

Passed by both Houses



New South Wales

Liquor Bill 2007

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2007*



New South Wales

Liquor Bill 2007

Act No , 2007

An Act to regulate and control the sale and supply of liquor and the use of premises on which liquor is sold or supplied; to repeal the *Liquor Act 1982*; and for other purposes.

See also the *Casino, Liquor and Gaming Control Authority Act 2007* and the *Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007*.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

Clause 1 Liquor Bill 2007

Part 1 Preliminary

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Liquor Act 2007*.

Note. This Act is part of the gaming and liquor legislation for the purposes of the *Casino, Liquor and Gaming Control Authority Act 2007*. That Act contains administrative and other relevant provisions that apply in relation to this Act (including investigation and enforcement powers and provisions relating to the probity of officials).

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Objects of Act

- (1) The objects of this Act are as follows:
 - (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
 - (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
 - (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
- (2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:
 - (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
 - (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
 - (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

4 Definitions

- (1) In this Act:

accommodation premises means premises that provide temporary accommodation to travellers and includes a bed and breakfast

establishment, but does not include a boarding house, lodging house, nursing home, caravan park or any other type of premises prescribed by the regulations for the purposes of this definition.

accord area—see section 131.

adult means a person of or above the age of 18 years.

airport means a public airport established and maintained by a local council.

authorised officer has the same meaning as in the *Law Enforcement (Powers and Responsibilities) Act 2002*.

Authority means the Casino, Liquor and Gaming Control Authority constituted under the *Casino, Liquor and Gaming Control Authority Act 2007*.

bar area, in relation to a hotel or club premises, means any part of the hotel or club premises in which liquor is ordinarily sold or supplied for consumption in the hotel or on the club premises, but does not include:

- (a) a dining area in the hotel or on the club premises, or
- (b) any part of the hotel in which liquor is, otherwise than as authorised under section 17 (6), sold or supplied exclusively to residents, or
- (c) any part of the hotel in respect of which a minors area authorisation or minors functions authorisation is in force, whenever the authorisation operates to authorise the use by a minor of that part, or
- (d) any part of the club premises in respect of which an authorisation under section 22 of the *Registered Clubs Act 1976* specifying the part as a non-restricted area is in force, or
- (e) any part of the club premises in respect of which:
 - (i) a junior members authorisation under section 22A of the *Registered Clubs Act 1976* is in force, or
 - (ii) a club functions authorisation under section 23 of that Act is in force,

whenever the authorisation operates to authorise the use by a minor of that part.

bed and breakfast establishment means premises that provide temporary guest accommodation (other than dormitory-style accommodation) and where:

- (a) the establishment is operated by the permanent residents of the establishment, and
- (b) meals are provided for guests only.

beer means liquor that is beer, ale, lager, pilsener, porter, stout or any other fermented malt liquor or any fermented liquor made from hops or that for the purposes of sale is held out to be beer.

catering service means a service for supplying food or liquor (or both) for consumption at a function, occasion or event.

close associate means a close associate within the meaning of the *Casino, Liquor and Gaming Control Authority Act 2007*.

club premises means the premises to which a club licence relates.

de facto partner of a person means the other party to a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) with the person.

dining area, in relation to licensed premises, means a part of the licensed premises used permanently and primarily for the consumption of meals at tables.

Director means the Director of Liquor and Gaming holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

drink on-premises authorisation means an authorisation referred to in section 50.

employ includes engage under a contract for services.

employee includes, except in the case of a registered club, a person engaged under a contract for services.

evidence of age document for a person means any of the following documents that bears a photograph of the person and that indicates (by reference to the person's date of birth or otherwise) that the person has attained a particular age, but does not include any such document that has expired or otherwise appears not to be in force:

- (a) a motor vehicle driver or rider's licence or permit issued by the Roads and Traffic Authority or by the corresponding public authority of another State or Territory or under the law of another country,
- (b) a Photo Card issued under the *Photo Card Act 2005*,
- (c) a document (referred to as **an existing RTA proof of age card**) issued by the Roads and Traffic Authority under section 117EA of the *Liquor Act 1982* and in force immediately before the repeal of that section by this Act,

Note. Existing RTA proof of age cards cease to be valid for any purpose on 14 December 2008—see Division 3 of Part 2 of Schedule 1 to this Act.

- (d) a proof of age card (however described) issued by a public authority of the Commonwealth or of another State or Territory for the purpose of attesting to a person's identity and age,

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- (e) an Australian or foreign passport,
 - (f) any other class of document prescribed by the regulations for the purposes of this definition.

extended trading authorisation means an authorisation referred to in section 49.

financial institution means a bank or authorised deposit-taking institution.

function means any dinner, ball, convention, seminar, sporting event, race meeting, exhibition, performance, trade fair or other fair, fete or carnival, or any other event or activity, that is conducted for public amusement or entertainment or to raise funds for any charitable or other purpose and, in relation to a surf life saving club, includes any gathering of members of the club (and their guests) organised by the club for social purposes.

general bar licence—see section 16.

hotel means the premises to which a hotel licence relates.

hotelier means the holder of a hotel licence under this Act.

inspector means an inspector within the meaning of the *Casino, Liquor and Gaming Control Authority Act 2007*.

intoxicated—see section 5.

licence means a licence under this Act.

licensed premises means the premises to which a licence relates.

licensee means the holder of a licence.

liquor means:

- (a) a beverage which, at 20° Celsius, contains more than 1.15% ethanol by volume, or
- (b) any thing that is not a beverage referred to in paragraph (a) but, for the purposes of sale, is held out to be beer or spirits, or
- (c) any other substance prescribed by the regulations as liquor.

local consent authority, in relation to licensed premises or proposed licensed premises, means:

- (a) the local council in whose area (within the meaning of the *Local Government Act 1993*) the premises are, or will be, situated, or
- (b) if consent to the carrying out of development on the land concerned is required from a person or body other than the council—that person or body.

local liquor accord—see section 131.

manager of licensed premises means:

- (a) a person appointed by the licensee under section 66 to manage the licensed premises, or
- (b) in the case of a registered club that has only one set of premises—the secretary of the registered club.

meal means a genuine meal consumed by a person at a dining table and includes, in the case of an on-premises licence that relates to accommodation premises:

- (a) a meal supplied by the proprietor for immediate consumption (otherwise than at a dining table) on or away from the premises, and
- (b) a picnic-style hamper supplied by the proprietor for consumption (otherwise than at a dining table) away from the premises on the same day as it is supplied.

minor means a person who is under the age of 18 years.

minors area authorisation means an authorisation referred to in section 121.

minors functions authorisation means an authorisation referred to in section 122.

non-proprietary association means:

- (a) an incorporated or unincorporated body or association of persons (including a club) that, by its constitution or any law that governs its activities:
 - (i) is required to apply its profits (if any) and other income to the promotion of its objects or to purposes provided for by any such law, and
 - (ii) is prohibited from paying dividends, or distributing profits or income, to its shareholders or members, or
- (b) a local council, or
- (c) any public authority or community organisation prescribed by the regulations to be a non-proprietary association for the purposes of this definition.

owner of premises means the person entitled to the rents or profits of the premises.

person authorised to sell liquor means:

- (a) a licensee, or
- (b) a person who is authorised by the law of another State or Territory to sell liquor, or

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- (c) any person who sells or supplies liquor (whether in New South Wales or elsewhere) but is not required by this Act to hold a licence in respect of the sale or supply of liquor in New South Wales, or
 - (d) a person who is prescribed by the regulations, or who is of a class of persons prescribed by the regulations, for the purposes of this definition.

