

TASMANIA

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**LIQUOR AND ACCOMMODATION  
AMENDMENT BILL 2003**

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# **LIQUOR AND ACCOMMODATION AMENDMENT BILL 2003**

*(Brought in by the Minister for Economic Development,  
Energy and Resources, the Honourable Paul Anthony  
Lennon)*

## **A BILL FOR**

**An Act to amend the *Liquor and Accommodation Act 1990* and the *Liquor and Accommodation Amendment Act 2002***

Be it enacted by His 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:

### **Short title**

**1.** This Act may be cited as the *Liquor and Accommodation Amendment Act 2003*.

### **Commencement**

**2.** The provisions of this Act commence on a day or days to be proclaimed.

**Principal Act**

3. In this Act, the *Liquor and Accommodation Act 1990*\* is referred to as the Principal Act.

**Section 3 amended (Interpretation)**

4. Section 3 of the Principal Act is amended by inserting after the definition of “appellation wine” the following definition:

“**associate**” has a meaning given by section 3A;

**Section 3A inserted**

5. After section 3 of the Principal Act, the following section is inserted in Part 1:

**Meaning of “associate”**

**3A. (1)** For the purposes of this Act, a person is taken to be an associate of an applicant for a liquor licence or of a licensee if the person –

- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in right of the person or on behalf of any other person) in the business of the applicant or licensee and, by virtue of that interest or power, is able or will be able to exercise a significant influence over or with respect to the management or operation of that business; or

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\*No. 44 of 1990

- (b) holds or will hold any relevant position, whether in right of the person or on behalf of any other person, in the business of the applicant or licensee; or
- (c) is a relative of the applicant or licensee.

**(2)** In this section –

**“relative”** means a spouse (including a de facto spouse), parent, child or sibling (whether full blood or half-blood);

**“relevant financial interest”**, in relation to a business, means –

- (a) any share in the capital of the business; or
- (b) any entitlement to receive any income derived from the business;

**“relevant position”**, in relation to a business, means –

- (a) the position of director, manager or other executive position or secretary, however that position is designated in that business; or
- (b) if that business is conducted in premises in respect of which a liquor licence is in force, the licensee;

**“relevant power”** means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others –

- (a) to participate in a directorial, managerial or executive decision; or
- (b) to elect or appoint any person to any relevant position.

**Section 9 substituted**

**6.** Section 9 of the Principal Act is repealed and the following section is substituted:

**Off-licence**

**9.** An off-licence authorizes the sale of liquor between 5 a.m. and midnight, on any day on the premises specified in the licence, for consumption off those premises.

**Section 22 amended (Qualifications for liquor licence)**

**7.** Section 22 of the Principal Act is amended as follows:

- (a) by omitting paragraph (b) from subsection (1) and substituting the following paragraphs:
  - (b) who has satisfied the Commissioner that the person and each associate of the person is of good repute, having regard to character, honesty and integrity; and
  - (c) who has satisfied the Commissioner that the person will be able to exercise effective control over the service, and any

consumption, of liquor on the premises in respect of which the licence is sought; and

- (d) who has successfully completed a course or traineeship approved by the Commissioner relating to the service of liquor or has satisfied the Commissioner that the person has the necessary knowledge, experience and competency.

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

**(2)** For the purposes of this section, the Commissioner may take into account, having regard to the type of liquor licence applied for and the premises in respect of which it is sought, the knowledge, experience and competency of the applicant in respect of the service of liquor and the conduct and management of licensed premises.

**(3)** If it appears to the Commissioner that it is not practicable to require an applicant for a licence to have successfully completed a course or traineeship approved by the Commissioner relating to the service of liquor at the time when the licence is granted, the Commissioner may make the grant of the licence subject to a condition that the holder is to successfully complete the course or traineeship within such period as the Commissioner may direct.

**(4)** The Commissioner may, if satisfied that it is not contrary to the public interest to do so, exempt an applicant for a special licence from the requirement in subsection (1)(d).

