

TASMANIA

**LIQUOR AND ACCOMMODATION
AMENDMENT BILL 2004**

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LIQUOR AND ACCOMMODATION AMENDMENT BILL 2004

*(Brought in by the Minister for Finance, the Honourable
James Glennister Cox)*

A BILL FOR

An Act to amend the *Liquor and Accommodation Act 1990* and to make consequential amendments to other Acts

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:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the *Liquor and Accommodation Amendment Act 2004*.

Commencement

2. This Act commences on 1 January 2005.

**PART 2 – LIQUOR AND ACCOMMODATION ACT
1990 AMENDED**

Principal Act

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

Long title amended

4. The long title of the Principal Act is amended by omitting “**and to provide for the licensing of certain accommodation**”.

Section 1 amended (Short title)

5. Section 1 of the Principal Act is amended by omitting “*and Accommodation*” and substituting “*Licensing*”.

Section 3 amended (Interpretation)

6. Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definitions of “abstract”, “accommodation licence”, “accommodation permit”, “accommodation scheme”, “accommodation standards” and “approved accommodation scheme”;
- (b) by omitting the definition of “licence”;
- (c) by omitting “licence” from the definition of “licensee” and substituting “liquor licence”;

*No. 44 of 1990

- (d) by omitting the definition of “liquor licence” and substituting the following definition:

“liquor licence” means a valid licence granted under this Act that authorizes the sale of liquor;

- (e) by omitting the definition of “tourist accommodation”.

Section 22 amended (Qualifications for liquor licence)

7. Section 22(3) of the Principal Act is amended by omitting “licence” first occurring and substituting “liquor licence”.

Section 23 amended (Application for liquor licence)

8. Section 23(4)(c) of the Principal Act is amended by omitting “licence” and substituting “liquor licence”.

Section 24 amended (Consideration of application for liquor licence)

9. Section 24(4) of the Principal Act is amended by omitting “licence” and substituting “liquor licence”.

Section 24A amended (Requirements for licence)

10. Section 24A(1) of the Principal Act is amended by omitting “licence” and substituting “liquor licence”.

Section 30A amended (Interim authority to act as licensee)

11. Section 30A(1)(a) of the Principal Act is amended by omitting “licence” and substituting “liquor licence”.

Section 35 amended (Duration of liquor permit)

12. Section 35(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “licence” and substituting “liquor licence”;
- (b) by omitting from paragraph (b) “licence” and substituting “liquor licence”.

Section 39 amended (Liquor restriction orders)

13. Section 39 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “licence” first occurring and substituting “liquor licence”;
- (b) by omitting from subsection (3) “licence” first occurring and substituting “liquor licence”.

Section 41 amended (Powers of Commissioner to suspend licence)

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

- (a) by omitting from subsection (2) “licence” first occurring and substituting “liquor licence”;
- (b) by omitting from subsection (2A) “licence” and substituting “liquor licence”;

- (c) by omitting from subsection (7) “licence” and substituting “liquor licence”.

Section 42 amended (Cancellation and suspension of licence)

15. Section 42(1) of the Principal Act is amended by omitting “licence” first occurring and substituting “liquor licence”.

Section 52 amended (Licence to be kept on licensed premises)

16. Section 52 of the Principal Act is amended by omitting “licence” and substituting “liquor licence”.

Section 53 amended (Licence to be produced on demand)

17. Section 53 of the Principal Act is amended by omitting “licence” and substituting “liquor licence”.

Section 59 substituted

18. Section 59 of the Principal Act is repealed and the following section is substituted:

Licensee to indicate availability of tourist accommodation

59. (1) In this section –

“**tourist accommodation**” means overnight lodging facilities that are provided for tourists or travellers for a consideration.

(2) If tourist accommodation is available at the licensed premises the licensee shall indicate to the public the availability of that accommodation.

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

19. Section 65(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “licence” and substituting “liquor licence”;
- (b) by omitting from paragraph (b) “licence” and substituting “liquor licence”.

Part 3 repealed

20. Part 3 of the Principal Act is repealed.

Section 211 amended (Right to appeal to Board)

21. Section 211 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “licence” and substituting “liquor licence”;
- (b) by omitting from paragraph (e) “licence” and substituting “liquor licence”;
- (c) by omitting from paragraph (g) “licence;” and substituting “liquor licence.”;
- (d) by omitting paragraph (h).

Section 214 amended (Decision of Board after hearing)

22. Section 214(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “licence” first occurring and substituting “liquor licence”;
- (b) by omitting from paragraph (b) “licence” first occurring and substituting “liquor licence”.

Section 218 amended (Evidentiary provisions)

23. Section 218(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “licence” and substituting “liquor licence”;
- (b) by omitting from paragraph (c) “licence” and substituting “liquor licence”.

Section 219 amended (Service of documents)

24. Section 219 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b)(ii) “licence” and substituting “liquor licence”;
- (b) by omitting from paragraph (c)(ii) “licence” and substituting “liquor licence”.