premises includes:

- (a) a building or structure, or
- (b) land or a place (whether built on or not), or
- (c) a vehicle, vessel or aircraft.

prohibited drug and **prohibited plant** have the same meanings as in the *Drug Misuse and Trafficking Act 1985*.

public entertainment venue means any of the following:

- (a) a cinema,
- (b) a theatre,
- (c) premises in respect of which the primary business or activity is the provision of entertainment to members of the public by a person who is physically present on the premises and is actually providing the entertainment.

racing club means a body (whether incorporated or unincorporated) registered as a racing club by Racing New South Wales, Harness Racing New South Wales or Greyhound Racing New South Wales.

registered club means a club that holds a club licence under this Act.

related corporation of a licensee means:

- (a) if the licensee is a corporation—a corporation that, within the meaning of the *Corporations Act 2001* of the Commonwealth, is a related body corporate of the licensee, or
- (b) if the licensee is an individual—a corporation:
 - (i) that employs the licensee, or
 - (ii) in respect of which the licensee occupies a position of authority.

resident of licensed premises means a person (other than the licensee) who resides, or is staying overnight in, a part of the premises that has been set aside for the purposes of accommodation.

responsible adult, in relation to a minor, means an adult who is:

- (a) a parent, step-parent or guardian of the minor, or
- (b) the minor's spouse or de facto partner, or
- (c) for the time being standing in as the parent of the minor.

responsible person for licensed premises means any of the following:

- (a) the licensee,
- (b) the manager of the premises,
- (c) an employee or agent of the licensee or manager,
- (d) a person acting or purporting to act on behalf of the licensee or manager.

restaurant means premises (however described) in respect of which the primary purpose is the business of preparing and serving meals to the public.

restricted alcohol area means any part of the State declared by the regulations under section 115 to be a restricted alcohol area for the purposes of this Act.

restricted trading day means Good Friday or Christmas Day.

secretary of a registered club has the same meaning as in the *Registered Clubs Act 1976*.

sell includes any of the following:

- (a) barter or exchange,
- (b) offer, agree or attempt to sell,
- (c) expose, send, forward or deliver for sale,
- (d) cause or permit to be sold or offered for sale.

standard trading period—see section 12.

supply includes dispose of or deliver.

surf life saving club means a body (whether incorporated or unincorporated) that provides surf life saving services to members of the public in New South Wales.

tasting, in relation to liquor, means sampling a small amount of a particular product (including such an amount as may be prescribed by the regulations) usually for the first time or for the purpose of deciding whether to purchase a larger quantity of the product (or both), but does not include sampling to the extent that it is no longer ancillary to the primary purpose for which customers or intending customers are being supplied with the product, namely purchasing the product for consumption away from the licensed premises concerned.

tertiary institution means a university or a TAFE establishment within the meaning of the *Technical and Further Education Commission Act 1990*.

trading hours of licensed premises means the times during which, subject to this Act and the conditions of the licence, the sale or supply of liquor on the premises is authorised.

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- (2) In this Act, a reference to the *exercise of a function* (except in the context of a function as defined in subsection (1)) includes a reference to the exercise or performance of a power, authority or duty.
- (3) Notes included in the text of this Act do not form part of this Act.

5 Meaning of “intoxicated”

- (1) For the purposes of this Act, a person is *intoxicated* if:
- (a) the person’s speech, balance, co-ordination or behaviour is noticeably affected, and
 - (b) it is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor.
- (2) Accordingly, a reference in this Act to *intoxication* in relation to licensed premises is a reference to the presence of intoxicated persons on the licensed premises.
- (3) The Director is to issue guidelines to assist in determining whether or not a person is intoxicated for the purposes of this Act. Such guidelines are to be made publicly available in such manner as the Director considers appropriate.
- (4) The guidelines issued by the Director may also indicate circumstances in which a person may be assumed not to be intoxicated for the purposes of this Act.

6 Exemptions from Act

(1) General exemptions

This Act does not apply to or in respect of the following:

- (a) the sale of liquor to an adult on such trains under the control of Rail Corporation New South Wales as are determined by that corporation,
- (b) the sale of spirituous or distilled perfume as perfumery only and not for drinking,
- (c) the sale of liquor for medicinal purposes by:
 - (i) a registered medical practitioner, or
 - (ii) a nurse authorised under the *Nurses and Midwives Act 1991* to practise as a nurse practitioner, or
 - (iii) a midwife authorised under that Act to practise as a midwife practitioner, or
 - (iv) a registered pharmacist,

- (d) the sale of liquor to an adult at an auction conducted by an auctioneer, but only if such requirements (if any) as are prescribed by the regulations are complied with,
- (e) the sale of liquor taken in execution or under similar process, or forfeited to the Crown, if the sale is by or on behalf of the sheriff or a sheriff's officer, or a bailiff or a police officer,
- (f) the sale of liquor to an adult on board a vessel engaged in interstate or overseas voyages, but only if such requirements (if any) as are prescribed by the regulations are complied with,
- (g) the sale of liquor to an adult on board an aircraft, except in the case of a charter service where a person other than the aircraft operator sells or supplies liquor on board the aircraft,
- (h) the sale of liquor authorised by a law of the Commonwealth for the export of the liquor from the Commonwealth,
- (i) the sale of liquor that is part of a sale of flowers or food designed to be delivered as a gift to a person (not being the purchaser) specified by the purchaser, but only if:
 - (i) the liquor is delivered together with the flowers or food to the person so specified at a place other than the premises at which the business of the vendor is conducted, and
 - (ii) the liquor has been purchased by the vendor on a retail basis, and
 - (iii) the volume of liquor supplied in respect of each gift delivered by the vendor does not exceed 2 litres, and
 - (iv) the person to whom the liquor is delivered is an adult,
- (j) the sale or supply of liquor to an adult who:
 - (i) is accommodated in a nursing home within the meaning of the *Public Health Act 1991*, and
 - (ii) is receiving nursing care,if the liquor is sold or supplied by a person in charge of, or a person acting with the authority of a person in charge of, the nursing home,
- (k) the sale or supply of liquor to an adult who:
 - (i) is an in-patient of a public hospital within the meaning of the *Health Services Act 1997*, or
 - (ii) is a patient of a private hospital within the meaning of the *Private Hospitals and Day Procedure Centres Act 1988*, or
 - (iii) is an in-patient of any other medical facility of a class prescribed by the regulations,

if the liquor is sold or supplied by a person in charge of, or a person acting with the authority of a person in charge of, the hospital or facility,

- (1) the sale or supply of liquor in such other circumstances as may be prescribed by the regulations.

(2) **Exemption for bed and breakfast establishments in certain circumstances**

This Act does not apply to or in respect of the sale or supply of liquor to the guests of a bed and breakfast establishment (*the B&B*), but only if the following requirements are complied with:

- (a) no more than 8 adult guests are staying at the B&B at the one time,
- (b) the liquor is not supplied to a minor,
- (c) the liquor has been purchased by the proprietor of the B&B on a retail basis,
- (d) the sale or supply is ancillary to the provision of accommodation or a meal,
- (e) any person who sells, supplies or serves liquor to a guest has obtained the same qualifications with respect to responsible service of alcohol as licensees and employees of licensees are required to obtain under this Act,
- (f) the proprietor of the B&B has notified the Authority, in the form and manner approved by the Authority, that the B&B sells or supplies liquor to guests as provided by this subsection.

