

CLAUSE NOTES

Liquor Licensing Amendment (Liquor and Gaming Administrative Restructuring) Bill 2015

- Clause 1 Cites the proposed legislation as the *Liquor Licensing Amendment (Liquor and Gaming Administrative Restructuring) Act 2015*.
- Clause 2 Allows the proposed legislation to commence on a day to be proclaimed.
- Clause 3 In Part 2 the *Liquor Licensing Act 1990* is referred to as the Principal Act.
- Clause 4 Omits the definition of “Board”, as the proposed legislation abolishes the Licensing Board.
- Inserts a definition of “Commission”, having the same meaning as in the *Gaming Control Act 1993*.
- Inserts a definition of “hearing”, meaning hearings by the Commission.
- A reference to “Board” is replaced with “Commissioner” in the definition of “liquor restriction order”, as these will be made by the Commissioner for Licensing.
- Clause 5 References to “Board” are replaced with “Commissioner” in relation to a general liquor exemption, as these will be granted by the Commissioner for Licensing.
- Clause 6 Omits this subsection dealing with the Commissioner forwarding representations to the Board, as the Board will be abolished and representations will be heard by the Commissioner.
- Clause 7 The Commissioner for Licensing will continue to assess whether an applicant is qualified to hold a liquor licence and make any necessary inquiries regarding the application. If satisfied that an applicant is qualified, the Commissioner will consider the application. Alternatively, if the Commissioner is of the opinion it is in the best interests of the community, an application and any representations will now be referred to the Commission for a hearing.
- If an application is referred to the Commission, the Commissioner must advise the applicant in writing.
- A reference to “Board” is replaced with “Commission” in relation to the Commissioner notifying an applicant of their right of appeal if they have been deemed not qualified to hold a liquor licence.
- Clause 8 References to “Board” are replaced with “Commission” in relation to considering an application for a liquor licence.
- References to “Board” are replaced with “Commissioner or the Commission” in relation to considering an application for an off-licence or an on-licence for a restaurant.

Clause 9	The process for granting a liquor licence is updated. The Board will no longer direct the Commissioner for Licensing to grant a licence, but rather the Commissioner may decide to grant a licence or will be directed by the Commission. Requirements in relation to informing the applicant and requesting payment of fees remain the same.
Clause 10	The existing requirement that a liquor licence must not be granted in connection with the activities of a supermarket remains. A reference to the Board is removed and this section is simplified.
Clause 11	A reference to the "Board" is replaced with the "Commission" in relation to an applicant's right of appeal should the Commissioner for Licensing refuse to approve the transfer of a liquor licence.
Clause 12	A reference to the "Board" is replaced with the "Commission" in relation to an applicant's right of appeal should the Commissioner for Licensing refuse to grant a liquor permit.
Clause 13	References to the "Board" are replaced with the "Commissioner" in relation to liquor restriction orders, as these will be made by the Commissioner for Licensing. The grounds that may result in an order and other procedural requirements remain the same. A requirement to inform a licensee of their right to appeal to the Commission against the making of the order is inserted.
Clause 14	A reference to the "Board" is replaced with the "Commission" in relation to a licensee's right of appeal against a decision of the Commissioner for Licensing to cancel or vary an out-of-hours permit.
Clause 15	References to the "Board" are replaced with the "Commission" in relation to a licensee's right of appeal against a decision of the Commissioner for Licensing to suspend a licence.
Clause 16	Rather than applying to the Board for a hearing to cancel or suspend a licence, the Commissioner for Licensing may now cancel or suspend a licence if satisfied of certain circumstances. A licensee's right of appeal to the Commission against a decision of the Commissioner to cancel or suspend a licence, the ability of the Commissioner to revoke a suspension and procedural matters are also inserted.
Clause 17	A reference to the "Board" is replaced with the "Commission" in relation to a licensee's right of appeal against a decision of the Commissioner for Licensing to refuse the licensee's application to vary the conditions of a special licence.
Clause 18	A reference to the "Board" is replaced with the "Commission" in relation to a licensee's right of appeal against a decision of the Commissioner for Licensing to vary the conditions of a special licence on the Commissioner's own motion. A reference to obtaining the written consent of the Board is omitted, as the Commissioner now grants special licences as opposed to the Board.
Clause 19	A reference to the "Board" is replaced with the "Commissioner" in relation to displaying a liquor restriction order, as these will now be made by the Commissioner for Licensing.
Clause 20	References to the establishment of the Licensing Board are omitted with the formation of the new Commission.

