

TASMANIA

LIQUOR LICENSING AMENDMENT BILL 2015

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LIQUOR LICENSING AMENDMENT BILL 2015

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
27 October 2015

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

A BILL FOR

An Act to amend the *Liquor Licensing Act 1990*

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:

1. Short title

This Act may be cited as the *Liquor Licensing Amendment Act 2015*.

2. Commencement

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

3. Principal Act

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

*No. 44 of 1990

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4. Section 2A inserted

After section 2 of the Principal Act, the following section is inserted in Part 1:

2A. Object of Act

- (1) The object of this Act is to regulate the sale, supply, promotion and consumption of liquor so as to –
 - (a) minimise harm arising from the misuse of liquor by –
 - (i) ensuring that the supply of liquor is carried out in a way that is in the best interests of the community and does not, as far as practicable, detract from public amenity; and
 - (ii) restricting undesirable liquor promotion and advertising and the supply of certain liquor products; and
 - (iii) encouraging a culture of responsible consumption of liquor; and
 - (b) facilitate the responsible development of the liquor and hospitality industries in a way

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that is consistent with the best
interests of the community.

- (2) It is the obligation of any person on whom a function is imposed or a power is conferred under this Act to perform the function or exercise the power in such a manner as to further the object set out in subsection (1).

5. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definitions after the definition of *authorized officer*:

barring order means an order served or given under section 81(2) or (4);

best interests of the community means interests that are prescribed for the purposes of this definition;

- (b) by inserting the following definition after the definition of *Commissioner*:

convicted includes found guilty, whether or not a conviction is recorded;

- (c) by inserting the following definition after the definition of *hearing*:

intoxicated – see section 3B;

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- (d) by omitting the definition of *liquor* and substituting the following definition:

liquor means –

- (a) a beverage (other than a medicine) that –
 - (i) is intended for human consumption; and
 - (ii) has an alcoholic content greater than 0.5 per cent by volume when at a temperature of 20 degrees Celsius; or
- (b) any other substance that –
 - (i) is prescribed as liquor for the purposes of this definition; and
 - (ii) has an alcoholic content greater than 0.5 per cent by volume when at a temperature of 20 degrees Celsius;
- (e) by inserting the following definition after the definition of *liquor restriction order*:

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meal means food that –

- (a) is eaten by a person at a table, or fixed structure used as a table, with cutlery provided for the purpose of eating the food; and
- (b) is of sufficient substance as to be ordinarily accepted as a meal;
- (f) by inserting the following definition after the definition of *out-of-hours permit*:

partner means the person with whom a person is in a personal relationship, within the meaning of the *Relationships Act 2003*;

- (g) by inserting the following definitions after the definition of *permit*:

permit holder means the holder of a liquor permit;

permit premises means –

- (a) premises specified in a special permit as premises on which liquor may be sold; and
- (b) in respect of the holder of a special permit, the

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premises specified in the permit; and

(c) premises on which liquor may be sold under the authority of a small producer's permit; and

(d) in respect of the holder of a small producer's permit, the premises on which liquor may be sold under the authority of the permit –

and includes any part of those premises;

(h) by inserting the following definitions after the definition of *records*:

resident, in relation to licensed premises, means a person who is able to provide evidence that he or she resides, or is staying overnight in, a part of the licensed premises that has been set aside for the purposes of accommodation;

responsible adult means a person of or above the age of 18 years who, in relation to a person under the age of 18 years (the *minor*), belongs to one or more of the following classes of persons:

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- (a) a parent, step-parent or guardian of the minor;
 - (b) the spouse or partner of the minor;
 - (c) a person who, for the time being, has parental responsibility for the minor;
- (i) by inserting the following definitions after the definition of *sell*:
 - small producer*** means a producer, or class of producers, that is prescribed for the purposes of this definition;
 - small producer's permit*** means a liquor permit referred to in section 15A;
- (j) by inserting the following definition after the definition of *special licence*:
 - special permit*** means a liquor permit referred to in section 15;
- (k) by omitting "Tasmania." from the definition of *Tasmanian wine* and substituting "Tasmania;"
- (l) by inserting the following definition after the definition of *Tasmanian wine*:

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vicinity, in relation to licensed premises or permit premises, means –

- (a) within the distance prescribed for the purposes of this definition; or
- (b) in the case of a barring order, within such distance of the premises, or within such area, as is specified by the police officer giving the barring order; or
- (c) in the case of a police officer who requires a person to leave the premises, within such distance of the premises, or within such area, as is specified by the police officer.

6. Section 3A amended (Meaning of “associate”)

Section 3A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “or of a licensee if the person” and substituting “or liquor permit, or of a licensee or permit holder if”;

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- (b) by omitting from subsection (1)(a) “holds” and substituting “the person holds”;
 - (c) by omitting from subsection (1)(a) “applicant or licensee” and substituting “applicant, licensee or permit holder”;
 - (d) by omitting from subsection (1)(b) “holds” and substituting “the person holds”;
 - (e) by omitting from subsection (1)(b) “applicant or licensee” and substituting “applicant, licensee or permit holder”;
 - (f) by omitting paragraph (c) from subsection (1) and substituting the following paragraphs:
 - (c) the person is a relative of the applicant, licensee or permit holder; or
 - (d) the Commissioner is satisfied that the person could exercise a significant influence over the applicant, licensee or permit holder.
 - (g) by omitting “(including a de facto spouse),” from the definition of *relative* in subsection (2) and substituting “, partner,”;

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- (h) by inserting “or” after “licensee;” in paragraph (b) of the definition of *relevant position* in subsection (2);
- (i) by inserting the following paragraph after paragraph (b) in the definition of *relevant position* in subsection (2):
 - (c) if that business is conducted in premises in respect of which a permit is in force, the permit holder;

7. Section 3B inserted

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

3B. Meaning of “intoxicated”

For the purposes of this Act, a person is intoxicated if –

- (a) the person’s speech, balance, coordination or behaviour is noticeably affected; and
- (b) it is reasonable in the circumstances to believe that the affected speech, balance, coordination or behaviour is the result of the consumption of liquor or other substances.

8. Section 5 amended (Liquor not to be sold except as authorized)

Section 5 of the Principal Act is amended by omitting “shall” and substituting “must”.

9. Section 6 amended (Types of liquor licences and permits)

Section 6(b) of the Principal Act is amended as follows:

- (a) by omitting from subparagraph (iv) “permit.” and substituting “permit;”;
- (b) by inserting the following subparagraph after subparagraph (iv):
 - (v) a small producer’s permit.

10. Section 7 amended (General licence)

Section 7 of the Principal Act is amended as follows:

- (a) by inserting “the sale of liquor” after “authorizes”;
- (b) by omitting from paragraph (a) “the sale of liquor”;
- (c) by omitting from paragraph (b) “the sale of liquor”;
- (d) by omitting from paragraph (b) “part.” and substituting “part; and”;

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(e) by inserting the following paragraph after paragraph (b):

(c) subject to any condition specified in the licence.

11. Section 8 amended (On-licence)

Section 8 of the Principal Act is amended as follows:

(a) by inserting “the sale of liquor” after “authorizes”;

(b) by omitting from paragraph (a) “the sale of liquor”;

(c) by omitting from paragraph (b) “the sale of liquor”;

(d) by omitting from paragraph (b)(ii) “premises.” and substituting “premises; and”;

(e) by inserting the following paragraph after paragraph (b):

(c) subject to any condition specified in the licence.