(3) **Exemption for retirement villages in certain circumstances**

This Act does not apply to or in respect of the sale or supply of liquor to an adult who is a resident of a retirement village (or who is the guest of such a resident) at any gathering held in the village, but only if the following requirements are complied with:

- (a) a member of the Residents Committee for the village, or a person nominated by the Residents Committee, is present at the gathering to supervise the sale and supply of liquor and the conduct of the gathering,
- (b) the liquor that is sold or supplied at the gathering has been purchased on a retail basis,
- (c) the gathering has not been organised, or is not being conducted, by the operator of the retirement village.

- (4) In subsection (3), *operator*, *resident*, *Residents Committee* and *retirement village* have the same meanings as in the *Retirement Villages Act 1999*.

Part 2 Principal offences relating to sale and supply of liquor

7 Licence required to sell liquor

- (1) A person must not sell liquor unless the person is authorised to do so by a licence.
Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.
- (2) A person does not commit an offence under subsection (1) if the person is an employee or agent of a licensee and the sale is made in accordance with this Act and the authorisation conferred by the licence.
- (3) A person who is the occupier, manager or person apparently in control of any premises on or from which liquor is sold in contravention of subsection (1) is taken to have sold the liquor unless it is proved that the person:
 - (a) had no knowledge of the sale, and
 - (b) had used all due diligence to prevent the sale of liquor on or from the premises.

8 Keeping or using unlicensed premises

- (1) A person must not:
 - (a) open, keep or use any premises for the purpose of selling liquor, or
 - (b) permit any premises to be opened, kept or used by another person for the purpose of selling liquor, or
 - (c) have the care or management of any premises opened, kept or used for the purpose of selling liquor, or
 - (d) assist in conducting the business of any premises opened, kept or used for the purpose of selling liquor,unless the premises are licensed premises or are otherwise authorised under this Act to be used for the sale or supply of liquor.
Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.
- (2) A person who is found on, or who is found entering or leaving, any premises opened, kept or used in contravention of subsection (1) is guilty of an offence.
Maximum penalty: 5 penalty units.

9 Sale or supply of liquor contrary to licence

- (1) A licensee or an employee or agent of a licensee must not sell or supply liquor, or cause or permit liquor to be sold or supplied:
 - (a) in contravention of the conditions to which the licence is subject, or
 - (b) otherwise than in accordance with the authority conferred on the licensee by or under this Act.
- (2) Without limiting subsection (1), a licensee must not:
 - (a) keep licensed premises open for the sale or supply of liquor, or
 - (b) sell or supply liquor,at a time when the licensee is not authorised under this Act to sell or supply liquor.
- (3) A licensee must not sell, or employ or permit another person to sell, liquor on premises other than premises on which the licensee is authorised by the licence or this Act to sell the liquor.
Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

Part 3 Liquor licences

Division 1 Preliminary

10 Types of licences and authorisation conferred by licence

- (1) The following types of licences may be granted and held under this Act:
 - (a) hotel licence,
 - (b) club licence,
 - (c) on-premises licence,
 - (d) packaged liquor licence,
 - (e) producer/wholesaler licence,
 - (f) limited licence.
- (2) A licence authorises the licensee to sell or supply liquor in accordance with this Act and the conditions of the licence.
- (3) The authorisation conferred by a licence is subject to this Act and the regulations.

11 Licence conditions—general provisions

- (1) A licence is subject to:
 - (a) such conditions as may be imposed, or are taken to have been imposed, by the Authority or the Director (whether at the time the licence is granted or at any later time) under this Act, and
 - (b) such conditions as are imposed by this Act or prescribed by the regulations, and
 - (c) such other conditions as are authorised to be imposed on the licence under this Act.
- (2) A licensee must comply with any conditions to which the licence is subject.
Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.
- (3) For the purposes of this Act, a condition to which a licence is subject includes any provision of this Act that imposes a requirement or restriction (other than as an offence) on or in relation to the licence, licensee or licensed premises concerned.
Note. The times during which licensed premises are authorised to trade is an example of such a requirement.

12 Standard trading period for certain licensed premises

- (1) For the purposes of this Act, the *standard trading period* means:
- (a) for any day of the week other than a Sunday:
 - (i) the period from 5 am to midnight, or
 - (ii) if the regulations prescribe a shorter period—the period as so prescribed, and
 - (b) for a Sunday:
 - (i) the period from 10 am to 10 pm, or
 - (ii) if the regulations prescribe a shorter period—the period as so prescribed.

Note. The standard trading period applies in relation to the following premises:

- (a) hotels,
 - (b) the premises of a registered club,
 - (c) the premises to which an on-premises licence relates (other than vessels),
 - (d) the premises to which a packaged liquor licence relates (ie a bottle shop),
 - (e) the licensed premises of a wine producer,
 - (f) the licensed premises of a small-scale producer referred to in section 34.
- (2) Any such regulation that prescribes a shorter period for the purposes of subsection (1) may:
- (a) apply to a specified class of licensed premises, and
 - (b) apply in relation to a specified day or days, and
 - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2) (a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

13 Special events extended trading period for hotels and clubs

- (1) In addition to the trading hours that apply under this Act to the licensed premises to which a hotel licence or a club licence relates, the regulations may prescribe a period during which liquor may be sold or supplied for consumption on any such licensed premises.
- (2) Any such period may be prescribed only in relation to a specified day on which a special event is to be held or that immediately follows the

day on which a special event is held. For the purposes of this subsection, *special event* means an event that the Minister considers to be of regional, State or national significance.

- (3) A regulation under this section may apply to a specified class of hotel or club premises. Without limitation, any such class of hotel or club premises may be specified by reference to hotels or club premises that are located in a particular area (however described).
- (4) This section does not authorise the sale, supply or consumption of liquor on any licensed premises contrary to a restriction or prohibition imposed by or under this Act in respect of the trading hours for the licensed premises.

Division 2 Hotel licences

14 Authorisation conferred by hotel licence

- (1) A hotel licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on or away from the licensed premises.
- (2) **Trading hours for consumption on premises**

The times when liquor may be sold for consumption on the licensed premises are as follows:

 - (a) during the standard trading period or at such other times as may be authorised by an extended trading authorisation,
 - (b) on 31 December in any year (but without limiting the operation of any extended trading authorisation)—from the start of the standard trading period for that day until 2 am on the next succeeding day,
 - (c) at any time on any day to a resident of the licensed premises or to a guest of such a resident while the guest is in the resident's company.
- (3) **Restricted trading days**

On a restricted trading day, liquor may only be sold for consumption on the licensed premises from noon to 10 pm. In the case of Christmas day, liquor may only be sold with or ancillary to a meal served in a dining area on the licensed premises.
- (4) **Trading hours for consumption away from premises**

Liquor may be sold for consumption away from the licensed premises during the standard trading period or at such other times as may be authorised by an extended trading authorisation.

(5) **No take-away sales on restricted trading days**

However, the sale of liquor for consumption away from the licensed premises is not authorised on a restricted trading day.

(6) **Functions on other premises**

A hotel licence also authorises the licensee to sell liquor by retail for the purposes of a function to be held on such other premises as the Authority may, on application by the licensee, authorise, but only for consumption on those premises and at such times as may be specified by the Authority in the licence.

Note. Section 51 applies to an authorisation referred to in this subsection.

