

LIQUOR LICENSING AMENDMENT BILL 2008

NOTES ON CLAUSES

- Clause 1 Short title.
- Clause 2 The Act will commence on the day it receives Royal Assent.
- Clause 3 Provides that the Liquor Licensing Act 1990 is the Principal Act for clause 1 through to clause 45.
- Clause 4 Provides for a new definition of ‘authorized officer’ and ‘false document’; removes the definition of ‘contravene’ and makes a grammatical correction to the definition ‘Tasmanian wine’.
- Clause 5 Amends section 8 to authorize the sale of liquor at any time to a resident of the premises specified in the on-licence.
- Clause 6 Amends section 22 to reinstate the original policy intent of the Principal Act, that is, a person must be “fit and proper” to hold a liquor licence (rather than ‘of good repute’) and to extend the test to the associates of the person, if the associate is likely to have influence over the management of the business to be carried out under the licence.
- Clause 7 Amends section 23 to enable the Commissioner for Licensing (the Commissioner) to request further information about any associates of an applicant, if the associate is likely to have influence over the management of the business, before considering an application.
- Clause 8 Amends section 24 to enable the Commissioner to make such enquiries regarding an application for a liquor licence as the Commissioner considers necessary for proper consideration of the application for a liquor licence - this may include seeking the opinion of the Commissioner for Police as to whether the applicant or an associate of the applicant is a fit and proper person.
- Clause 9 Amends section 33 by making provision for the Commissioner to make such enquiries as the Commissioner considers necessary or expedient for a proper consideration of an application for a liquor permit.
- Clause 10 Amends section 40 to enable the Commissioner to cancel or vary an out of hours permit if the Commissioner determines it is in the public interest to do so, or, is satisfied that the holder of the permit has failed to comply with its conditions. Also provides the licensee with the right to appeal to the Board against the Commissioner’s decision.

- Clause 11 Amends section 41 to allow the Commissioner to suspend a liquor licence if reasonably satisfied that a licensee or an associate of the licensee is not a fit or proper person to be a licensee or an associate of a licensee.
- Clause 12 Amends section 42 to remove the reference to “of good repute” and reinstate it with the original policy intent “fit and proper”. Inserts a new subsection enabling the Commissioner to cancel or suspend a liquor licence if satisfied that a licensee or an associate of the licensee that may have influence over the management of the business, is not, or is no longer, a fit or proper person to be a licensee or an associate of a licensee.
- Clause 13 Inserts sections 44 and 45 to provide the Commissioner with the power to vary conditions of a special liquor licence at a licensee’s written request or at the discretion of the Commissioner (upon consultation with the licensee and approval from the Liquor Licensing Board) and provide the licensee with the right to appeal to the Board against the Commissioner’s decision.
- Clause 14 Amends section 46A to clarify the requirement that licensees must be able to verify, in a form approved by the Commissioner, that persons employed in the service of liquor have undertaken or are enrolled to undertake an approved course in accordance with the provisions of the Act
- Clause 15 Inserts section 48 to require licensees to notify the Commissioner if alterations are being made to any areas that have been designated as restricted to persons under 18 years under section 84 of the Act; and inserts section 49 to require the holder of a liquor licence to comply with the conditions of the licence.
- Clause 16 Repeals section 51 that requires a licensee to display the licensee’s name and section 52 that the licence is to be kept on the licensed premises.
- Clause 17 Amends section 54 to require that licensees must display the licensee’s liquor licence in a conspicuous position on the licensed premises.
- Clause 18 Repeals sections 57, 58 and 59 of the Principal Act requiring the licence to indicate trading hours, availability of meals, and tourist accommodation.
- Clause 19 Provides that under section 60, a licensee must display a notice prohibiting or restricting entry of young people at each entrance to areas of licensed premises that are designated to prohibit or restrict entry of young persons.
- Clause 20 Clarifies that the holder of an off licence must not allow the consumption of liquor purchased on the licensed premises unless the consumption is authorized by an on permit.
- Clause 21 Clarifies that the holder of an on licence must not allow liquor purchased on the licensed premises to be removed from those premises for consumption elsewhere unless the consumption of the liquor off the premises is authorized by an off permit.