12. Section 9 amended (Off-licence)

Section 9 of the Principal Act is amended by omitting “premises.” and substituting “premises, subject to any condition specified in the licence.”.

13. Section 10 amended (Club licence)

Section 10(b) of the Principal Act is amended by omitting “conditions relating to record-keeping of membership and visitors to the club as” and substituting “condition”.

14. Section 11 amended (Special licence)

Section 11(c) of the Principal Act is amended by omitting “compliance with”.

15. Section 12 amended (Out-of-hours permit)

Section 12(c) of the Principal Act is amended by omitting “compliance with”.

16. Section 13 amended (On-permit)

Section 13(c) of the Principal Act is amended by omitting “compliance with”.

17. Section 14 amended (Off-permit)

Section 14(c) of the Principal Act is amended by omitting “compliance with”.

18. Section 15 amended (Special permit)

Section 15(c) of the Principal Act is amended by omitting “compliance with”.

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19. Section 15A inserted

After section 15 of the Principal Act, the following section is inserted in Division 1:

15A. Small producer's permit

A small producer's permit authorizes the sale of liquor by a small producer –

- (a) at any premises approved by the Commissioner in writing to the permit holder; and
- (b) subject to any condition specified in the permit.

20. Section 22 amended (Qualifications for liquor licence)

Section 22(1A) of the Principal Act is amended by omitting “or believes”.

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

Section 24(2)(b) of the Principal Act is amended by omitting “best interests of the community” and substituting “public interest”.

22. Section 24A amended (Requirements for licence)

Section 24A(3) of the Principal Act is amended by omitting “for” second occurring and substituting “in respect of premises operating as”.

23. Section 24B inserted

After section 24A of the Principal Act, the following section is inserted in Division 2:

24B. Updating of licence application

- (1) If a change occurs in the information provided in, or in connection with, an application for a liquor licence (including in any documents lodged with the application) before the application is determined, the applicant must give the Commissioner written particulars of the change as soon as is reasonably practicable.
- (2) If particulars of a change are given, those particulars form part of the original application.

24. Sections 25B, 25C and 25D inserted

After section 25A of the Principal Act, the following sections are inserted in Division 2:

25B. Conditions of licence

- (1) The Commissioner may grant a liquor licence subject to such conditions as the Commissioner thinks fit.
- (2) The holder of a liquor licence must comply with the conditions of that licence.

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Penalty: Fine not exceeding 20 penalty units.

25C. Variation of conditions of licence by Commissioner

- (1) Subject to subsection (2), the Commissioner may, by written notice served on the licensee, vary the conditions of a liquor licence on the Commissioner's own motion by doing one or more of the following:
 - (a) omitting a condition;
 - (b) amending or substituting a condition;
 - (c) adding a condition.
- (2) The Commissioner must not add a new condition under subsection (1)(c) to a general licence, an on-licence, an off-licence or a club licence, if that licence was granted before the commencement of section 24 of the *Liquor Licensing Amendment Act 2015*.
- (3) If the Commissioner varies a condition under subsection (1), the Commissioner is to notify the licensee of –
 - (a) the variation; and
 - (b) the reason for the variation; and
 - (c) the date on which the variation takes effect; and

- (d) the licensee's right to appeal to the Commission against the variation.
- (4) The Commissioner is to give the licensee at least 14 days' notice of the variation unless satisfied that, because of special circumstances, the variation should be effected more urgently.

25D. Variation of conditions of licence by application

- (1) The Commissioner may vary the conditions of a liquor licence on the application of a licensee by doing one or more of the following:
 - (a) omitting a condition;
 - (b) amending or substituting a condition;
 - (c) adding a condition.
- (2) The application must be –
 - (a) made on a form approved or provided for the purpose by the Commissioner; and
 - (b) accompanied by any prescribed application fee.
- (3) The Commissioner may require the applicant to supply any further information that the Commissioner

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considers necessary for a proper consideration of the application.

(4) After considering the application, the Commissioner is to –

(a) approve or refuse the variation;
and

(b) inform the applicant accordingly.

(5) In the case of a refusal, the Commissioner is also to inform the applicant of the applicant's right to appeal to the Commission against the refusal.

25. Section 28 substituted

Section 28 of the Principal Act is repealed and the following section is substituted:

28. Application for transfer of liquor licence

(1) A licensee may apply to the Commissioner for approval to transfer a liquor licence to another person (the *transferee*).

(2) An application under subsection (1) must be –

(a) made on a form approved or provided for the purpose by the Commissioner; and

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- (b) accompanied by any prescribed fee; and
 - (c) made at least 28 days before the day on which the transfer is to take effect, or such shorter period as the Commissioner may determine.
 - (3) In considering an application under subsection (1), the Commissioner may require the applicant or the transferee to supply the Commissioner with such further particulars (including plans and specifications of any relevant premises and information about any associates of the transferee) as the Commissioner considers necessary for a proper consideration of the application.
 - (4) The Commissioner may make such inquiries regarding an application for the transfer of a liquor licence as the Commissioner considers necessary or expedient for a proper consideration of the application.
 - (5) Without limiting the generality of subsection (4), the Commissioner may –
 - (a) forward a copy of an application for the transfer of a liquor licence to the Commissioner of Police; and
 - (b) request the Commissioner of Police to provide a report as to

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whether, in the opinion of the Commissioner of Police –

- (i) the transferee is a fit and proper person to be a licensee; and
- (ii) any associate of the transferee who is a natural person and likely to have any influence over the management of the business to be carried on under the licence is a fit and proper person to be an associate of a licensee.

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

Section 29 of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (1):

(1A) The Commissioner must not approve the transfer of a liquor licence unless the Commissioner is satisfied that the person to whom the licence is proposed to be transferred is qualified to be granted a liquor licence under section 22.

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- (b) by omitting from subsection (2) “shall” and substituting “must”.

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

Section 30A of the Principal Act is amended by omitting subsection (11).

28. Section 31 amended (Qualifications for liquor permit)

Section 31 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) A person is also not qualified to be granted a liquor permit if the Commissioner reasonably suspects that –
 - (a) the person is not a fit and proper person to be a permit holder; or
 - (b) any associate of the person who is a natural person and likely to have any influence over the management of the business to be carried on under the permit is not a fit and proper person to be an associate of a permit holder.

29. Section 32 amended (Application for liquor permit)

Section 32(2) of the Principal Act is amended by omitting “where relevant” and substituting “and

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specifications of any relevant premises and
information about any associates”.

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

Section 33 of the Principal Act is amended by
inserting after subsection (3A) the following
subsection:

(3B) Without limiting the generality of
subsection (3A), the Commissioner
may –

(a) forward a copy of an application
for a liquor permit to the
Commissioner of Police; and

(b) request the Commissioner of
Police to provide a report as to
whether, in the opinion of the
Commissioner of Police –

(i) the applicant is a fit and
proper person to be a
permit holder; and

(ii) any associate of the
applicant who is a natural
person and likely to have
any influence over the
management of the
business to be carried on
under the permit is a fit
and proper person to be

an associate of a permit holder.

31. Section 33A inserted

After section 33 of the Principal Act, the following section is inserted in Division 3:

33A. Updating of permit application

- (1) If a change occurs in the information provided in or in connection with an application for a liquor permit (including in any documents lodged with the application) before the application is determined, the applicant must give the Commissioner written particulars of the change as soon as is reasonably practicable.
- (2) If particulars of a change are given, those particulars form part of the original application.