15 Hotel licence—general provisions

(1) The following provisions apply in relation to a hotel licence (*the hotel primary purpose test*):

- (a) the primary purpose of the business carried out on the licensed premises must at all times be the sale of liquor by retail,
- (b) the keeping or operation of gaming machines (as authorised under the *Gaming Machines Act 2001*) on the licensed premises must not detract unduly from the character of the hotel or from the enjoyment of persons using the hotel otherwise than for the purposes of gambling.

(2) The authorisation conferred by a hotel licence does not apply unless the hotel primary purpose test is complied with in relation to the licensed premises.

(3) Any premises (other than the actual hotel) that are authorised by the Authority for the sale of liquor under a hotel licence are, for the purposes of this Act, taken to be part of the licensed premises to which the licence relates.

16 Hotel licence may be designated as a general bar licence

(1) The Authority may, in granting a hotel licence, designate the licence as a general bar licence and specify in the licence that it is a general bar licence.

(2) The designation of a hotel licence as a general bar licence cannot be changed.

(3) It is not lawful to keep or operate gaming machines on the premises to which a general bar licence relates. Accordingly, the keeping or operation of gaming machines on any such premises cannot be authorised under the *Gaming Machines Act 2001*.

- (4) Despite section 14, a general bar licence does not authorise the sale or supply of liquor for consumption away from the licensed premises at any time.

17 Hotel licence—miscellaneous conditions

(1) Cash advances prohibited

A hotelier must not:

- (a) provide a cash advance in the hotel, or
- (b) permit a cash advance to be provided in the hotel on behalf of the hotelier,

except as a prize or bonus won as a direct or indirect consequence of participating in a form of gambling that may lawfully be conducted on the licensed premises.

(2) Hotels must be open to general public

The business carried out under a hotel licence must not be, or include, a business that is limited to the sale or supply of liquor only:

- (a) to persons who have been invited to use or attend the hotel, or
- (b) to a particular class, or particular classes, of persons using or attending the hotel.

- (3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular hotel or to such other exceptions as may be prescribed by the regulations. Also, subsection (2) does not apply to the extent that is necessary to comply with any other provision of this Act or with any other law.

(4) Food must be made available

Liquor may only be sold or supplied in a hotel if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied on the premises for consumption on the premises. If any requirements are prescribed by the regulations in relation to the nature and quality of any such food, those requirements must be complied with.

(5) Prohibition on residents and employees drinking liquor in bar area outside trading hours

Liquor may not be sold or supplied to, or consumed by, a resident or an employee of the licensee in a bar area of the hotel except at the time when liquor is authorised to be sold or supplied to other persons in that or any other bar area of the hotel. This subsection has effect despite any other provision of this Act, but is subject to subsection (6).

- (6) The Authority may, on application by a hotelier, authorise the use of a bar area of the hotel for the sale, supply or consumption of liquor exclusively to, or by, residents at a time when liquor may not otherwise be sold or supplied in a bar area of the hotel.

Note. Section 51 applies to an authorisation referred to in this subsection.

Division 3 Club licences

18 Authorisation conferred by club licence

- (1) A club licence authorises the licensee to sell liquor by retail on the licensed premises to a member of the club (or a guest of a member of the club) for consumption on or away from the licensed premises.

(2) **Trading hours for consumption on premises**

The times when liquor may be sold for consumption on the licensed premises are as follows:

- (a) during the standard trading period or at such other times as may be authorised by an extended trading authorisation,
- (b) on 31 December in any year (but without limiting the operation of any extended trading authorisation)—from the start of the standard trading period for that day until 2 am on the next succeeding day.

(3) **Trading hours for consumption away from premises**

Liquor may be sold for consumption away from the licensed premises during the standard trading period or at such other times as may be authorised by an extended trading authorisation.

(4) **No take-away sales on restricted trading days**

However, the sale of liquor for consumption away from the licensed premises is not authorised on a restricted trading day.

19 Club licence—general provisions

- (1) A club licence may only be granted to a club that:
- (a) meets the requirements specified in section 10 (1) of the *Registered Clubs Act 1976*, and
- (b) otherwise complies with the requirements of that Act.
- (2) If a registered club owns or occupies more than one set of premises:
- (a) each set of premises must be separately licensed under this Act, and
- (b) the entity comprising the registered club is the licensee for each set of licensed premises.

- (3) The regulations may create exceptions to this section.

20 Club licence—miscellaneous conditions

- (1) The following requirements apply in relation to a registered club:
- (a) the club must not hold a hotel licence or acquire any financial interest in a hotel,
 - (b) the manager of the licensed premises must not provide a cash advance on the premises, or permit a cash advance to be provided on the premises on behalf of the club otherwise than as a prize or bonus won as a direct or indirect consequence of participating in a form of gambling that may lawfully be conducted on the licensed premises.
- (2) Subsection (1) (a) does not apply to or in respect of a hotelier's licence or financial interest in a hotel that was granted to (or acquired by) a club before 2 April 2002.

Note. The prohibition on a registered club holding a hotelier's licence or acquiring a financial interest in a hotel was previously contained in section 9A (1AA) of the *Registered Clubs Act 1976* (as inserted by Schedule 3 [6] to the *Gaming Machines Act 2001*). The previous prohibition did not apply to licences or financial interests granted or acquired before the commencement of section 9A (1AA)—see clause 89 of Schedule 2 to the *Registered Clubs Act 1976*.

Division 4 On-premises licences

21 Certain kinds of premises not to be licensed

- (1) An on-premises licence must not be granted in respect of any premises if the premises:
- (a) are used primarily for the purposes of carrying out a business or activity, or
 - (b) are of a kind of premises,
prescribed by the regulations for the purposes of this section.
- (2) The authorisation conferred by an on-premises licence does not apply if the licensed premises:
- (a) are used primarily for the purposes of carrying out any such business or activity prescribed by the regulations, or
 - (b) are premises of any such kind prescribed by the regulations.

22 Primary purpose test

- (1) An on-premises licence must not be granted in respect of any premises if the primary purpose of the business or activity carried out on the premises is the sale or supply of liquor.

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- (2) The authorisation conferred by an on-premises licence does not apply if the primary purpose of the business or activity carried out on the licensed premises is the sale or supply of liquor.
 - (3) Subsections (1) and (2) do not apply if the premises to which the licence or proposed licence relates:
 - (a) are part of an airport, or
 - (b) are located on land occupied by a tertiary institution and cater for students of that institution.
 - (4) Subsections (1) and (2) are also subject to such exceptions as may be prescribed by the regulations.

23 On-premises licence must specify business/activity or kind of licensed premises

- (1) An on-premises licence must specify the kind of business or activity carried out on the licensed premises or the kind of licensed premises to which the licence relates.
- (2) Without limiting the kinds of businesses or activities (or the kinds of premises) in respect of which on-premises licences may be granted, an on-premises licence may be granted in respect of a public entertainment venue.
- (3) More than one kind of business or activity or kind of premises may be specified in an on-premises licence. However, a separate on-premises licence is, except in the circumstances referred to in section 25 (6), required for each set of premises.
- (4) The licensed premises to which an on-premises licence relates may be described by reference to the kind of business or activity carried out on the premises or the kind of premises concerned.

Note. For example, the terms “licensed restaurant” and “licensed public entertainment venue” are used in this Act to refer to premises in respect of which an on-premises licence relating to a restaurant or public entertainment venue, respectively, is granted.
- (5) The business or activity, or the kind of premises, specified in an on-premises licence may, on application by the licensee, be varied by the Authority. Any such variation may include the addition of a specified business or activity, or a specified kind of premises, in respect of the licence.
- (6) The authorisation conferred by an on-premises licence does not apply if:
 - (a) the business or activity carried out on the licensed premises is not the business or activity specified for the time being in the licence, or

- (b) the licensed premises do not comprise premises of the kind specified for the time being in the licence.

