

TASMANIA

**LIQUOR LICENSING AMENDMENT (LIQUOR
AND GAMING ADMINISTRATIVE
RESTRUCTURING) BILL 2015**

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**LIQUOR LICENSING AMENDMENT (LIQUOR
AND GAMING ADMINISTRATIVE
RESTRUCTURING) BILL 2015**

*(Brought in by the Treasurer, the Honourable Peter Carl
Gutwein)*

A BILL FOR

**An Act to amend the *Liquor Licensing Act 1990* and the
*Gaming Control Act 1993***

Be it enacted by Her Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Liquor Licensing
Amendment (Liquor and Gaming Administrative
Restructuring) Act 2015*.

2. Commencement

This Act commences on a day to be proclaimed.

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Administrative Restructuring) Act 2015*
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Part 2 – Liquor Licensing Act 1990 Amended

PART 2 – LIQUOR LICENSING ACT 1990 AMENDED

3. Principal Act

In this Part, the *Liquor Licensing Act 1990** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definition of *Board*;
- (b) by inserting the following definition after the definition of *club licence*:

Commission has the same meaning as in the *Gaming Control Act 1993*;

- (c) by inserting “appointed under section 207” after “Licensing” in the definition of *Commissioner*;
- (d) by inserting the following definition after the definition of *general liquor exemption*:

hearing means a hearing under Division 2 of Part 5;

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Restructuring) Act 2015*
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Part 2 – Liquor Licensing Act 1990 Amended

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- (e) by omitting “Board” from the definition of *liquor restriction order* and substituting “Commissioner”.

5. Section 16 amended (General liquor exemptions)

Section 16(1) of the Principal Act is amended by omitting “Board” twice occurring and substituting “Commissioner”.

6. Section 23A amended (Representations relating to liquor licences)

Section 23A of the Principal Act is amended by omitting subsection (3).

7. Section 24 amended (Consideration of application for liquor licence)

Section 24 of the Principal Act is amended as follows:

- (a) by omitting subsection (2) and substituting the following subsections:

(2) If the Commissioner is satisfied that an applicant for a liquor licence is qualified under section 22 to hold the licence, the Commissioner –

- (a) is to consider the application; or

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(b) if of the opinion it is in the best interests of the community to refer the application to the Commission, is to, within 30 days after public notice of the application is given under section 23(3), refer the application and any representations made under section 23A to the Commission for a hearing.

(2A) As soon as practicable after referring an application to the Commission under subsection (2)(b), the Commissioner is to provide the applicant with written notice of that referral.

(b) by omitting from subsection (4)(b) “Board” and substituting “Commission”.

8. Section 24A amended (Requirements for licence)

Section 24A of the Principal Act is amended as follows:

(a) by omitting from subsection (1) “Board” twice occurring and substituting “Commission”;

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- (b) by omitting from subsection (2) “Board” and substituting “Commissioner or the Commission”;
- (c) by omitting from subsection (3) “Board” and substituting “Commissioner or the Commission”.

9. Section 25 substituted

Section 25 of the Principal Act is repealed and the following section is substituted:

25. Grant of licence

- (1) If the Commissioner decides to grant a liquor licence, or the Commission directs the Commissioner to grant a liquor licence under section 214(1)(a)(i), the Commissioner must –
 - (a) inform the applicant accordingly;
and
 - (b) request the applicant to pay –
 - (i) any prescribed fee payable on the grant of a liquor licence; and
 - (ii) the annual liquor licence fee payable under section 26A.

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- (2) The Commissioner must not grant a liquor licence until the fees specified in subsection (1)(b) have been paid.

10. Section 25A amended (Restriction on grant of licence in connection with supermarket)

Section 25A of the Principal Act is amended as follows:

- (a) by omitting “The Board must not direct the grant of a” and substituting “A”;
- (b) by inserting “must not be granted” after “licence”.

11. Section 29 amended (Decision of Commissioner on consideration of application to transfer a liquor licence)

Section 29(2) of the Principal Act is amended by omitting “Board” and substituting “Commission”.

12. Section 33 amended (Consideration of application for liquor permit)

Section 33(2) of the Principal Act is amended by omitting “Board” and substituting “Commission”.

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13. Section 39 amended (Liquor restriction orders)

Section 39 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Board” first occurring and substituting “Commissioner”;
- (b) by omitting from subsection (1) “Board is satisfied after a hearing” and substituting “Commissioner is satisfied”;
- (c) by omitting from subsection (4) “Board” and substituting “Commissioner”;
- (d) by omitting subsection (5) and substituting the following subsections:
 - (5) An order under subsection (1) may be made as a result of –
 - (a) an investigation carried out following complaints made to the Commissioner; or
 - (b) a report received from an authorized officer.
 - (6) An order under subsection (1) is to inform the licensee of the licensee’s right to appeal to the Commission against the making of the order.

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Administrative Restructuring) Act 2015*
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14. Section 40 amended (Cancellation or variation of out-of-hours permit)

Section 40(3) of the Principal Act is amended by omitting “Board” and substituting “Commission”.