32. Section 34 amended (Requirements for permits)

Section 34 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “liquor” after “for a”;
- (b) by inserting in subsection (2)(a)(iii) “or attending a school” after “services”.

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33. Sections 34A, 34B and 34C inserted

After section 34 of the Principal Act, the following sections are inserted in Division 3:

34A. Conditions of permit

- (1) The Commissioner may grant a liquor permit subject to such conditions as the Commissioner thinks fit.
- (2) The holder of a liquor permit must comply with the conditions of that permit.

Penalty: Fine not exceeding 20 penalty units.

34B. Variation of conditions of permit by Commissioner

- (1) The Commissioner may, by written notice served on the permit holder, vary the conditions of a liquor permit on the Commissioner's own motion by doing one or more of the following:
 - (a) omitting a condition;
 - (b) amending or substituting a condition;
 - (c) adding a condition.
- (2) If the Commissioner varies a condition under subsection (1), the Commissioner is to notify the permit holder of –

- (a) the variation; and
 - (b) the reason for the variation; and
 - (c) the date on which the variation takes effect; and
 - (d) the permit holder's right to appeal to the Commission against the variation.
- (3) The Commissioner is to give the permit holder at least 14 days' notice of the variation unless satisfied that, because of special circumstances, the variation should be effected more urgently.

34C. Variation of conditions of permit by application

- (1) The Commissioner may vary the conditions of a liquor permit on the application of a permit holder by doing one or more of the following:
- (a) omitting a condition;
 - (b) amending or substituting a condition;
 - (c) adding a condition.
- (2) The application must be –
- (a) made on a form approved or provided for the purpose by the Commissioner; and

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- (b) accompanied by any prescribed application fee.
- (3) The Commissioner may require the applicant to supply any further information that the Commissioner considers necessary for a proper consideration of the application.
- (4) After considering the application, the Commissioner is to –
 - (a) approve or refuse the variation; and
 - (b) inform the applicant accordingly.
- (5) In the case of a refusal, the Commissioner is also to inform the applicant of the applicant's right to appeal to the Commission against the refusal.

34. Section 37 amended (Cancellation of an on-permit, off-permit, small producer's permit or special permit)

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

- (a) by inserting “, a small producer's permit” after “off-permit”;
- (b) by omitting “interest of the community” and substituting “public interest”.

35. Section 38A inserted

Before section 39 of the Principal Act, the following section is inserted in Division 4:

38A. Prohibition of sale of undesirable liquor products

- (1) The Minister, by notice, may declare a specified liquor product, or class of liquor products, to be an undesirable liquor product if the Minister is satisfied that it is in the public interest to do so.
- (2) The Minister is to publish notice of a declaration under subsection (1) –
 - (a) in the *Gazette*; and
 - (b) in a newspaper generally circulating in Tasmania.
- (3) A declaration under subsection (1) takes effect from the date of publication of the notice in the *Gazette* or from such later date as is specified in that notice.
- (4) A person must not sell a liquor product, or liquor product that is part of a class of liquor products, that is declared under subsection (1) to be an undesirable liquor product.

Penalty: Fine not exceeding 50 penalty units.

- (5) A licensee or permit holder is guilty of an offence if a person authorized by the

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licensee or permit holder to sell liquor on the licensed premises or permit premises sells a liquor product, or liquor product that is part of a class of liquor products, that is declared under subsection (1) to be an undesirable liquor product.

Penalty: Fine not exceeding 100 penalty units.

- (6) A notice under this section is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

36. Sections 40, 41 and 42 substituted

Sections 40, 41 and 42 of the Principal Act are repealed and the following section is substituted:

40. Written notice

- (1) The Commissioner may serve a written notice on a licensee or permit holder requiring the licensee or permit holder to comply with a direction specified in the notice.
- (2) If a licensee or permit holder referred to in subsection (1) fails to comply with a direction within the period specified in the notice, the Commissioner may take disciplinary action against the licensee or permit holder in accordance with section 100.

37. Section 43 amended (Conditions – liquor)

Section 43 of the Principal Act is amended by omitting “Without prejudice to the generality of sections 11 (special licences), 12 (out-of-hours permits), 13 (on-permits), 14 (off-permits), 15 (special permits), 16 (general liquor exemptions) and 39 (liquor restriction orders), the conditions referred to in those sections may relate to” and substituting “The conditions to which a liquor licence or liquor permit may be subject include, but are not limited to,”.

38. Sections 44 and 45 repealed

Sections 44 and 45 of the Principal Act are repealed.

39. Part 2, Division 5: Heading amended

Division 5 of Part 2 of the Principal Act is amended by inserting in the heading to that Division “*and permit holders*” after “*licensees*”.

40. Section 46 amended (Licensees and permit holders to retain control on sale and consumption of liquor)

Section 46 of the Principal Act is amended as follows:

- (a) by omitting “shall” and substituting “or permit holder must”;
- (b) by inserting “or permit premises” after “licensed premises”;

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- (c) by inserting “permit holder” after “licensee or”.

41. Section 46 amended (Licensees and permit holders to retain control on sale and consumption of liquor)

After section 46 of the Principal Act, the following penalty is inserted:

Penalty: Fine not exceeding 50 penalty units.

42. Section 46A amended (Licensees and permit holders to ensure responsible sale and service of liquor)

Section 46A of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “sell or” after “person to”;
- (b) by inserting the following penalty after paragraph (b) in subsection (1):

Penalty: Fine not exceeding 20 penalty units.

- (c) by inserting the following subsection after subsection (1):

(1A) An applicant for a liquor permit or a permit holder must successfully complete an approved course, if the Commissioner so directs.

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Penalty: Fine not exceeding 20
penalty units.

- (d) by omitting from subsection (2) “subsection (1)” and substituting “subsection (1) or (1A)”;
- (e) by inserting in subsection (2) “or permit holder” after “a licensee”;
- (f) by inserting in subsection (2)(a) “or permit premises” after “premises”;
- (g) by inserting in subsection (2)(a) “or permit holder” after “licensee”.

43. Sections 46B, 46C and 46D inserted

After section 46A of the Principal Act, the following sections are inserted in Division 5:

46B. Licensees and permit holders to ensure seller and server of liquor meets minimum age requirements

A licensee or permit holder must not allow a person to sell or serve liquor on the licensed premises or permit premises if that person does not meet the minimum age requirement prescribed for the purposes of this section.

Penalty: Fine not exceeding 50 penalty units.

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46C. Sale and consumption of liquor not to cause undue annoyance, disturbance or disorderly conduct, &c.

A licensee or permit holder must ensure that the sale and consumption of liquor on the licensed premises or the permit premises does 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 or attending a school in the neighbourhood of the premises; or
 - (iv) people lawfully on the premises; or
- (b) cause the occurrence of disorderly conduct –
 - (i) in the premises; or

- (ii) in the neighbourhood of the premises.

Penalty: Fine not exceeding 50 penalty units.

46D. Sale of liquor through internet or by other communication media

- (1) A licensee who sells liquor by taking orders over the telephone or by facsimile or by mail order must cause the licence number to be prominently displayed in any advertisement or information published, whether in writing or electronically, in connection with such sales.

Penalty: Fine not exceeding 20 penalty units.