24 On-premises licence—sale or supply of liquor must be with or ancillary to other service or product

- (1) An on-premises licence authorises the sale or supply of liquor only if the liquor is sold or supplied for consumption on the licensed premises with, or ancillary to, another product or service that is sold, supplied or provided to people on the licensed premises.

- (2) **Regulations may limit products or services provided on licensed premises**

A product or service is not to be considered a product or service for the purposes of subsection (1) if it is, or is of a class, specified by the regulations for the purposes of this subsection.

- (3) **Exceptions**

Subsection (1) does not apply to or in respect of an on-premises licence if the licence is, on application by the licensee, endorsed by the Authority with an authorisation that allows liquor to be sold or supplied for consumption on the licensed premises otherwise than with, or ancillary to, another product or service.

Note. Section 51 applies to an authorisation referred to in this subsection.

- (4) Subsection (1) does not apply if the premises to which the licence relates:
 - (a) are part of an airport, or
 - (b) are located on land occupied by a tertiary institution and cater for students of that institution, or
 - (c) are exempt from the primary purpose test referred to in section 22.

25 Authorisation conferred by on-premises licence (generally)

- (1) An on-premises licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on the premises only.

- (2) **Trading hours for consumption on premises**

The times when liquor may be sold for consumption on the licensed premises are during the standard trading period or at such other times as may be authorised by an extended trading authorisation.

(3) **Restricted trading days**

On a restricted trading day, liquor may only be sold for consumption on the licensed premises from noon to 10 pm and only with or ancillary to a meal served in a dining area on the licensed premises.

(4) Subsection (3) does not apply to:

- (a) licensed premises that are part of an airport, or
- (b) an on-premises licence that relates to a catering service.

(5) **Trading on new year's eve**

On 31 December in any year, liquor may be sold for consumption on the licensed premises from the start of the standard trading period for that day until 2 am on the next succeeding day. This subsection does not limit the operation of any extended trading authorisation that applies in relation to the licensed premises concerned.

(6) **Trading on premises other than licensed premises**

An on-premises licence also authorises the licensee to sell liquor by retail on such premises and in such circumstances as the Authority may, on application by the licensee, authorise, but only for consumption on those premises and at such times as are specified by the Authority in the licence. Any such premises are, subject to the regulations, taken to be licensed premises for the purposes of this Act.

(7) The regulations may make provision for or with respect to the granting of an authorisation under subsection (6) (including limiting the circumstances for which such an authorisation may be granted by the Authority).

Note. Section 51 also applies to an authorisation under subsection (6).

(8) **Special provisions relating to licensed accommodation premises**

An on-premises licence that relates to accommodation premises also authorises the licensee to sell liquor by retail on the licensed premises:

- (a) for consumption on the licensed premises only—at any time on any day to a resident (or a guest of a resident while in the resident's company) or an employee of the licensee, and
- (b) to a resident at any time for consumption away from the licensed premises, but only if:
 - (i) the sale is ancillary to the provision of a meal for consumption away from the licensed premises, and
 - (ii) the volume of liquor supplied to any such resident on any one day does not exceed 2 litres.

However, subsection (3) applies in relation to any part of the licensed accommodation premises that operates as a public restaurant.

(9) **Special provisions relating to licensed vessels**

Despite any other provision of this section, an on-premises licence that relates to a vessel authorises the licensee to sell liquor by retail to passengers on board the vessel, for consumption on board the vessel only:

- (a) between the period commencing one hour before the vessel starts any voyage or passage and ending 30 minutes after the voyage or passage is completed, or
- (b) at such other times, or in such other circumstances, as the Authority may, on application by the licensee, authorise.

Note. Section 51 applies to an authorisation referred to in paragraph (b).

26 Authorisation to sell liquor for consumption away from licensed premises in special circumstances

- (1) Despite section 25 (1), liquor may be sold by retail on the licensed premises to which an on-premises licence relates for consumption away from the licensed premises if the licence is, on application by the licensee, endorsed by the Authority with an authorisation for the purposes of this section.
- (2) An authorisation under this section does not authorise the sale of liquor on a restricted trading day.
- (3) In granting an authorisation under this section, the Authority is to specify the circumstances in which, and the times when, liquor may be sold for consumption away from the licensed premises.
- (4) The regulations may make provision for or with respect to the granting of an authorisation under this section (including limiting the circumstances for which such an authorisation may be granted by the Authority).

Note. Section 51 applies to an authorisation under this section.

27 Requirement to provide food on licensed premises

- (1) Liquor may only be sold or supplied on the licensed premises to which an on-premises licence relates if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied under the authorisation of the licence.
- (2) If any requirements are prescribed by the regulations in relation to the nature and quality of any such food, those requirements must be complied with.
- (3) Subsection (1) is subject to such exceptions as may be approved by the Authority in relation to any particular licensed premises.

28 Certain licensed premises must be open to general public

- (1) This section applies to an on-premises licence that relates to:
 - (a) a restaurant, or
 - (b) a public entertainment venue.
- (2) The business carried out under an on-premises licence to which this section applies must not be, or include, a business that is limited to the sale or supply of liquor only:
 - (a) to persons who have been invited to use or attend the licensed premises, or
 - (b) to a particular class, or particular classes, of persons using or attending the licensed premises.
- (3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular licensed premises or to such other exceptions as may be prescribed by the regulations. Also, subsection (2) does not apply to the extent that is necessary to comply with any other provision of this Act or with any other law.

Division 5 Packaged liquor licences**29 Authorisation conferred by packaged liquor licence****(1) Retail sales**

A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only:

- (a) during the standard trading period or such other period as may be authorised by an extended trading authorisation, or
- (b) in the case of any Sunday that falls on 24 December—from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to midnight on that day.

(2) No retail trading on restricted trading days

Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.

(3) Selling liquor by wholesale or to employees

A packaged liquor licence also authorises the licensee:

- (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and

(b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.

(4) **Tastings**

A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

30 Liquor sales area required if bottle shop is part of another business activity

- (1) If the primary purpose of the business carried out on the premises to which a packaged liquor licence relates is not the sale of liquor for consumption away from the licensed premises, liquor may only be sold under the licence in an area of the licensed premises (*the liquor sales area*) that is adequately separated from those parts of the premises in which other activities are carried out.
- (2) The principal activity carried out in any such liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.

31 Restrictions on granting packaged liquor licences

- (1) A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that:
 - (a) in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public, and
 - (b) the grant of the licence would not encourage drink-driving or other liquor-related harm.
- (2) A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.
- (3) In this section:

general store means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.

service station means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

take-away food shop means premises that are used primarily for the preparation and sale of food for immediate consumption away from the premises (whether or not food is also consumed on the premises).