- Clause 21 The heading is amended to reflect the title of the new decision making body. References to the "Board" are replaced with "Commission" in relation to a person's right of appeal against a decision of the Commissioner for Licensing. Refusal to grant a licence and the making of a liquor restriction order are inserted as matters about which a person may appeal.
- Clause 22 References to the "Board" in relation to procedure on appeal are replaced with the "Commission".
- Clause 23 The heading is amended to reflect the title of the new decision making body. References to the "Board" are replaced with the "Commission" in relation to procedures associated with hearings. A reference to the Commission hearing licence applications referred by the Commissioner for Licensing (based on the Commissioner's opinion that the referral is in the best interests of the community) is inserted.
- A reference to a hearing being, at the Commission's discretion, determined solely on the basis of written evidence is inserted to provide clarity as to what may constitute a private hearing.
- Clause 24 The heading is amended to reflect the title of the new decision making body. References to the "Board" in relation to a decision of the Board after a hearing are replaced with the "Commission".
- A reference to the Commission hearing licence applications referred by the Commissioner is inserted. After hearing these applications the Commission will direct the Commissioner to either grant the licence or refuse the application.
- A reference to the Commissioner making application for approval to cancel or suspend a liquor licence is omitted as approval will not be required with the Commissioner now determining these matters.
- Procedures in relation to an appeal against a decision of the Commissioner remain the same, including the ability of the Commission to direct the Commissioner to take such action as it considered appropriate in the circumstances.
- Clause 25 References to the "Board" in relation to the powers of the Supreme Court are replaced with the "Commission".
- Clause 26 References to the "Board" are replaced with the "Commission" in relation to witnesses to appear at a hearing.
- Clause 27 A reference to the "Board" is replaced with the "Commission" in relation to indemnity.
- Clause 28 References to the "Board" are replaced with the "Commission" in relation to Regulations.

Clause 29	<p>Schedule 1 of the Principal Act is repealed and replaced with new savings and transitional provisions, including definitions to provide clarification. On the commencement day:</p> <ul style="list-style-type: none"> • the Board is abolished, membership of the Board is revoked and a member is not entitled to receive any benefit in respect of the revocation of their membership; • existing general liquor exemptions and liquor restriction orders continue; • pending applications for a liquor licence continue and will be dealt with by the Commissioner; • pending applications from the Commissioner to the Board for a hearing in relation to a liquor restriction order or to cancel or suspend a liquor licence discontinue and will be dealt with by the Commissioner; • pending appeals against a decision of the Commissioner continue and will be dealt with by the Commission; • cases that have been stated by the Board for the opinion of the Supreme Court and are undetermined continue; and • any legal or other proceedings continued or instituted by or against the Board may be continued or instituted by or against the Commission.
Clause 30	The <i>Gaming Control Act 1993</i> is referred to as the Principal Act in Part 3.
Clause 31	The definition of “Commission” is amended to reflect the title of the new decision making body (“Tasmanian Liquor and Gaming Commission”) and is made more contemporary.
Clause 32	The heading to Part 7 is amended to reflect the title of the new regulatory body.
Clause 33	The heading is amended to reflect the title of the new decision making body. The Tasmanian Gaming Commission continues after the commencement of the proposed legislation as the Tasmanian Liquor and Gaming Commission.
Clause 34	<p>Two additional functions of the Commission are inserted:</p> <ul style="list-style-type: none"> • to hear liquor licence applications referred to it by the Commissioner under the <i>Liquor Licensing Act 1990</i>; and • to hear appeals against decisions of the Commissioner under the <i>Liquor Licensing Act 1990</i>.
Clause 35	Any directions made by the Minister to the Commission under the Gaming Control Act can only be for gaming related matters. The amendment ensures that the power of the Minister to give directions to the new Commission do not extend to liquor matters.
Clause 36	Allows the automatic repeal of the proposed legislation one year from the day it commences.