- (2) A licensee who sells liquor through an internet site must ensure that –
 - (a) the licence number is prominently displayed on the site and in any advertisement or information published, whether in writing or electronically, in connection with such sales; and
 - (b) a notice in a form approved or provided for the purpose by the Commissioner is displayed prominently on the site at all times.

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Penalty: Fine not exceeding 20 penalty units.

- (3) A licensee who sells liquor by taking orders over the telephone or by facsimile or by mail order, or who sells liquor through an internet site must –
- (a) at the time at which an agreement for sale is made, require the prospective purchaser to supply the purchaser's date of birth unless it has previously been supplied to the licensee; and
 - (b) give written instructions to the person responsible for delivery of the liquor, requiring that the liquor be delivered –
 - (i) to the adult person who placed the order; or
 - (ii) to another adult person at those premises who undertakes to accept it on behalf of the person who placed the order; or
 - (iii) if the sale was made through an internet site, in accordance with the customer's instructions.

Penalty: Fine not exceeding 20 penalty units.

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- (4) If delivery of any liquor sold in a manner described in this section is taken by a person under the age of 18 years, the licensee, and any person who delivers the liquor on the licensee's behalf, is guilty of an offence.

Penalty: Fine not exceeding 20 penalty units.

- (5) It is a defence in proceedings for an offence under subsection (4) if the licensee establishes that he or she complied with the requirements of subsection (3) in relation to the sale.
- (6) It is a defence in proceedings for an offence under subsection (4) if the defendant establishes that, at the time of the alleged offence, he or she did not know, and could not reasonably be expected to have known, that the alleged offence was committed.
- (7) A person must not order or request a person under the age of 18 years to take delivery of liquor sold in a manner described in this section.

Penalty: Fine not exceeding 20 penalty units.

- (8) This section does not apply to or in respect of the sale of liquor to licensees or permit holders.

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44. Section 47 amended (Licensee not to alter area of licensed premises without approval)

Section 47 of the Principal Act is amended by inserting after subsection (1) the following penalty:

Penalty: Fine not exceeding 20 penalty units.

45. Section 48 amended (Licensee to notify Commissioner of alteration to designated area)

Section 48 of the Principal Act is amended by inserting after paragraph (b) the following penalty:

Penalty: Fine not exceeding 20 penalty units.

46. Section 49 substituted

Section 49 of the Principal Act is repealed and the following section is substituted:

49. Licensees and permit holders to notify Commissioner of change

- (1) Whenever a change of a kind specified by the Commissioner in writing, served on a licensee or permit holder, takes place in the situation existing in relation to that licensee or permit holder, the licensee or permit holder must, in a form approved or provided for the purpose by the Commissioner, notify the Commissioner of the change within 14 days after it takes place.

- (2) The Commissioner may require a licensee or permit holder to supply the Commissioner with such further particulars of a change in situation (including information about any associates) as the Commissioner considers necessary.

47. Section 53 amended (Licence or permit to be produced on demand)

Section 53 of the Principal Act is amended as follows:

- (a) by omitting “shall” and substituting “or permit holder must”;
- (b) by inserting “or the permit holder’s permit” after “licence”.

48. Section 53 amended (Licence or permit to be produced on demand)

After section 53 of the Principal Act, the following penalty is inserted:

Penalty: Fine not exceeding 20 penalty units.

49. Section 54 amended (Licence to be displayed)

After section 54 of the Principal Act, the following penalty is inserted:

Penalty: Fine not exceeding 20 penalty units.

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50. Section 54A inserted

After section 54 of the Principal Act, the following section is inserted in Division 5:

54A. Authority to act as licensee to be displayed

The holder of an authority to act as licensee must display the authority in a conspicuous position on the licensed premises.

Penalty: Fine not exceeding 20 penalty units.

51. Section 55 amended (Permits to be displayed on licensed premises)

Section 55 of the Principal Act is amended by omitting “shall” and substituting “must”.

52. Section 55 amended (Permits to be displayed on licensed premises)

After section 55 of the Principal Act, the following penalty is inserted:

Penalty: Fine not exceeding 20 penalty units.

53. Section 55A inserted

After section 55 of the Principal Act, the following section is inserted in Division 5:

55A. Special permits and small producer's permits to be displayed

The holder of a special permit or a small producer's permit must display the permit in a conspicuous position on the permit premises during the time when liquor may be sold on those premises under the authority of the permit.

Penalty: Fine not exceeding 20 penalty units.

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

Section 56 of the Principal Act is amended by omitting "shall" and substituting "must".

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

After section 56 of the Principal Act, the following penalty is inserted:

Penalty: Fine not exceeding 20 penalty units.

56. Section 60 amended (Licensee to display notice prohibiting or restricting entry of young people)

Section 60 of the Principal Act is amended by omitting "shall" and substituting "must".

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57. Section 60 amended (Licensee to display notice prohibiting or restricting entry of young people)

After section 60 of the Principal Act, the following penalty is inserted:

Penalty: Fine not exceeding 20 penalty units.

58. Section 61 amended (Licensee to prohibit or restrict entry of young people to certain parts of licensed premises)

Section 61 of the Principal Act is amended as follows:

- (a) by omitting “shall” and substituting “must”;
- (b) by omitting from paragraph (b)(ii) “parent or guardian” and substituting “responsible adult”;
- (c) by inserting the following penalty after paragraph (b):

Penalty: Fine not exceeding 20 penalty units.

59. Section 62 amended (Licensees and permit holders to require certain people to leave licensed premises or permit premises)

Section 62 of the Principal Act is amended as follows:

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- (a) by omitting “shall” and substituting “or permit holder must”;
- (b) by inserting “or permit premises” after “premises”.

60. Section 62 amended (Licensees and permit holders to require certain people to leave licensed premises or permit premises)

After section 62 of the Principal Act, the following penalty is inserted:

Penalty: Fine not exceeding 20 penalty units.

61. Section 63 amended (Liquor not to be consumed on off-licensed premises)

After section 63 of the Principal Act, the following penalty is inserted:

Penalty: Fine not exceeding 20 penalty units.

62. Section 64 amended (Liquor not to be removed from on-licensed premises)

After section 64 of the Principal Act, the following penalty is inserted:

Penalty: Fine not exceeding 20 penalty units.

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

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

- (a) by omitting “under a general licence or an on-licence”;
- (b) by omitting “over a bar”;
- (c) by inserting the following penalty after paragraph (b):

Penalty: Fine not exceeding 20 penalty units.

64. Section 66 amended (Licensee to notify Commissioner of prolonged absence from licensed premises)

Section 66(1) of the Principal Act is amended as follows:

- (a) by omitting “shall” and substituting “must”;
- (b) by inserting the following penalty after paragraph (b):

Penalty: Fine not exceeding 20 penalty units.

65. Section 67 amended (Licensee or permit holder not to hinder, &c., authorized officer)

Section 67 of the Principal Act is amended as follows:

- (a) by omitting “shall” and substituting “or permit holder must”;
- (b) by inserting the following penalty after paragraph (c):

Penalty: Fine not exceeding 20 penalty units.

66. Part 2, Division 6: Heading amended

Division 6 of Part 2 of the Principal Act is amended by omitting “*Offences*” from the heading to that Division and substituting “*General offences*”.