Division 6 Producer/wholesaler licences

32 Wholesale suppliers of liquor

A producer/wholesaler licence authorises the licensee, if the licensee carries on business as a wholesale supplier of liquor:

- (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
- (b) to sell or supply liquor, at any time on the licensed premises:
 - (i) to the employees of the licensee or of a related corporation of the licensee, and
 - (ii) to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

33 Wine producers

(1) Authorisation conferred by licence

A producer/wholesaler licence authorises the licensee, if the licensee carries on business as a wine producer:

- (a) to sell the licensee's product by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
- (b) to sell the licensee's product by retail on the licensed premises, for consumption away from the licensed premises only, on any day of the week during the standard trading period for that day or during such other period as may be authorised by an extended trading authorisation, and
- (c) to sell or supply the licensee's product, at any time on the licensed premises, to customers or intending customers for consumption while on the licensed premises, but only for the purposes of tasting, and
- (d) to sell or supply the licensee's product at a wine show, but only if the local police and the Authority have been notified, in accordance with the regulations, about the wine show by the organiser of the show at least 7 days before it is held, and
- (e) to sell or supply the licensee's product at a producers' market or fair, but only if the local police and the Authority have been

notified, in accordance with the regulations, about the market or fair by the organiser of the market or fair at least 7 days before it is held, and

- (f) to sell or supply the licensee's product at any time on the licensed premises to the employees of the licensee or of a related corporation of the licensee, and
- (g) to sell or supply liquor in accordance with a drink on-premises authorisation.

Note. See section 50 (2) for trading hours in relation to drink on-premises authorisations.

- (2) The authorisation conferred by subsection (1) does not apply unless the primary purpose of the business or activity carried out on the licensed premises is the sale or supply of wine that is the licensee's product.

- (3) For the purposes of this section, a product is the *licensee's product* if:

- (a) it has been produced on the licensed premises (or a vineyard related to the licensed premises) from fruit grown on the licensed premises or vineyard, or
- (b) in the case only of wine—it is uniquely the licensee's (or a related corporation of the licensee's) own product, but only if that product contains not less than a percentage of wine, as prescribed by the regulations, that has been produced by or under the direction of the licensee (or a related corporation of the licensee) on the licensed premises, or a vineyard related to the licensed premises, from fruit grown on the licensed premises or vineyard.

- (4) For the purposes of subsection (3), a vineyard is *related* to licensed premises if it:

- (a) is operated by the licensee (or a related corporation of the licensee), and
- (b) is contiguous with the licensed premises or is within 500 metres of the licensed premises.

- (5) In this section:

producers' market or fair means a market or fair:

- (a) at which farmers or primary producers display and sell their products directly to the public, and
- (b) that is conducted in accordance with such requirements as may be prescribed by the regulations (including requirements relating to the number of stalls at the market or fair).

wine show means a wine show that is held by a recognised wine or vineyard association or industry association.

34 Small-scale producers of beer, spirits etc in non-metropolitan areas

- (1) A producer/wholesaler licence authorises the licensee, if the licensee carries on business as a small-scale producer of beer, spirits, cider, perry or mead:
- (a) to sell the licensee's product by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
 - (b) to sell the licensee's product by retail on the licensed premises, for consumption away from the licensed premises only and only if it is supplied in sealed bottles, on any day of the week during the standard trading period for that day or during such other period as may be authorised by an extended trading authorisation, and
 - (c) to sell or supply the licensee's product, at any time on the licensed premises, to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting, and
 - (d) to sell or supply the licensee's product at any time on the licensed premises to the employees of the licensee or of a related corporation of the licensee.
- (2) For the purposes of subsection (1):
- (a) a licensee is a ***small-scale producer*** only if the premises on which the licensee carries on business as such are:
 - (i) located in a non-metropolitan area, and
 - (ii) comply with such other requirements as may be prescribed by the regulations, and
 - (b) a product (being beer, spirits, cider, perry or mead) is the ***licensee's product*** only if it:
 - (i) has been produced on the licensed premises, and
 - (ii) is uniquely the licensee's (or a related corporation of the licensee's) own product.
- (3) In subsection (2) (a), ***non-metropolitan area*** means any part of the State that is not within any of the following Statistical Divisions or Areas as determined by the Australian Bureau of Statistics:
- (a) the Sydney Statistical Division (excluding the Statistical Local Areas of Wollondilly (Statistical Local Area 8400), Blue Mountains (Statistical Local Area 0900), Hawkesbury (Statistical Local Area 3800), Gosford (Statistical Local Area 3100) and Wyong (Statistical Local Area 8550)),

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- (b) the Statistical Local Areas of Newcastle (Statistical Local Areas 5901 and 5902),
- (c) the Statistical Local Area of Lake Macquarie (Statistical Local Area 4650),
- (d) the Statistical Local Area of Wollongong (Statistical Local Area 8450).

35 Miscellaneous provisions relating to wine producers

- (1) This section applies to the holder of a producer/wholesaler licence who carries on business as a wine producer.
- (2) **Multiple premises**
Despite any other provision of this Act, the licensed premises to which a producer/wholesaler licence relates may comprise more than one set of premises, but only if:
 - (a) each set of premises is operated by the licensee, and
 - (b) the premises are all located in the same wine region (as determined in accordance with the regulations).
- (3) **Wine shows**
Liquor may only be sold or supplied by the licensee at a wine show in accordance with section 33 (1) (d):
 - (a) to customers or intending customers for consumption at the licensee's display area, but only for the purposes of tasting, or
 - (b) in sealed containers for consumption away from the wine show.
- (4) **Producers' markets or fairs**
Liquor may only be sold or supplied by the licensee at a producers' market or fair in accordance with section 33 (1) (e):
 - (a) to customers or intending customers for consumption at the licensee's stall, but only for the purposes of tasting, and
 - (b) in sealed containers for consumption away from the market or fair.
- (5) Liquor must not be sold or supplied by the licensee at any such wine show, or at any such market or fair, to a person who is intoxicated.

Division 7 Limited licences

36 Authorisation conferred by limited licence

(1) General scope of limited licence

A limited licence authorises the licensee to sell or supply liquor on the licensed premises:

- (a) in the case of a licence granted on behalf of a non-proprietary association:
 - (i) for consumption on the licensed premises only, and
 - (ii) only as part of, or in connection with, a function held in accordance with this Division, and
- (b) in the case of a licence granted in respect of a function that is a trade fair—for consumption on or away from the licensed premises.

(2) Sale or supply of liquor must be ancillary to purpose of function

The authorisation conferred by a limited licence does not apply unless the sale or supply of liquor at any function held under the licence is ancillary to the purpose for which the function is held.

(3) Functions required to be approved by Authority

Except in the case of functions referred to in subsection (5) or (6), liquor may only be sold or supplied under a limited licence at a function that has been approved by the Authority. If any such approved function is postponed, the approval by the Authority extends to the day to which the function is postponed.

(4) Maximum number of approved functions per year

The number of functions that may be approved in relation to a limited licence is not to exceed 52 per year (or such other number as the Authority considers appropriate in any particular case). This subsection does not apply in relation to a function referred to in subsection (5) or (6).

(5) Social functions held on premises of surf life saving clubs

In the case of a limited licence held on behalf of a surf life saving club, the licence also authorises the sale or supply of liquor at any gathering (referred to in this Division as a *club social function*) of the members of the club and their guests that:

- (a) has been organised by the club, and

- (b) is held on any Saturday, Sunday or public holiday (other than a restricted trading day) in connection with, or following, an activity associated with the conduct or administration of surf life saving,

but only if notice has, at least 14 days before the day of the club social function, been given to the Commissioner of Police, the Authority and the local council in whose area the function is to be held.

(6) Special functions held on race days

In the case of a limited licence held on behalf of a racing club, the licence also authorises liquor to be sold or supplied at functions held on any day on which:

- (a) the racing club holds race meetings or operates a betting auditorium authorised under section 24 of the *Racing Administration Act 1998*, or
- (b) betting authorised by section 8 (6) (f) of the *Unlawful Gambling Act 1998* takes place at premises occupied by the racing club.