Section 224A inserted

25. After section 224 of the Principal Act, the following section is inserted in Part 6:

Further transitional provisions

224A. (1) In this section –

“**accommodation licence**” means a licence issued under the Act before the commencement of the *Liquor and Accommodation Amendment Act 2004* that authorized the provision of overnight lodging facilities for tourists or travellers for a consideration.

(2) An accommodation licence, whether or not the licence has been combined under section 220 with another licence, or a permit or approval, ceases to have effect on the commencement of the *Liquor and Accommodation Amendment Act 2004*.

(3) Nothing in subsection (2) affects the validity of a licence, permit or approval that has been combined with an accommodation licence.

(4) In any Act or other document, a reference to the *Liquor and Accommodation Act 1990* is taken to be a reference to the *Liquor Licensing Act 1990*, where appropriate.

(5) In any Act or other document, a reference to a provision of the *Liquor and Accommodation Act 1990* is taken to be a reference to that provision in the *Liquor Licensing Act 1990*, where appropriate.

PART 3 – CIVIL LIABILITY ACT 2002 AMENDED**Principal Act**

26. In this Part, the *Civil Liability Act 2002** is referred to as the Principal Act.

Part 10A inserted

27. After section 49 of the Principal Act, the following Part is inserted:

PART 10A – ACCOMMODATION PROVIDER**Liability of accommodation provider for lost, destroyed or damaged property**

49A. (1) In this section, unless the contrary intention appears –

“accommodation provider” means a person who provides tourist accommodation premises;

“employee” means a person employed at tourist accommodation premises;

“guest” means a person –

- (a) who is temporarily absent from his or her usual residence; and
- (b) who has engaged sleeping accommodation, or on whose behalf sleeping accommodation

*No. 54 of 2002

has been engaged, at tourist accommodation premises;

“premises” includes –

- (a) land, whether or not covered by buildings; and
- (b) any structure, whether or not attached to land; and
- (c) a means of transport; and
- (d) a part of premises;

“tourist accommodation premises” means premises that are set up for the purpose of providing overnight lodging facilities for tourists or travellers for a consideration.

(2) An accommodation provider is not liable to make compensation in relation to the loss, destruction or damage of or to property brought to tourist accommodation premises by or on behalf of a guest except as provided in subsection (3).

(3) An accommodation provider is liable to make compensation in relation to the loss, destruction or damage of or to property brought to tourist accommodation premises by or on behalf of a guest if –

- (a) the loss, destruction or damage is attributable to some negligence or deliberate or reckless act or default of the accommodation provider or an employee of the accommodation provider; or
- (b) the property –

- (i) has been deposited expressly for safe custody with the accommodation provider or an employee of the accommodation provider authorised to accept guest's property for safe custody; and
 - (ii) if the accommodation provider or that employee requires it, has been placed in a container and fastened or sealed by the person depositing the property for safe custody; and
 - (iii) has been lost, destroyed or damaged while so deposited; or
- (c) a notice that relates to the liability of an accommodation provider to pay compensation under this section is not conspicuously displayed in, at or near the reception office, reception desk or principal entrance of the tourist accommodation premises.

**PART 4 – CONVEYANCING AND LAW OF
PROPERTY ACT 1884 AMENDED**

Principal Act

28. In this Part, the *Conveyancing and Law of Property Act 1884** is referred to as the Principal Act.

Section 15 amended (Restrictions on and relief against forfeiture of leases)

29. Section 15(6) of the Principal Act is amended by omitting “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”.

*No. 19 of 1884

**PART 5 – CROWD CONTROLLERS ACT 1999
AMENDED**

Principal Act

30. In this Part, the *Crowd Controllers Act 1999** is referred to as the Principal Act.

Section 3 amended (Interpretation)

31. Section 3(1) of the Principal Act is amended by omitting “*Liquor and Accommodation Act 1990*” from the definition of “licensed premises” and substituting “*Liquor Licensing Act 1990*”.

Section 13 amended (Registers to be kept by employers of crowd controllers)

32. Section 13(7) of the Principal Act is amended by omitting “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”.

*No. 5 of 1999

PART 6 – FIRE SERVICE ACT 1979 AMENDED**Principal Act**

33. In this Part, the *Fire Service Act 1979** is referred to as the Principal Act.

Section 29 amended (Powers and functions of brigade chiefs)

34. Section 29(10)(e) of the Principal Act is amended as follows:

- (a) by omitting from subparagraph (i) “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”;
- (b) by inserting the following subparagraph after subparagraph (i):
 - (ia) premises set up for the purpose of providing overnight lodging facilities for tourists or travellers for a consideration; or

Section 50 amended (Protection of public premises)

35. Section 50 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(c) “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”;

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- (b) by omitting from subsection (2)(a)(iii) “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”.

PART 7 – GAMING CONTROL ACT 1993 AMENDED**Principal Act**

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

Section 3 amended (Interpretation)

37. Section 3(1) of the Principal Act is amended as follows:

- (a) by omitting “*Liquor and Accommodation Act 1990*” from the definition of “licensed premises” and substituting “*Liquor Licensing Act 1990*”;
- (b) by omitting “*Liquor and Accommodation Act 1990*” from the definition of “liquor” and substituting “*Liquor Licensing Act 1990*”;
- (c) by omitting “*Liquor and Accommodation Act 1990*” from the definition of “non-licensed premises” and substituting “*Liquor Licensing Act 1990*”.