67. Section 68 inserted

Before section 69 of the Principal Act, the following section is inserted in Division 6:

68. Prohibited or restricted advertising or promotion

- (1) The Commissioner may serve a notice on a licensee or permit holder that prohibits or restricts the advertising or promotion of the sale of liquor by the licensee or permit holder if, in the opinion of the Commissioner –

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- (a) the advertising or promotion, or the proposed advertising or promotion, is likely to encourage irresponsible consumption of liquor; or
 - (b) it is otherwise in the public interest to do so.
- (2) A licensee or permit holder on whom a notice under subsection (1) is served must comply with the notice.

Penalty: Fine not exceeding 20 penalty units.

68. Section 69 amended (False applications)

Section 69 of the Principal Act is amended by omitting “shall” and substituting “must”.

69. Section 69A inserted

After section 69 of the Principal Act, the following section is inserted in Division 6:

69A. Liquor not to be sold or served by person who is intoxicated

- (1) A person must not sell or serve liquor on licensed premises or permit premises if he or she is intoxicated.

Penalty: Fine not exceeding 20 penalty units.

- (2) A licensee or permit holder is guilty of an offence if a person authorized by the licensee or permit holder to sell or serve liquor on the licensed premises or permit premises sells or serves liquor whilst intoxicated.

Penalty: Fine not exceeding 50 penalty units.

70. Section 70 amended (Liquor not to be sold or served to young people)

Section 70 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “shall” and substituting “must”;
- (b) by inserting in subsection (1) “or serve” after “sell”;
- (c) by inserting in subsection (1) “on licensed or permit premises” after “years”;
- (d) by inserting in subsection (2) “or permit holder” after “A licensee”;
- (e) by inserting in subsection (2) “or permit holder” after “the licensee”;
- (f) by inserting in subsection (2) “or serve” after “sell”;
- (g) by inserting in subsection (2) “or permit premises” after “premises”;

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- (h) by inserting in subsection (2) “or serves” after “sells”.

71. Section 71 amended (Liquor not to be supplied to young people on licensed premises or permit premises)

Section 71 of the Principal Act is amended as follows:

- (a) by omitting “shall” and substituting “must”;
- (b) by omitting from paragraph (b) “premises specified in a special permit” and substituting “permit premises”.

72. Section 72 amended (Young person not to enter, &c., certain parts of licensed premises, &c.)

Section 72 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “shall” and substituting “must”;
- (b) by omitting from subsection (2) “shall” and substituting “must”;
- (c) by omitting from subsection (2)(b) “parent or guardian” and substituting “responsible adult”.

73. Section 73 amended (Liquor not to be purchased by young people)

Section 73 of the Principal Act is amended by omitting “shall” and substituting “must”.

74. Section 74 amended (Young person not to be sent to obtain liquor)

Section 74 of the Principal Act is amended as follows:

- (a) by omitting “shall” and substituting “must”;
- (b) by omitting from paragraph (b)(ii) “premises specified in a special permit” and substituting “permit premises”.

75. Section 75 amended (Young person not to be given possession or charge of liquor on licensed premises or permit premises)

Section 75(1) of the Principal Act is amended as follows:

- (a) by inserting “or permit holder,” after “A licensee”;
- (b) by inserting “or permit holder,” after “the licensee”;
- (c) by omitting “shall” and substituting “must”;

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- (d) by inserting “or permit premises” after “years possession or control of liquor on the licensed premises”;
- (e) by inserting “or permit premises” after “retain possession or control of liquor on the licensed premises”.

76. Section 76 amended (Young person not to consume liquor on licensed premises or permit premises)

Section 76 of the Principal Act is amended as follows:

- (a) by omitting “shall” and substituting “must”;
- (b) by omitting from paragraph (b) “premises specified in a special permit” and substituting “permit premises”.

77. Section 77 amended (Young person not to have possession or control of liquor on licensed premises or permit premises)

Section 77(1) of the Principal Act is amended as follows:

- (a) by omitting “shall” and substituting “must”;
- (b) by omitting from paragraph (b) “premises specified in a special permit” and substituting “permit premises”.

78. Section 78 amended (Liquor not to be sold or served to intoxicated people)

Section 78 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or serve” after “sell”;
- (b) by inserting in subsection (1) “on licensed premises or permit premises” after “liquor”;
- (c) by omitting from subsection (1) “appears to be drunk” and substituting “is intoxicated”;
- (d) by inserting in subsection (2) “or permit holder” after “A licensee”;
- (e) by inserting in subsection (2) “or permit holder” after “the licensee”;
- (f) by inserting in subsection (2) “or serve” after “sell”;
- (g) by inserting in subsection (2) “or permit premises” after “premises”;
- (h) by inserting in subsection (2) “or serves” after “sells”;
- (i) by omitting from subsection (2) “appears to be drunk” and substituting “is intoxicated”.

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79. Section 79 amended (Liquor not to be supplied on licensed premises or permit premises to intoxicated people)

Section 79 of the Principal Act is amended as follows:

- (a) by omitting “shall” and substituting “must”;
- (b) by omitting “appears to be drunk” and substituting “is intoxicated”;
- (c) by omitting from paragraph (b) “premises specified in a special permit” and substituting “permit premises”.

80. Section 79A amended (Licensee and permit holder to prevent offences on licensed premises and permit premises)

Section 79A of the Principal Act is amended as follows:

- (a) by inserting “or permit holder” after “licensee”;
- (b) by inserting “or permit premises” after “premises”.

81. Sections 79B, 79C and 79D inserted

After section 79A of the Principal Act, the following sections are inserted in Division 6:

79B. Sale of liquor through vending machines

(1) In this section –

vending machine means a machine or device that is designed to enable the purchase of items stored in the machine or device by electronic funds transfer or the insertion of money or a token.

(2) A person must not sell liquor by means of a vending machine unless –

- (a) it is specified by the Commissioner in a licence or permit that the person may do so; and
- (b) the vending machine is on licensed premises or permit premises; and
- (c) the person complies with any condition specified by the Commissioner in the licence or permit concerning the use of the vending machine.

Penalty: Fine not exceeding 20 penalty units.

79C. Liquor not to be brought onto licensed premises or permit premises without consent

A person must not bring liquor onto licensed premises or permit premises

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without the consent of the licensee or
permit holder.

Penalty: Fine not exceeding 10 penalty
units.

79D. Prohibited behaviour and language

A person must not, on licensed premises
or permit premises –

- (a) act in a violent, quarrelsome or
disorderly manner; or
- (b) use disgusting, profane or foul
language.

Penalty: Fine not exceeding 20 penalty
units.

**82. Section 80 amended (Person to leave licensed
premises when required to do so, &c.)**

Section 80 of the Principal Act is amended as
follows:

- (a) by omitting from subsection (1) “shall”
and substituting “must”;
- (b) by omitting from subsection (2) “shall”
and substituting “must”;
- (c) by inserting the following subsections
after subsection (2):
 - (2A) A person to whom subsection (1)
applies must not, without

reasonable excuse, remain in the vicinity of those licensed premises for –

- (a) the remainder of the day's trading for the licensed premises; or
- (b) 6 hours from being required to leave the premises –

whichever is the longer period.

Penalty: Fine not exceeding 50 penalty units.

(2B) For the purposes of subsection (2A), reasonable excuse includes, but is not limited to the person –

- (a) residing within the vicinity of the licensed premises; and
- (b) needing to remain in, or re-enter, the vicinity of the licensed premises to obtain transport; and
- (c) reasonably fearing for his or her safety if he or she does not remain in, or re-enter, the vicinity of the licensed premises.