- (7) This section does not apply in relation to a limited licence granted under section 39 in respect of a special event.

37 Limited licence—general provisions

- (1) Except in the case of a limited licence granted under section 39 in respect of a special event, a limited licence may only be granted to:

- (a) an individual on behalf of a non-proprietary association, or
- (b) an individual in respect of a trade fair.

Note. A non-proprietary association includes a registered club or any other club.

- (2) The Authority may grant a limited licence authorising the sale or supply of liquor on the licensed premises only if the Authority is satisfied that the licence will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.
- (3) A limited licence is not to be granted if the Authority is of the opinion that the sale or supply of liquor under the licence would more appropriately be provided under another kind of licence.

38 Limited licence—miscellaneous conditions

- (1) **How and when liquor may be sold or supplied**

Liquor may only be sold or supplied on the licensed premises to which a limited licence relates:

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- (a) by way of opened cans, opened bottles or other opened containers (except in the case of a trade fair in respect of which consumption away from the licensed premises is authorised), and
 - (b) at such times as are specified by the Authority in the licence (except in the case of club social functions held by a surf life saving club).

Note. Subsection (4) deals with the trading hours for club social functions held by surf life saving clubs.

- (2) The trading hours for licensed premises to which a limited licence relates cannot include the time between 3 am and 6 am.

(3) **Supervision requirements**

Liquor may only be sold or supplied on the licensed premises to which a limited licence relates if:

- (a) the licensee is present on those premises at all times when liquor is being provided under the licence (except when a person referred to in paragraph (b) is present in the circumstances referred to in that paragraph), or
- (b) a person nominated by the licensee as the person in charge of the sale and supply of liquor at the function or event is present on the premises at any time when the licensee cannot be present on those premises.

(4) **Surf life saving clubs—club social functions**

In the case of a limited licence held on behalf of a surf life saving club, liquor may only be sold or supplied at a club social function in accordance with the following requirements:

- (a) the function must be held on the club's premises (and if the club has several premises, only on its principal premises) and the only participants must be members of the club and their guests,
- (b) the licensee must ensure that a register, in which such details as the Authority may require concerning any such function are recorded, is kept on the premises,
- (c) the function must have been approved by resolution recorded in the records of the governing body of the club,
- (d) food of a nature and quantity consistent with the responsible sale, supply and service of alcohol must be made available whenever liquor is made available at the function,
- (e) liquor must not be made available at the function at any time before 12 noon or after 10 pm on the day on which the function is held,

- (f) liquor must not be made available at the function for a period of more than 4 hours,
 - (g) the licensee must ensure that adequate adult supervision is maintained at any time when persons under the age of 18 years are on the premises while the function is being held,
 - (h) police officers and inspectors are to be permitted full and free access to the premises where the function is held, and to the register referred to in paragraph (b), at all times while the function is being held.
- (5) This section does not apply in relation to a limited licence granted under section 39 in respect of a special event.

39 Limited licence for special event

- (1) The Authority may grant a limited licence that authorises the licensee to sell or supply liquor only:
 - (a) for consumption on the premises specified in the licence, and
 - (b) on a day or days specified in the licence (being a day or days during which a special event is held).
- (2) The times when liquor may be sold or supplied under the licence are to be specified in the licence.
- (3) The authorisation conferred by a limited licence does not apply unless the sale or supply of liquor under the licence is ancillary to the special event in respect of which the licence is granted.
- (4) In this section, *special event* means an event of an infrequent or temporary nature that, in the opinion of the Authority, would have a beneficial social or economic impact on the community at a regional, State or national level.

Part 4 Licensing procedures and related matters

Division 1 Licence applications and granting of licences

40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may be made by:
 - (a) an individual, or
 - (b) a corporation, or
 - (c) in the case of a club licence—a club (or a person on behalf of a club) that meets the requirements specified in section 10 (1) of the *Registered Clubs Act 1976*.
- (3) An application for a licence may not be made by:
 - (a) an individual who is under the age of 18 years, or
 - (b) a person who is disqualified from holding a licence or who holds a suspended licence.
- (4) An application for a licence must:
 - (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.

Note. See also section 48 which requires a community impact statement to be provided with certain licence applications.

- (5) If, before an application for a licence is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must immediately notify the Authority of the particulars of the change.
Maximum penalty: 20 penalty units.

41 Statement as to interested parties

- (1) An application for a licence must be accompanied by a written statement, made by a person having knowledge of the facts, specifying:
 - (a) that the person has made all reasonable inquiries to ascertain the information required to complete the statement, and

- (b) whether there are any persons (other than financial institutions) who will be interested in the business, or the profits of the business, carried on under the licence, and
 - (c) if there are any such persons, their names and dates of birth and, in the case of a proprietary company, the names of the directors and shareholders.
- (2) For the purposes of subsection (1), a person is interested in the business, or the profits of the business, carried on under the licence if the person is entitled to receive:
- (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or
 - (b) any rent, profit or other income in connection with the use or occupation of premises on which the business is to be carried on.
- (3) The regulations may provide exceptions to this section.

42 Investigations, inquiries and referrals in relation to licence applications

- (1) If the Authority receives an application for a licence, the Authority:
- (a) may carry out such investigations and inquiries in relation to the application as the Authority considers necessary for a proper consideration of the application, and
 - (b) is to refer the application to the Director (unless the regulations otherwise provide).
- (2) The Director is to inquire into, and to report to the Authority on, such matters in relation to the application as the Authority may request.
- (3) For the purposes of subsection (2), the Director may carry out such investigations and inquiries in relation to the application as the Director considers necessary.
- (4) In particular, the Director may refer to the Commissioner of Police details of the application together with any supporting information in relation to the application that the Director considers to be appropriate for referral to the Commissioner.
- (5) The Commissioner of Police may inquire into, and report to the Director on, such matters concerning the application as the Director may request.

43 Authority or Director may require further information

- (1) The Authority or the Director may, by notice in writing, require a person who has applied to the Authority for a licence, or a close associate of any such person, to do one or more of the following things:

- (a) provide, in accordance with directions in the notice, such information as, in the opinion of the Authority or the Director, is relevant to the investigation of the application and is specified in the notice,
 - (b) produce, in accordance with directions in the notice, such records as, in the opinion of the Authority or the Director, are relevant to the investigation of the application and permit examination of the records, the taking of extracts from them and the making of copies of them,
 - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
 - (d) furnish to the Authority or the Director such authorisations and consents as the Authority or the Director requires for the purpose of enabling the Authority or the Director to obtain information (including financial and other confidential information) from other persons concerning the person and the person's associates.
- (2) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.
 - (3) The Authority may refuse to determine an application if a requirement made under this section in relation to the application is not complied with.

44 Submissions to Authority in relation to licence applications

- (1) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for a licence.
- (2) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the licence.

45 Decision of Authority in relation to licence application

- (1) The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Director has provided a report in relation to the application.
- (2) The Authority may, in such circumstances as the Authority considers appropriate, treat an application for a licence as having been withdrawn.
- (3) The Authority must not grant a licence unless the Authority is satisfied that:

- (a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and
- (b) practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place, and
- (c) if development consent is required under the *Environmental Planning and Assessment Act 1979* (or approval under Part 3A of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates—that development consent or approval is in force.

Note. Section 48 also requires the Authority to be satisfied of certain other matters before granting a hotel, club or packaged liquor licence.

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.