15. Section 41 amended (Powers of Commissioner to suspend licence)

Section 41 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “Board” and substituting “Commission”;
- (b) by omitting from subsection (6) “Board” and substituting “Commission”;
- (c) by omitting from subsection (7) “Board” and substituting “Commission”.

16. Section 42 amended (Cancellation and suspension of licence)

Section 42 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “may apply to the Board for a hearing to cancel or suspend a liquor licence” and substituting “may, by written notice served on the licensee, cancel a liquor licence, or suspend a liquor licence for

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such period as the Commissioner considers appropriate,”;

- (b) by inserting the following subsections after subsection (2):
- (3) If the Commissioner gives notice under this section cancelling or suspending a liquor licence, the Commissioner is to, at the same time, inform the licensee of the licensee’s right to appeal to the Commission against the cancellation or suspension of the licence.
 - (4) The cancellation or suspension of a liquor licence under this section takes effect when notice of the cancellation or suspension is served on the licensee, or on such later date as is specified in the notice.
 - (5) The Commissioner may revoke a suspension under this section at any time by notice served on the licensee.
 - (6) If an appeal under this section against the cancellation or suspension of a liquor licence is received by the Commission it is to, within 7 working days of receiving notice of the appeal

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Part 2 – Liquor Licensing Act 1990 Amended

under section 212(1), sit to hear
the appeal.

17. Section 44 amended (Variation of special licences by application)

Section 44(5) of the Principal Act is amended by
omitting “Board” and substituting
“Commission”.

18. Section 45 amended (Variation of special licences by Commissioner)

Section 45 of the Principal Act is amended as
follows:

- (a) by omitting from subsection (2)(a) “and obtaining the written consent of the Board”;
- (b) by omitting from subsection (3) “Board” and substituting “Commission”.

19. Section 56 amended (Liquor restriction order to be displayed on licensed premises)

Section 56 of the Principal Act is amended by
omitting “Board” and substituting
“Commissioner”.

20. Section 206 repealed

Section 206 of the Principal Act is repealed.

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Part 2 – Liquor Licensing Act 1990 Amended

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21. Section 211 amended (Right to appeal to Commission)

Section 211 of the Principal Act is amended as follows:

- (a) by omitting “Board” and substituting “Commission”;
- (b) by inserting in paragraph (a) “licence or” after “grant a”;
- (c) by omitting from paragraph (g) “licence.” and substituting “licence;”;
- (d) by inserting the following paragraph after paragraph (g):
 - (h) the making of a liquor restriction order.

22. Section 212 amended (Procedure on appeal)

Section 212 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Board” and substituting “Commission”;
- (b) by omitting from subsection (2) “Board” and substituting “Commission”.

23. Section 213 amended (Hearings by Commission)

Section 213 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (1) “Board” and substituting “Commission”;
- (b) by inserting in subsection (1)(a) “referred to the Commission under section 24(2)(b)” after “application”;
- (c) by inserting in subsection (1)(a) “an” after “or”;
- (d) by omitting from subsection (2) “Board” and substituting “Commission”;
- (e) by omitting from subsection (4) “Board’s” and substituting “Commission’s”;
- (f) by inserting the following subsection after subsection (4):
 - (4A) A hearing may, at the Commission’s discretion, be determined solely on the basis of written evidence.
- (g) by omitting from subsection (5) “Board” and substituting “Commission”;
- (h) by omitting from subsection (6) “Board” and substituting “Commission”.

24. Section 214 amended (Decision of Commission after hearing)

Section 214 of the Principal Act is amended as follows:

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- (a) by omitting from subsection (1) “Board” first occurring and substituting “Commission”;
- (b) by omitting from subsection (1)(a) “an application for a liquor licence –” and substituting “an application referred to the Commission under section 24(2)(b),”;
- (c) by omitting paragraph (b) from subsection (1);
- (d) by omitting from subsection (1)(c) “any other” and substituting “a”;
- (e) by omitting from subsection (1)(c)(iii) “Board” and substituting “Commission”;
- (f) by omitting from subsection (2) “Board” and substituting “Commission”.

25. Section 215 amended (Powers of Supreme Court)

Section 215 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Board” first occurring and substituting “Commission”;
- (b) by omitting from subsection (1)(b) “Board” and substituting “Commission”;
- (c) by omitting from subsection (2)(b) “Board” and substituting “Commission”;

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Part 2 – Liquor Licensing Act 1990 Amended

- (d) by omitting from subsection (3) “Board” and substituting “Commission”;
- (e) by omitting from subsection (5) “Board” and substituting “Commission”;
- (f) by omitting from subsection (6) “Board” and substituting “Commission”.

26. Section 217 amended (Witnesses to appear at hearing, &c.)

Section 217 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Board” and substituting “Commission”;
- (b) by omitting from subsection (2) “Board” and substituting “Commission”.

27. Section 221 amended (Indemnity)

Section 221(a) of the Principal Act is amended by omitting “Board” and substituting “Commission”.