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- (d) by omitting from subsection (3)(a) “subsection (1) or (2)” and substituting “subsection (1), (2) or (2A)”;
- (e) by inserting in subsection (3)(b) “or the vicinity of licensed premises” after “premises”;
- (f) by omitting from subsection (3)(b) “subsection (1) or (2)” and substituting “subsection (1), (2) or (2A)”.

83. Section 80A amended (Person to leave permit premises when required to do so, &c.)

Section 80A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “premises specified in a special permit” and substituting “permit premises”;
- (b) by inserting the following subsections after subsection (1):
 - (1A) A person to whom subsection (1) applies must not, without reasonable excuse, remain in the vicinity of that permit premises for –
 - (a) the remainder of the day’s trading for the permit premises; or

- (b) 6 hours from being required to leave the premises –

whichever is the longer period.

Penalty: Fine not exceeding 50 penalty units.

- (1B) For the purposes of subsection (1A), reasonable excuse includes, but is not limited to the person –

- (a) residing within the vicinity of the permit premises; and
 - (b) needing to remain in, or re-enter, the vicinity of the permit premises to obtain transport; and
 - (c) reasonably fearing for his or her safety if he or she does not remain in, or re-enter, the vicinity of the permit premises.
- (c) by inserting in subsection (2)(a) “or (1A)” after “subsection (1)”;
- (d) by omitting from subsection (2)(b) “premises specified in a special permit” and substituting “permit premises or the vicinity of permit premises”;

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- (e) by omitting from subsection (2)(b) “relieves” and substituting “believes”;
- (f) by inserting in subsection (2)(b) “or (1A)” after “subsection (1)”.

84. Section 81 substituted

Section 81 of the Principal Act is repealed and the following sections are substituted:

81. Barring orders

- (1) In this section –

barred person means a person on or to whom an order under subsection (2) or (4) is served or given;

senior police officer, in relation to a barring order, means –

- (a) in the case of a barring order in force for a period of less than 72 hours, a police officer of or above the rank of sergeant; and
 - (b) in the case of a barring order in force for a period of 72 hours or more, a police officer of or above the rank of inspector.
- (2) A licensee, a person acting with the authority of the licensee, or a permit

holder, may by order in writing served on a person, bar that person from entering or remaining on the licensed premises or permit premises for a specified period not exceeding 6 months –

- (a) if the barred person is intoxicated or acting in a violent or quarrelsome manner on the licensed premises or permit premises; or
 - (b) if the licensee, person acting with the authority of the licensee, or permit holder, reasonably believes that the safety of the barred person or any other person on the licensed premises or permit premises is at risk because of the behaviour of the barred person as a result of his or her consumption of liquor; or
 - (c) on any other reasonable ground.
- (3) An order served under subsection (2) must be in a form approved by the Commissioner.
- (4) A police officer may, with the authorisation of a senior police officer, by order given to a person in the prescribed manner, bar the person from entering or remaining on –
- (a) specified licensed premises or permit premises; or

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- (b) licensed premises or permit premises of a specified class within a specified area; or
 - (c) all licensed premises or permit premises within a specified area –
- for a specified period not exceeding 6 months.
- (5) A police officer may give an order under subsection (4) –
 - (a) if the police officer is satisfied that the welfare of the barred person is seriously at risk as a result of the barred person's consumption of liquor; or
 - (b) if the barred person commits an offence, or behaves in an offensive or disorderly manner, on the licensed premises or permit premises or in an area adjacent to the licensed premises or permit premises; or
 - (c) on any other reasonable ground.
- (6) Notwithstanding the *Personal Information Protection Act 2004*, a police officer may provide a licensee or permit holder, or an employee of a licensee or permit holder, with information about a person (including photographic and other information that may identify the person) for the purpose

of identifying a person who has been barred from the licensed premises or permit premises under a barring order.

- (7) A person who is prohibited under a barring order from entering or remaining on licensed premises or permit premises must not enter or attempt to enter, or remain on, the licensed premises or permit premises to which the order relates.

Penalty: Fine not exceeding 50 penalty units.

- (8) A person on whom a barring order has been served or given must not, without reasonable excuse, enter or remain in the vicinity of the licensed premises or permit premises to which the order relates for –

(a) the remainder of the day's trading for the licensed premises or permit premises; or

(b) 6 hours from the time of being served or given the barring order –

whichever is the longer period.

Penalty: Fine not exceeding 50 penalty units.

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- (9) For the purposes of subsection (8), reasonable excuse includes, but is not limited to the person –
 - (a) residing within the vicinity of the licensed premises or permit premises; and
 - (b) needing to remain in, or re-enter, the vicinity of the licensed premises or permit premises to obtain transport; and
 - (c) reasonably fearing for his or her safety if he or she does not remain in, or re-enter, the vicinity of the licensed premises or permit premises.
- (10) A barring order under this section must contain any prescribed information.
- (11) The power under this section to serve or give a barring order includes a power, exercisable in a like manner, to vary or revoke the barring order.

81A. Review of police barring order

- (1) A person may apply, in writing, to the Commissioner of Police for a review of a barring order given by a police officer under section 81(4).
- (2) If an application for a review of a barring order is made under subsection (1), the Commissioner of Police must –

- (a) determine the application; or
 - (b) appoint a police officer of or above the rank of inspector to determine the application.
- (3) In determining an application for a review of a barring order under subsection (1), the Commissioner of Police or police officer appointed under subsection (2)(b) may –
 - (a) uphold the barring order; or
 - (b) vary the barring order; or
 - (c) revoke the barring order.
- (4) An application under subsection (1) must be determined within 28 days from the date the Commissioner of Police received the application.
- (5) On determining an application under subsection (1), the Commissioner of Police or police officer appointed under subsection (2)(b) must notify the applicant, in writing, of that determination.

85. Section 83 amended (Name, address and date of birth to be given to police if lawfully requested)

Section 83 of the Principal Act is amended by omitting “shall” and substituting “must”.

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86. Part 2, Division 7: Heading amended

Division 7 of Part 2 of the Principal Act is amended by omitting “*Administration of licensed and special permit premises*” from the heading to that Division and substituting “*Administration of licensed premises and permit premises*”.

87. Section 84 amended (Areas of licensed premises may be designated to prohibit or restrict entry, &c., of young people)

Section 84(2)(b) of the Principal Act is amended by omitting “parent or guardian” and substituting “responsible adult”.

88. Section 86 amended (Powers of authorized officer)

Section 86(2)(a) of the Principal Act is amended by omitting “premises specified in a special permit” and substituting “permit premises”.

89. Section 89 amended (Police may enter licensed premises or permit premises)

Section 89(b) of the Principal Act is amended by omitting “premises specified in a special permit” and substituting “permit premises”.

90. Section 92A amended (Power to seize false identity documents)

The definition of *responsible entity* in section 92A(5) of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “or permit holder” after “licensee”;
- (b) by inserting in paragraph (b) “or permit holder” after “licensee”;
- (c) by inserting in paragraph (c) “or permit holder” after “licensee”.

91. Section 93 amended (Power to restrict entry to licensed or permit premises)

Section 93 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “special” first occurring;
- (b) by omitting from subsection (3)(a) “premises specified in the special permit” and substituting “permit premises”;
- (c) by omitting from subsection (4) “premises specified in the special permit” and substituting “permit premises”;
- (d) by omitting from subsection (4) “special” second occurring.

