

(2) The Commissioner—

(a) may, by notice in writing to a licensee given within 2 years after the relevant day, vary the trading hours authorised under the conditions of the licence so that a prescribed restriction does not apply to those trading hours; and

(b) may, on application by a licensee made at any time within the period of 2 years after the relevant day, by notice in writing to the licensee, vary the trading hours authorised under the conditions of the licence so as to reduce those trading hours in accordance with the application.

(3) In this clause—

prescribed restriction means a restriction on the trading hours in respect of a class of licence fixed by a provision of old Part 3 Division 2 that, as a consequence of the enactment of this Act, is no longer fixed by a provision of new Part 3 Division 2 in respect of the corresponding class of licence.

5—Other conditions

(1) Except as notified by the Commissioner under subclause (2), a condition of a licence under old Part 3 Division 2 (taking into account the operation of clause 11 and any regulations made under section 137C of the principal Act) will remain in force as a condition of a licence under new Part 3 Division 2 (whether or not that condition could be a lawful condition of a licence under new Part 3 Division 2).

(2) The Commissioner may, by notice in writing to a licensee given within 2 years after the relevant day—

(a) add a condition to the licence; or

(b) substitute, vary or revoke a condition of the licence referred to in subclause (1),

if, in the opinion of the Commissioner, it is necessary or desirable to do so—

(c) as a consequence of the enactment of this Act; or

(d) because a matter the subject of a condition is, or should be, dealt with or addressed under the *Development Act 1993* or *Planning, Development and Infrastructure Act 2016*; or

(e) for such other reason as the Commissioner thinks fit.

(3) For the avoidance of doubt, a reference in this clause to a condition of a licence includes a reference to—

(a) a term of a licence, or an authorisation or any other right or limitation set out in a licence; and

(b) any such condition whether imposed under a provision of old Part 3 Division 2 or any other provision of the principal Act.

6—Exemptions

An exemption granted by the licensing authority for the purposes of old Part 3 Division 2 will remain in force as if it were an exemption granted by the licensing authority for the purposes of new Part 3 Division 2.

7—Review of notices

(1) A licensee to whom a notice has been given by the Commissioner under clause 5 may, within 1 month after the licensee receives the notice, apply to the Licensing Court for a review of the notice.

(2) On a review, the Licensing Court may—

(a) affirm or vary the notice; or

(b) set aside the notice and send the matter back to the Commissioner for reconsideration in accordance with any directions or recommendations that the Court considers appropriate,

and, in any case, may make any ancillary or consequential order that the Court considers appropriate.

8—Licence applications

(1) An application for a licence made to the licensing authority under the principal Act and any proceedings related to such an application that have not been finally determined before the relevant day may be continued and completed under the principal Act as if the amendments to that Act effected by this Act had not come into operation.

(2) However, if the licensing authority determines to grant a licence under an application to which subclause (1) applies, the licensing authority must not grant a licence of a class under old Part 3 Division 2 but must instead grant a licence under new Part 3 Division 2 of the appropriate class.

9—Limited licences continue

A limited licence in force immediately before the relevant day will remain in force (subject to the terms and conditions to which it is subject on the relevant day) until its expiry as if the amendments to the principal Act effected by this Act had not come into operation.

10—Crown not liable to pay compensation

Despite any other Act or law, no compensation is payable by the Crown in respect of the operation of this Part.

Part 4—Other matters

11—Entertainment consents and conditions

(1) A consent in force immediately before the commencement of this clause is, by force of this clause, revoked.

(2) An entertainment condition will be taken to be of no effect from the commencement of this clause.

(3) Nothing in this clause affects—

(a) a condition added to a licence, or varied, by an order made under section 106 of the principal Act after the commencement of this clause; or

(b) the operation of any other Act or law.

(4) In this clause—

consent means a consent under section 105(1) of the principal Act (as in force immediately before the commencement of this clause);

entertainment and ***prescribed entertainment*** have the same meaning as in the principal Act;

entertainment condition means a condition of a licence or a consent that has the effect of limiting the entertainment that may be provided on licensed premises, or any area adjacent to licensed premises, or the methods by which such entertainment may be provided or promoted, but does not include—

(a) a condition relating to the provision of prescribed entertainment; or

(b) a condition declared by the Commissioner not be an entertainment condition.

12—Disciplinary action

An amendment to the principal Act effected by a provision of this Act that provides for the suspension of a licence if the licensee is convicted of or found guilty of an offence applies only if the offence is committed, or alleged to have been committed, after the commencement of that provision.

13—Procedures

To avoid doubt, the following provisions of the principal Act do not apply in respect of the operation of this Schedule:

(a) section 3;

(b) section 22;

(c) section 43;

(d) Part 4.

Statutes Amendment (Attorney-General's Portfolio) Act 2018, Pt 3

8—Transitional provision

Nothing in section 6 is to be taken to affect the operation of Schedule 2 of the *Liquor Licensing (Liquor Review) Amendment Act 2017*.

Liquor Licensing (Miscellaneous) Amendment Act 2019, Sch 1—Transitional provision

1—Annual fees

Section 50A(5b) of the *Liquor Licensing Act 1997* as in force after the commencement of this clause applies only in relation to a licensee to whom a notice has been given under section 50A(4) after that commencement.

Liquor Licensing (Liquor Production and Sales Licence) Amendment Act 2020, Sch 1

1—Transitional provision

An amendment to the *Liquor Licensing Act 1997* effected by a provision of this Act applies in respect of a licence granted under that Act (including a licence to which Schedule 2 clause 8(2) of the *Liquor Licensing (Liquor Review) Amendment Act 2017* applies) whether the licence was granted before or after the commencement of that provision.

Historical versions

Reprint No 1—19.3.1998

Reprint No 2—8.10.1998

Reprint No 3—6.7.2000

Reprint No 4—1.9.2000

Reprint No 5—1.10.2001

Reprint No 6—8.8.2002

Reprint No 7—1.8.2003

25.3.2004

17.11.2005

8.12.2005

4.9.2006

1.2.2007

1.6.2007
13.12.2007
1.3.2009
1.2.2010
3.5.2010
4.12.2010
26.11.2011
30.1.2012
5.3.2012
3.5.2012
12.7.2012
26.4.2013
17.6.2013
1.11.2013
14.11.2013
5.12.2013
16.1.2014
5.1.2015
6.8.2015
17.12.2015 (electronic only)
20.12.2015
18.12.2017
24.9.2018
22.11.2018
1.12.2018
1.1.2019
9.5.2019
19.9.2019
18.11.2019
25.6.2020
31.7.2020
3.12.2020
13.12.2020
1.1.2021
19.3.2021