**Section 24A inserted**

**8.** After section 24 of the Principal Act, the following section is inserted in Division 2:

**Requirements for licence**

**24A. (1)** In considering an application for a licence, the Commissioner or the Board must make a decision which, in the opinion of the Commissioner or the Board, is in the best interests of the community.

**(2)** In considering an application for an off-licence, the Board must be satisfied that the principal activity to be carried on at the premises will be the sale of liquor.

**(3)** In considering an application for an on-licence for a restaurant, the Board must be satisfied that the premises are, or are intended to be, used as a restaurant.

**Section 34 substituted**

**9.** Section 34 of the Principal Act is repealed and the following section is substituted:

**Requirements for permits**

**34. (1)** In considering an application for a permit, the Commissioner must make a decision which, in his or her opinion, is in the best interests of the community.

**(2)** The Commissioner must not grant an out-of-hours permit in respect of licensed premises unless the licensee satisfies the Commissioner that



the sale of liquor on those premises in accordance with the permit sought would not –

- (a) cause undue annoyance or disturbance to –
  - (i) people living or working in the neighbourhood of the premises; or
  - (ii) customers or clients of any business in the neighbourhood of the premises; or
  - (iii) people conducting or attending religious services in the neighbourhood of the premises; or
- (b) cause the occurrence of disorderly conduct –
  - (i) in the premises; or
  - (ii) in the neighbourhood of the premises.

**Section 41 amended (Powers of Commissioner to suspend licence)**

**10.** Section 41 of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (2):

**(2A)** If the Commissioner is satisfied that a licensee or an associate of a licensee is not, or is no longer, a person of good repute, having regard to character, honesty and integrity, the Commissioner may, by written notice served on the licensee, suspend the licence for such period, not exceeding 3

months, as the Commissioner considers appropriate.

- (b) by omitting from subsection (3) “subsection (2)” and substituting “subsection (2) or (2A)”;
- (c) by omitting from subsection (5) “subsection (2)” and substituting “subsection (2) or (2A)”.

**Section 42 amended (Cancellation and suspension of licence)**

**11.** Section 42(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (e) “personal” and substituting “effective”;
- (b) by omitting paragraph (k) and substituting the following paragraphs:
  - (k) the area of the licensed premises has been altered without the Commissioner’s approval; or
  - (l) the licensee or an associate of the licensee is not, or is no longer, a person of good repute, having regard to character, honesty and integrity.

**Section 46 amended (Licensee to retain control on sale and consumption of liquor)**

**12.** Section 46 of the Principal Act is amended by omitting “personal” and substituting “effective”.

**Section 46A inserted**

**13.** After section 46 of the Principal Act, the following section is inserted in Division 5:

**Licensee to ensure responsible service of liquor**

**46A. (1)** Subject to this section, a licensee who first employs a person for the service of liquor after the commencement of this section must not permit that person to serve liquor on the licensed premises at any time after 3 months after the commencement of employment unless that person has successfully completed a course or traineeship approved by the Commissioner relating to the service of liquor.

**(2)** In the case of a person who, on the commencement of this section, was employed for the service of liquor, the licensee must not permit that person to serve liquor on the licensed premises at any time after 2 years after that commencement unless that person has successfully completed a course or traineeship approved by the Commissioner relating to the service of liquor.

**(3)** The Commissioner may, if satisfied that it is not contrary to the public interest to do so, exempt the holder of a special licence from the requirements of this section.

**Section 47 substituted**

**14.** Section 47 of the Principal Act is repealed and the following section is substituted:

**Licensee not to alter premises without approval**

**47. (1)** A licensee must not alter the area of the licensed premises without the Commissioner's approval.

**(2)** The Commissioner is not to approve an alteration to the area of licensed premises unless he or she is satisfied that it is in the best interests of the community to do so.