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92. Section 94 amended (Power of police to require people to leave licensed or permit premises)

Section 94 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “special” and substituting “liquor”;
- (b) by omitting from subsection (1)(ba) “premises specified in a special permit” and substituting “permit premises”;
- (c) by omitting from subsection (1)(d) “premises specified in a special permit” and substituting “permit premises”;
- (d) by omitting from subsection (2)(b) “premises specified in a special permit” and substituting “permit premises”.

93. Part 2, Divisions 8, 9 and 10 inserted

After section 97 of the Principal Act, the following Divisions are inserted in Part 2:

Division 8 – Disciplinary action

98. Interpretation

In this Division –

disciplinary action means any one or more of the following:

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- (a) the cancellation of a liquor licence or liquor permit;
- (b) the suspension, for a specified period, of a liquor licence or liquor permit;
- (c) the variation of a liquor licence or liquor permit;
- (d) the imposition of a fine not exceeding 100 penalty units;
- (e) the issuing of a letter of censure;

variation, in relation to a liquor licence or liquor permit, includes but is not limited to the following:

- (a) a variation of the times at which the liquor licence or liquor permit authorises the sale of liquor;
- (b) a variation of the size or perimeter of the licensed premises or permit premises;
- (c) a variation of the conditions of the liquor

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licence or liquor permit
(including omitting,
amending, substituting or
adding a condition).

99. Grounds for disciplinary action

Each of the following is a ground for disciplinary action in relation to a liquor licence or liquor permit:

- (a) the licensee or permit holder has contravened a provision of this Act;
- (b) the licensee or permit holder has contravened a condition to which the licence or permit is subject;
- (c) the licensee or permit holder is no longer qualified to hold a liquor licence or liquor permit;
- (d) failure to comply with a written notice under section 40;
- (e) the licensee or permit holder has been convicted of an offence, either in Tasmania or elsewhere, and the Commissioner is satisfied that it is not in the public interest that the licensee or permit holder continues to hold a liquor licence or liquor permit;

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- (f) the licensee or permit holder is serving a term of imprisonment;
- (g) the licensee or permit holder has failed to discharge financial obligations or debts owing to the Crown under this Act;
- (h) the licence or permit was obtained by means of a false or misleading statement or by a failure to disclose relevant information;
- (i) the sale of liquor on the licensed premises or permit premises –
 - (i) is causing undue annoyance or disturbance to –
 - (A) people living or working in the neighbourhood of the premises; or
 - (B) customers or clients of any business in the neighbourhood of the premises; or
 - (C) people conducting or attending religious services or attending a school in the

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- neighbourhood of
the premises; or
 - (D) people lawfully on
the premises; or
- (ii) is causing the occurrence
of disorderly conduct –
 - (A) in the premises; or
 - (B) in the
neighbourhood of
the premises;
- (j) an associate of the licensee or
permit holder who is a natural
person with any influence over
the management of the business
carried on under the licence or
permit is not, or is no longer, a fit
and proper person to be an
associate of a licensee or permit
holder;
- (k) the licensee or permit holder can
no longer exercise effective
control over the sale or
consumption of liquor on all or
any part of the licensed premises;
- (l) the licensee or permit holder is no
longer using or intending to use
the licensed premises or permit
premises for all or any of the
activities authorized by the
licence or permit;

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(m) in the case of a club licence–

- (i) the rules or constitution of the club have been changed without the Commissioner’s approval; or
- (ii) the rules or constitution of the club are not being observed; or
- (iii) the club has failed to comply with, or has contravened, any applicable regulations or conditions specified in the licence; or
- (iv) the principal activity of the club is the sale or consumption of liquor –

and, as a result, in the Commissioner’s opinion it is inappropriate that liquor should continue to be sold on the club’s premises;

- (n) the area of the licensed premises or permit premises has been altered without the Commissioner’s approval.

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100. Procedure for disciplinary action

- (1) If the Commissioner considers it appropriate, the Commissioner may inquire into whether there are grounds for disciplinary action against a licensee or permit holder.
- (2) The Commissioner must notify a licensee or permit holder by written notice –
 - (a) that the Commissioner is considering taking disciplinary action on the grounds specified in the notice; and
 - (b) that the licensee or permit holder, within 14 days of receipt of the notice, may make written submissions to the Commissioner as to why disciplinary action should not be taken.
- (3) After considering any submissions made under subsection (2), the Commissioner may –
 - (a) take such disciplinary action as the Commissioner considers appropriate; or
 - (b) take no further action.
- (4) The Commissioner must serve a licensee or permit holder with written notice of the Commissioner's decision under subsection (3).

- (5) If the Commissioner gives notice under subsection (4) that disciplinary action will be taken, the Commissioner is to, at the same time, inform the licensee or permit holder of the licensee's or permit holder's right to appeal to the Commission against the Commissioner's decision.
- (6) Disciplinary action takes effect when the notice under subsection (4) is served on the licensee or permit holder or at a later time specified in the notice.
- (7) If disciplinary action is taken relating to a liquor licence or liquor permit because a licensee or permit holder has been convicted of an offence –
 - (a) the disciplinary action does not take effect until –
 - (i) the expiration of the period to appeal against the conviction; or
 - (ii) if an appeal is made against the conviction, the appeal is finally decided; and
 - (b) the disciplinary action has no effect if the conviction is overturned.

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101. Disciplinary action as a letter of censure

- (1) Despite section 100(2), the Commissioner may issue a letter of censure to a licensee or permit holder without first allowing the licensee or permit holder an opportunity to make submissions as to why the letter of censure should not be issued.
- (2) A letter of censure may –
 - (a) include a direction to the licensee or permit holder to take the action specified in the letter for the purposes of rectifying any matter giving rise to the letter; and
 - (b) direct that the action be taken within a period specified in the letter.
- (3) If a licensee or permit holder fails to comply with a direction given in a letter of censure within the period specified, the Commissioner may –
 - (a) if the letter of censure was issued after giving the licensee or permit holder the opportunity to make submissions as to why disciplinary action should not be taken, take further disciplinary action without giving the licensee or permit holder a further opportunity to make submissions; or

- (b) if the letter of censure was issued without first giving the licensee or permit holder the opportunity to make submissions as to why disciplinary action should not be taken, take disciplinary action in accordance with section 100.

102. Disciplinary action as a fine

If disciplinary action is the imposition of a fine, the fine may be recovered as a debt due to the Crown.

103. Disciplinary action as a cancellation or suspension of liquor licence or liquor permit

- (1) If the Commissioner finds that a ground for disciplinary action against the licensee or permit holder is that the licensee or permit holder has been convicted of an offence, either in Tasmania or elsewhere, and the Commissioner is satisfied that it is not in the public interest that the licensee or permit holder continues to hold a liquor licence or liquor permit, the Commissioner must –
 - (a) cancel the licence or permit; or
 - (b) suspend the licence or permit for a specified period.

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- (2) The Commissioner may, if he or she sees fit, take other disciplinary action against a licensee or permit holder in respect of whom grounds for disciplinary action have been established in addition to the disciplinary action specified in subsection (1).

104. Urgent suspension

- (1) This section applies if the Commissioner believes, on reasonable grounds that –
 - (a) a ground exists for taking disciplinary action in relation to a liquor licence or liquor permit; and
 - (b) harm may be caused to members of the public if urgent action to suspend the liquor licence or liquor permit is not taken.
- (2) The Commissioner may immediately suspend the liquor licence or liquor permit by written notice which must –
 - (a) be served on the licensee or permit holder; and
 - (b) state that the liquor licence or liquor permit is suspended; and
 - (c) inform the licensee or permit holder of his or her right to

appeal to the Commission against the Commissioner's decision.