Section 4 amended (Meaning of “associate”)

38. Section 4(3) of the Principal Act is amended by omitting “*Liquor and Accommodation Act 1990*” from paragraph (b) of the definition of “relevant position” and substituting “*Liquor Licensing Act 1990*”.

*No. 94 of 1993

Section 19 amended (Licensing under the *Liquor and Accommodation Act 1990*)

39. Section 19 of the Principal Act is amended by omitting “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”.

Section 45 amended (Notification of certain applications concerning liquor licence)

40. Section 45 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”;
- (b) by omitting from subsection (1)(b) “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”;
- (c) by omitting from subsection (2) “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”.

Section 101A amended (Interpretation of Division)

41. Section 101A of the Principal Act is amended by omitting “*Liquor and Accommodation Act 1990*” from paragraph (a) of the definition of “club” and substituting “*Liquor Licensing Act 1990*”.

Section 153AA amended (Gaming machine rental)

42. Section 153AA(1) of the Principal Act is amended by omitting “*Liquor and Accommodation Act 1990*” from

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paragraph (a) of the definition of “club” and substituting
“*Liquor Licensing Act 1990*”.

PART 8 – OMBUDSMAN ACT 1978 AMENDED**Principal Act**

43. In this Part, the *Ombudsman Act 1978** is referred to as the Principal Act.

Schedule 1 amended (Government Departments and Other Authorities to which this Act applies)

44. Clause 34 of Schedule 1 to the Principal Act is amended by omitting “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”.

*No. 82 of 1978

PART 9 – POLICE OFFENCES ACT 1935 AMENDED**Principal Act**

45. In this Part, the *Police Offences Act 1935** is referred to as the Principal Act.

Section 3 amended (Interpretation)

46. Section 3(1) of the Principal Act is amended by omitting

any premises specified in a liquor licence or liquor permit granted under the *Liquor and Accommodation Act 1990*, that are open for the sale of liquor;

in the table in the definition of “public place” and substituting:

any premises specified in a liquor licence or liquor permit granted under the *Liquor Licensing Act 1990*, that are open for the sale of liquor;

Section 25 amended (Consumption of liquor in streets, &c.)

47. Section 25(4) of the Principal Act is amended as follows:

*No. 44 of 1935

2004

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s. 48

- (a) by omitting from paragraph (a) “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”;
- (b) by omitting from paragraph (c) “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”.

Section 67A amended (Evidentiary provision)

48. Section 67A(b) of the Principal Act is amended by omitting “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”.

PART 10 – PUBLIC HEALTH ACT 1997 AMENDED**Principal Act**

49. In this Part, the *Public Health Act 1997** is referred to as the Principal Act.

Section 3 amended (Interpretation)

50. Section 3 of the Principal Act is amended as follows:

- (a) by omitting “*Liquor and Accommodation Act 1990*” from the definition of “bar area” and substituting “*Liquor Licensing Act 1990*”;
- (b) by omitting “*Liquor and Accommodation Act 1990*” from paragraph (a) of the definition of “gaming area” and substituting “*Liquor Licensing Act 1990*”;
- (c) by omitting “*Liquor and Accommodation Act 1990*” from the definition of “licensed premises” and substituting “*Liquor Licensing Act 1990*”.

Section 67F amended (Amenity of smoke-free areas)

51. Section 67F of the Principal Act is amended by omitting “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”.

*No. 86 of 1997

2004

*Liquor and Accommodation
Amendment*

No.

s. 52

Section 84 amended (Overcrowding)

52. Section 84(2) of the Principal Act is amended by omitting "*Liquor and Accommodation Act 1990*" and substituting "*Liquor Licensing Act 1990*".

**PART 11 – RACING REGULATION ACT 1952
AMENDED**

Principal Act

53. In this Part, the *Racing Regulation Act 1952** is referred to as the Principal Act.

Section 57ZP amended (Persons under 18 years in totalizators)

54. Section 57ZP(b)(i) of the Principal Act is amended by omitting “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”.

*No. 98 of 1952

**PART 12 – REFERENDUM PROCEDURES ACT 1994
AMENDED**

Principal Act

55. In this Part, the *Referendum Procedures Act 1994** is referred to as the Principal Act.

**Section 13 amended (Use of certain premises as
polling-booth prohibited)**

56. Section 13 of the Principal Act is amended by omitting “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”.

*No. 34 of 1994

**PART 13 – *SHOP TRADING HOURS ACT 1984*
AMENDED**

Principal Act

57. In this Part, the *Shop Trading Hours Act 1984** is referred to as the Principal Act.

Section 3A amended (Non-application of Act)

58. Section 3A(3)(b) of the Principal Act is amended by omitting “*Liquor and Accommodation Act 1990*” and substituting “*Liquor Licensing Act 1990*”.

*No. 61 of 1984