**Sections 48, 49 and 50 repealed**

**15.** Sections 48, 49 and 50 of the Principal Act are repealed.

**Section 65 amended (Licensee to restrict people on certain licensed premises outside authorized hours)**

**16.** Section 65 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) "permit; and" and substituting "permit.";
- (b) by omitting paragraphs (c) and (d) from subsection (1);
- (c) by omitting from subsection (2)(e) "employment; or" and substituting "employment.";
- (d) by omitting paragraph (f) from subsection (2).

**Section 132 amended (Cancellation of accommodation licence)**

**17.** Section 132(1) of the Principal Act is amended as follows:

- (a) by omitting paragraph (h) and substituting the following paragraph:
  - (h) the area of the premises specified in the accommodation licence has been altered without the Commissioner's approval; or
- (b) by omitting from paragraph (i) "personal" and substituting "effective".

**Section 136 amended (Licensee to retain control over provision of tourist accommodation)**

**18.** Section 136 of the Principal Act is amended by omitting "personal" and substituting "effective".

**Section 137 amended (Licensee not to alter premises without approval)**

**19.** Section 137 of the Principal Act is amended by inserting "the area of the" after "alter".

**Section 206 amended (Licensing Board)**

**20.** Section 206 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(a) "presiding member" and substituting "chairperson";

- (b) by omitting from subsection (7) “presiding member” twice occurring and substituting “chairperson”.

**Section 213 amended (Hearings by Board)**

**21.** Section 213 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “person presiding” and substituting “chairperson”;
- (b) by omitting from subsection (5) “presiding member” and substituting “chairperson”.

**Section 216 repealed**

**22.** Section 216 of the Principal Act is repealed.

**Section 223 repealed**

**23.** Section 223 of the Principal Act is repealed.

**Omissions**

**24.** Each of the provisions of the Principal Act specified in Column 1 of Schedule 1 is amended by omitting “personal and” on the number of occurrences specified in Column 2 of that Schedule.

**Substitutions**

**25.** Each of the provisions of the Principal Act specified in Column 1 of Schedule 2 is amended by omitting “21” on

the number of occurrences specified in Column 2 of that Schedule and substituting “18”.

***Liquor and Accommodation Amendment Act 2002*  
amended**

**26. (1)** The *Liquor and Accommodation Amendment Act 2002* is amended by repealing section 2 and substituting the following section:

**Commencement**

**2.** The provisions of this Act commence immediately after the commencement of section 26 of the *Liquor and Accommodation Amendment Act 2003*.

**(2)** The *Liquor and Accommodation Amendment Act 2002* is further amended as follows:

- (a) by repealing section 6;
- (b) by inserting “(1)” in section 8 before the words “Section 17”;
- (c) by inserting at the end of section 8 the following subsection:

**(2)** Any guidelines published by the Licensing Board under section 17 of the Principal Act before the commencement of this section cease to have effect on and from that commencement.

- (d) by repealing section 9;
- (e) by omitting paragraph (a) from section 10;
- (f) by repealing section 13;

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- (g) by omitting “(vi)” from section 14(b) and substituting “(iv)”;
- (h) by repealing sections 21, 24, 26, 27 and 29.



**SCHEDULE 1 – OMISSIONS**

Section 24

<b>Column 1</b>	<b>Column 2</b>
<b>Provision amended</b>	<b>Number of occurrences</b>
Section 30A(1)(a)	1
Section 30A(6)(b)	1
Section 31(1)(b)	1
Section 114(b)(ii)	1
Section 124(b)	1

**SCHEDULE 2 – SUBSTITUTIONS**

Section 25

<b>Column 1</b>	<b>Column 2</b>
<b>Provision amended</b>	<b>Number of occurrences</b>
Section 22(1)(a)	1
Section 30A(6)(a)	1
Section 31(1)(a)	1
Section 66(1)(b)	1
Section 75(2)(b)	1
Section 77(2)(b)	1