- (3) An urgent suspension takes effect immediately the notice is served on the licensee or permit holder.
- (4) At the same time as the Commissioner serves the notice on the licensee or permit holder, the Commissioner is to commence disciplinary action under section 100.
- (5) An urgent suspension continues until the first of the following happens:
 - (a) the Commissioner revokes it;
 - (b) the Commissioner, under section 100(4), serves on the licensee notice of the Commissioner's decision under section 100(3);
 - (c) the end of the period of 30 days from the day the notice under subsection (2) was served on the licensee.
- (6) If an appeal against the suspension of a licence or permit under this section is made under section 212(1), the Commission is to, within 14 days of receiving the notice of the appeal, sit to hear the appeal.

***Division 9 – Licence or permit cancellation or suspension
in other circumstances***

105. Licence or permit suspension or cancellation

- (1) The Commissioner may, by written notice served on the licensee or permit holder, cancel a liquor licence or liquor permit, or suspend a liquor licence or liquor permit for such period as the Commissioner considers appropriate, if –
- (a) the Commissioner is satisfied that –
 - (i) in the case of an on-licence granted in respect of premises operating as a restaurant, the licensee is no longer using the premises as a restaurant; or
 - (ii) the licensee or permit holder is no longer the owner or occupier of the licensed premises or permit premises; or
 - (iii) the licensee or permit holder is no longer the agent of the owner or occupier of the licensed premises or permit premises; or

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- (b) the licensee or permit holder is no longer using or intending to use the licensed premises or permit premises for all or any of the activities authorized by the licence or permit; or
 - (c) a licensee fails to pay the prescribed annual liquor licence fee payable under section 26A –
 - (i) within one month of it becoming payable; or
 - (ii) by any later date to which the Commissioner may agree; or
 - (d) a licensee or permit holder fails to pay a fine imposed under section 102.
- (2) If the Commissioner gives notice under this section cancelling or suspending a liquor licence or liquor permit, the Commissioner is to, at the same time, inform the licensee or permit holder of the licensee's or permit holder's right to appeal to the Commission against the cancellation or suspension of the licence or permit.
- (3) The cancellation or suspension of a liquor licence or liquor permit under this section takes effect on the date when notice of the cancellation or suspension is served on the licensee or permit

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holder, or on such later date as is
specified in the notice.

Division 10 – Miscellaneous

106. Revocation or reduction of suspension

The Commissioner may revoke or reduce
a suspension under this Act at any time
by notice served on the licensee or permit
holder.

**107. Liability not extinguished by suspension,
cancellation, surrender, transfer or expiry of
licence or permit**

The liability of a licensee or permit
holder to –

- (a) disciplinary action under
Division 8; or
- (b) the cancellation or suspension of
the liquor licence or liquor permit
under Division 9 –

is not extinguished by the subsequent
suspension, cancellation, surrender,
transfer or expiry of that licence or
permit under another provision of this
Act and, for that purpose –

- (c) a reference in this Division to a
licensee or permit holder includes
a former licensee or former
permit holder; and

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- (d) the Commissioner's disciplinary powers under this Division are, with necessary modification, capable of being exercised in respect of the acts or omissions of any person in his or her capacity as a former licensee or former permit holder.

94. Section 207 amended (Commissioner for Licensing)

Section 207(3) of the Principal Act is amended by inserting "or permit holders" after "licensees".

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

Section 211 of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) "liquor" after "grant a";
- (b) by inserting in paragraph (a) "liquor" after "or";
- (c) by omitting from paragraph (b) "the conditions subject to which a liquor licence or permit was granted" and substituting "the imposition of conditions on a liquor licence or liquor permit";
- (d) by inserting in paragraph (d) "suspension," after "the";

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- (e) by inserting in paragraph (d) “liquor” after “a”;
- (f) by omitting from paragraph (e) “the suspension or cancellation of a liquor licence, or the variation of a special licence” and substituting “the suspension, cancellation or variation of a liquor licence”;
- (g) by omitting from paragraph (f) “given” and substituting “served”;
- (h) by omitting from paragraph (f) “section 41(1)” and substituting “section 40 or 68”;
- (i) by inserting in paragraph (g) “or a liquor permit” after “licence”;
- (j) by omitting from paragraph (h) “order.” and substituting “order;”;
- (k) by inserting the following paragraph after paragraph (h):
 - (i) a decision by the Commissioner to take disciplinary action.

96. Section 212 amended (Procedure on appeal)

Section 212 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:

- (1) An appeal against a decision by the Commissioner must be made, in writing,

to the Commission within 14 days from the date of receipt of the decision or within such further period as the Commission considers is appropriate in the interests of justice.

- (2) The Commission is to hold a hearing to consider an appeal within a reasonable period after receiving the appeal.

97. Section 220A inserted

After section 220 of the Principal Act, the following section is inserted in Division 3:

220A. Application may be varied with Commissioner's approval

A person may vary an application made to the Commissioner under this Act if –

- (a) the person has the approval of the Commissioner to do so; and
- (b) the Commissioner has not determined the application.

98. Section 222B inserted

After section 222A of the Principal Act, the following section is inserted in Division 3:

222B. Requirement to provide wholesale and producer information

- (1) In this section –

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wholesale liquor supply information,
in relation to a wholesale liquor
transaction, means the following
information:

- (a) the volume of the liquor
supplied in the
transaction;
- (b) the value, in dollars, of
the liquor supplied in the
transaction;
- (c) the type of the liquor
supplied in the
transaction;
- (d) any prescribed additional
information;

wholesale liquor transaction means a
transaction of a type prescribed
for the purposes of this definition.

- (2) The Minister may, by notice in writing,
require a licensee who has conducted a
wholesale liquor transaction, to provide
wholesale liquor supply information to
the Minister.
- (3) The licensee required to provide
wholesale liquor supply information
under subsection (2) must provide the
required information to the Minister
within the period and in the manner
specified in the notice.

Penalty: Fine not exceeding 15 penalty units.

- (4) The licensee, in providing any wholesale liquor supply information, must not –
- (a) make a statement knowing it to be false or misleading; or
 - (b) omit any matter knowing that without that matter the information is misleading.

Penalty: Fine not exceeding 15 penalty units.

99. Section 223 amended (Infringement notices)

Section 223(5) of the Principal Act is amended as follows:

- (a) by omitting “years;” from the definition of *adult* and substituting “years.”;
- (b) by omitting the definition of *prescribed*.

100. Section 226 amended (Regulations)

Section 226(2) of the Principal Act is amended by inserting after paragraph (ba) the following paragraphs:

- (bb) prescribe requirements in relation to the sale or service of liquor by persons who are under the age of 18 years; and

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- (bc) prescribe matters in relation to the serving or giving of barring orders; and
- (bd) prescribe requirements in relation to documents which provide evidence of age; and
- (be) prescribe record keeping requirements; and
- (bf) provide for the use and disclosure of wholesale liquor supply information, including limitations on such use and disclosure; and
- (bg) be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstances or otherwise, specified in the regulations; and
- (bh) prescribe exemptions from complying with any of the regulations on the terms and conditions (if any) prescribed; and

101. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of this Act commence.