- Clause 22 Clarifies that the holder of a general licence must not allow a person to enter or remain on any part of the licensed premises outside authorized hours.
- Clause 23 Amends section 66(1) to extend the permitted period of absence that a licensee may be away from the licensed premises (from 7 days to 14 days) before being required to advise the Commissioner of their absence.
- Clause 24 Increases the maximum penalty that may be applied for making a false or misleading statement in an application from 10 penalty units (\$1 200) to 50 penalty units (\$6 000).
- Clause 25 Increases the maximum penalty that may be applied to a person who sells alcohol to a person under the age of 18 years from 10 penalty units (\$1 200) to 50 penalty units (\$6 000) and increases the penalty that may be applied to a licensee for selling alcohol to a person under 18 years of age from 20 penalty units (\$2 400) to 100 penalty units (\$12 000).
- Clause 26 Increases the maximum penalty that may be applied for supplying alcohol to a person under the age of 18 years from 10 penalty units (\$1 200) to 50 penalty units (\$6 000).
- Clause 27 Increases the maximum penalty that may be applied to a person under the age of 18 years for entering or remaining on any part of a licensed premises designated as an area where a person under the age of 18 years can not enter or remain, where a notice specifying the prohibition is displayed, from 10 penalty units (\$1 200) to 20 penalty units (\$2 400).
- Clause 28 Creates an offence for a person under the age of 18 to use a false document in order to obtain or purchase alcohol or to gain entry to premises to which they are not entitled to and imposes a penalty not exceeding 10 penalty units (\$1 200).
- Clause 29 Increases the maximum penalty that may be applied to a person who sends a person under the age of 18 years to obtain liquor (purchase or collect) from 10 penalty units (\$1 200) to 50 penalty units (\$6 000).
- Clause 30 Increases the maximum penalty that may be applied to a licensee or a person acting on behalf of the licensee for giving a person under the age of 18 years possession or charge of liquor on the licensed premises from 10 penalty units (\$1 200) to 50 penalty units (\$6 000).
- Clause 31 Increases the maximum penalty that may be applied to a person who sells liquor to a person who appears to be drunk from 10 penalty units (\$1 200) to 50 penalty units (\$6 000). Creates an offence for a licensee if a person authorized by the licensee to sell liquor on the licensed premises sells liquor to a person who appears to be drunk and imposes a fine not exceeding 100 penalty units (\$12 000).

- Clause 32 Increases the maximum penalty that may be applied to a person who supplies liquor on a licensed premise to a person who appears to be drunk from 10 penalty units (\$1 200) to 50 penalty units (\$6 000).
- Clause 33 Increases the maximum penalty that may be applied to a licensee failing to take reasonable steps to prevent an offence being committed on the licensed premises from 10 penalty units (\$1 200) to 100 penalty units (\$12 000).
- Clause 34 Increases the maximum penalty that may be applied to a person failing to leave the licensed premises when required to do so, or, re-entering within 24 hours after being asked to leave the licensed premises from 10 penalty units (\$1 200) to 50 penalty units (\$6 000).
- Clause 35 Increases the maximum penalty that may be applied to a person failing to leave the special permit premises when required to do so, or, re-entering within 24 hours after being asked to leave the special permit premises from 10 penalty units (\$1 200) to 50 penalty units (\$6 000).
- Clause 36 Increases the maximum penalty that may be applied to the holder of a special permit failing to display the permit in a conspicuous position on the premises during the time liquor may be sold on those premises from 10 penalty units (\$1 200) to 50 penalty units (\$6 000).
- Clause 37 Increases the maximum penalty that may be applied if a person hinders an authorized officer from 10 penalty units (\$1 200) to 50 penalty units (\$6 000).
- Clause 38 Increases the maximum penalty that may be applied to a person not giving the police their name, address and date of birth when lawfully requested to do so from 10 penalty units (\$1 200) to 50 penalty units (\$6 000).
- Clause 39 Amends section 86(5)(b) by clarifying the powers of an authorized officer to use reasonable force, as authorised by warrant, to enter residential premises when exercising or performing his or her powers or duties under the Act.
- Clause 40 Creates a new power to enable a police officer, crowd controller, licensee or person employed to sell liquor by the licensee to seize an identification document if they have reasonable grounds to suspect that it is false, forged or fraudulently altered. If the person seizing the document is not a police officer then it is an offence to not hand the document to a police officer within 72 hours after the date of seizure.
- Clause 41 Amends section 206 by removing the requirement for one member of the Liquor Licensing Board to be a legal practitioner.
- Clause 42 Amends section 207 to simplify the appointment process for the Commissioner of Licensing by removing the requirement for the Commissioner to be appointed by the Governor and aligning the appointment process for the Commissioner for Taxation under the Taxation Administration Act 1997; amends section 208 to clarify the Commissioner of Licensing's

power of delegation and amends section 209 – the appointment or authorisation process for authorized officers.

- Clause 43 Amends section 211 to allow the licensee to appeal to the Liquor Licensing Board in respect of the Commissioner’s decision to vary the conditions of a permit or liquor licence.
- Clause 44 Inserts section 223 to enable a police officer to issue infringement notices for breach of the Act and specifies that the notice is to be in accordance with section 14 of the Monetary Penalties Enforcement Act 2005.
- Clause 45 Repeals section 227 of the Principal Act being redundant provisions in respect of the administration of the Act.
- Clause 46 Provides that the Annulled Convictions Act 2003 is the Principal Act for the purposes of Clause 47 of this Bill.
- Clause 47 Amends Schedule 1 of the Principal Act by including applications for liquor licences and permits as ‘non-exempt applications’ so that when such applications are made annulled convictions are disclosed.