28. Section 226 amended (Regulations)

Section 226(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “Board” and substituting “Commission”;

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- (b) by omitting from paragraph (c) “Board” and substituting “Commission”.

29. Schedule 1 substituted

Schedule 1 to the Principal Act is repealed and the following Schedule is substituted:

SCHEDULE 1 – SAVINGS AND TRANSITIONAL PROVISIONS

Section 224

1. Interpretation

In this Schedule –

amending Act means the *Liquor Licensing Amendment (Liquor and Gaming Administrative Restructuring) Act 2015*;

Board means the Board within the meaning of the former Act;

commencement day means the day on which the amending Act commences;

former Act means this Act as in force immediately before the commencement day.

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Part 2 – Liquor Licensing Act 1990 Amended

2. Abolition of Board

- (1) The Board is abolished on the commencement day.
- (2) The appointment of each member of the Board is revoked.
- (3) A member of the Board is not entitled to receive any benefit in respect of the revocation of his or her appointment as such a member.

3. General liquor exemptions

A general liquor exemption, granted by the Board under the former Act, that is in force immediately before the commencement day, is taken, on and after that day, to be a general liquor exemption granted by the Commissioner under this Act.

4. Liquor restriction orders

A liquor restriction order, made by the Board under the former Act, that is in force immediately before the commencement day, is taken, on and after that day, to be a liquor restriction order made by the Commissioner under this Act.

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Part 2 – Liquor Licensing Act 1990 Amended

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5. Pending applications for liquor licence

- (1) An application for a liquor licence under section 23 of the former Act that has not been determined before the commencement day is taken to have been made under this Act and is to be dealt with by the Commissioner in accordance with this Act.
- (2) If, before the commencement day, an application for a liquor licence has been referred to the Board for a hearing under section 24(2) of the former Act and that hearing has, immediately before the commencement day, commenced but has not been completed, that hearing is to be terminated and the application is to be dealt with by the Commissioner in accordance with this Act.

6. Certain hearings of the Board

If, before the commencement day, an application for a hearing has been made under section 39(5) or 42(1) of the former Act and that hearing has, immediately before the commencement day, commenced but has not been concluded, the hearing is to be discontinued and the matter is to be dealt with by the Commissioner in accordance with this Act.

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Part 2 – Liquor Licensing Act 1990 Amended

**7. Appeals against decisions of the
Commissioner to Board**

If an appeal has been made to the Board under section 211 of the former Act before the commencement day and that appeal has not been determined by the Board before that day, the appeal is to be dealt with by the Commission in accordance with Division 2 of Part 5 of this Act as if that appeal had been lodged with the Commission.

8. Supreme Court hearings

If, before the commencement day, the Board has stated a case for the opinion of the Supreme Court under section 215 and the Supreme Court has not, before that day, determined the case, the Supreme Court is to, on or after the commencement day –

- (a) hear and determine the question of law before it as if the case stated by the Board were a case stated by the Commission; and
- (b) remit its decision to the Commission.

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Restructuring) Act 2015*
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9. Continuation of proceedings

Any legal or other proceedings that might, before the commencement day, have been continued or instituted by or against the Board may, on and after that day, be continued or instituted by or against the Commission.

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Administrative Restructuring) Act 2015*
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Part 3 – Gaming Control Act 1993 Amended

PART 3 – GAMING CONTROL ACT 1993 AMENDED

30. Principal Act

In this Part, the *Gaming Control Act 1993** is referred to as the Principal Act.

31. Section 3 amended (Interpretation)

The definition of *Commission* in section 3(1) of the Principal Act is amended as follows:

- (a) by inserting “Liquor and” after “Tasmanian”;
- (b) by omitting “established under” and substituting “referred to in”.

32. Part 7: Heading amended

Part 7 of the Principal Act is amended by inserting in the heading to that Part “**LIQUOR AND**” after “**TASMANIAN**”.

33. Section 123 amended (Tasmanian Liquor and Gaming Commission)

Section 123 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

*No. 94 of 1993

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Part 3 – Gaming Control Act 1993 Amended

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- (1) The Tasmanian Gaming Commission established under this section as in force immediately before the commencement of the *Liquor Licensing Amendment (Liquor and Gaming Administrative Restructuring) Act 2015* is continued after that commencement as the Tasmanian Liquor and Gaming Commission.

34. Section 125 amended (Functions of Commission)

Section 125 of the Principal Act is amended by inserting after paragraph (ea) the following paragraphs:

- (eb) to hear liquor licence applications referred to it by the Commissioner for Licensing under the *Liquor Licensing Act 1990*;
- (ec) to hear appeals against decisions of the Commissioner for Licensing under the *Liquor Licensing Act 1990*;

35. Section 127 amended (Power of Minister to give directions to Commission)

Section 127(1) of the Principal Act is amended by inserting “other than the *Liquor Licensing Act 1990*” after “other Act”.

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Administrative Restructuring) Act 2015*
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s. 36

Part 4 – Repeal of Act

PART 4 – REPEAL OF ACT

36. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.