46 Duration of licences

- (1) Except during any period of suspension, a licence continues to be in force until such time as it is surrendered to the Authority, cancelled or otherwise ceases to be in force or, in the case of a licence that is granted for a specified term, when that term expires.
- (2) A licence may be surrendered only in accordance with such arrangements as may be approved by the Authority.

47 Granting of licence

- (1) The regulations may prescribe, or provide for the determination of, a fee for the granting of a licence. If any such fee is prescribed or determined, the licence does not take effect unless the fee has been paid.
- (2) The Authority may, in granting a licence, specify requirements that are to be complied with before the licence takes effect. The licence does not take effect until such time as any such requirements have been complied with.
- (3) A licence is to be in the form approved by the Authority.

Division 2 Miscellaneous provisions relating to licences and licence-related authorisations

48 Community impact

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in

particular by providing a process in which the Authority is made aware of:

- (a) the views of the local community, and
- (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.

(2) In this section:

relevant application means any of the following:

- (a) an application for a hotel licence, club licence or packaged liquor licence,
- (b) an application under section 59 for approval to remove a hotel licence, club licence or packaged liquor licence to other premises,
- (c) an application for an extended trading authorisation in relation to a hotel licence, club licence or packaged liquor licence,
- (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
- (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
- (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
- (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,

but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b)).

- (3) A relevant application must be accompanied by a community impact statement.
- (4) The community impact statement must:
 - (a) be prepared in accordance with the regulations and any requirements of the Authority, and
 - (b) be in the form approved by the Authority.
- (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:

- (a) the community impact statement provided with the application, and
 - (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),
- that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.
- (6) The regulations may make provision for or with respect to the following:
 - (a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),
 - (b) the matters to be addressed by a community impact statement,
 - (c) the information to be provided in a community impact statement,
 - (d) the criteria for determining the local and broader community for the purposes of a relevant application,
 - (e) any other matter relating to the preparation and content of a community impact statement.

49 Extended trading authorisation

(1) Application of section

This section applies in relation to the following types of licences (referred to in this section as *a relevant licence*):

- (a) a hotel licence,
- (b) a club licence,
- (c) an on-premises licence (other than an on-premises licence that relates to a vessel),
- (d) a packaged liquor licence,
- (e) a producer/wholesaler licence.

(2) Extended trading authorisation for consumption on premises

In the case of a relevant licence (other than a packaged liquor licence) that authorises the sale or supply of liquor for consumption on the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, during any of the following periods:

- (a) in the case of a hotel licence—a specified period between midnight (other than midnight on a Sunday) and 5 am on any day of the week (other than a Monday),

- (b) in the case of a relevant licence other than a hotel licence—a specified period between midnight and 5 am on any day of the week,
 - (c) in any case—a specified period between 5 am and 10 am on a Sunday,
 - (d) in any case—a specified period between 10 pm and midnight on a Sunday.
- (3) Despite subsection (2) (a), the Authority may, in the case of a hotel:
- (a) situated in the area constituting the City of Sydney (as at 1 July 1994), or
 - (b) that fronts onto any of the streets specified in Schedule 2 (Kings Cross precinct) or Schedule 3 (Oxford Street–Darlinghurst precinct) or is situated in an area bounded by those streets or parts of streets, or
 - (c) situated in the Kosciuszko National Park,
- authorise the licensee, on application by the licensee, to sell or supply liquor, for consumption on the licensed premises only, during a specified period between midnight on a Sunday and 5 am on a Monday.
- (4) **Extended trading authorisation for take-away sales on Sundays**
- In the case of a relevant licence (including a packaged liquor licence) that authorises the sale or supply of liquor for consumption away from the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption away from the licensed premises only, during either or both of the following:
- (a) a specified period between 5 am and 10 am on a Sunday,
 - (b) a specified period between 10 pm and midnight on a Sunday.
- (5) **Nature of extended trading authorisation**
- An extended trading authorisation operates to authorise the sale or supply of liquor on the licensed premises:
- (a) on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or
 - (b) if the authorisation so provides—on a special occasion that takes place on a specified date.
- (6) **Extended trading period to be specified**
- In granting an extended trading authorisation, the Authority is to specify:

- (a) the extended trading hours during which the licensee is authorised to sell or supply liquor, and
- (b) the part or parts of the licensed premises to which the authorisation applies.

(7) **Extended trading not permitted on or following restricted trading day**

Despite any other provision of this section, an extended trading authorisation may not be granted to authorise the sale or supply of liquor on licensed premises:

- (a) on a restricted trading day, or
- (b) between midnight and 5 am on any day immediately following a restricted trading day.

(8) **Restrictions on granting extended trading authorisation**

The Authority must not grant an extended trading authorisation in respect of licensed premises unless the Authority is satisfied that:

- (a) practices are in place, and will remain in place, at the licensed premises that ensure as far as reasonably practicable that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and
- (b) the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.

- (9) For the purposes of subsection (5) (b), a *special occasion* means the occasion of a unique or infrequent event of local, State or national significance that persons independent of the licensee (and of the owner or occupier of the premises) desire to celebrate or mark on the licensed premises concerned.

50 Drink on-premises authorisation for licensed wine producers

- (1) The Authority may, on application by the holder of a producer/wholesaler licence who carries on business as a wine producer, endorse the licence with an authorisation (referred to as a *drink on-premises authorisation*) relating to the sale, supply and consumption of liquor on the licensed premises.
- (2) A drink on-premises authorisation authorises the licensee to sell liquor by retail on the licensed premises, for consumption on the licensed premises only:

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- (a) on any day of the week (except a restricted trading day)—during the standard trading period for that day or during such other period as may be authorised by an extended trading authorisation, and
 - (b) on 31 December in any year—from the start of the standard trading period for that day until 2 am on the next succeeding day, and
 - (c) on a restricted trading day—from noon to 10 pm.

51 General provisions applying to licence-related authorisations

- (1) This section applies to the following authorisations granted by the Authority under this Act:
 - (a) an extended trading authorisation,
 - (b) a drink on-premises authorisation,
 - (c) any other authorisation that may be granted by the Authority under Part 3 (other than a licence),
 - (d) a minors area authorisation,
 - (e) a minors functions authorisation.
- (2) An application for an authorisation to which this section applies must:
 - (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
- (3) In determining an application for an authorisation, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence. The Authority may determine the application whether or not the Director has provided a report in relation to the application.
- (4) If, before an application for an authorisation is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including information provided under this subsection), the applicant must immediately notify the Authority of the particulars of the change.

Maximum penalty: 20 penalty units.

- (5) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for an authorisation.
- (6) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the authorisation.
- (7) The regulations may prescribe, or provide for the determination of, a fee in respect of the granting of an authorisation. If any such fee is prescribed or determined, the authorisation does not take effect unless the fee has been paid.
- (8) The Authority may, in granting an authorisation, specify requirements that are to be complied with before the authorisation takes effect. The authorisation does not take effect until such time as any such requirements have been complied with.
- (9) An authorisation:
 - (a) is subject to such conditions:
 - (i) as are imposed by the Authority (whether at the time the authorisation is granted or at a later time), or
 - (ii) as are imposed by or under this Act or as are prescribed by the regulations, and
 - (b) may be varied or revoked by the Authority on the Authority's own initiative or on application by the licensee, the Director or the Commissioner of Police.
- (10) Any such application by a licensee to vary or revoke an authorisation (including any conditions to which the authorisation is subject that have been imposed by the Authority) must be accompanied by the fee prescribed by the regulations.
- (11) For the purposes of this Act, any condition to which an authorisation is subject is taken to be a condition of the licence to which the authorisation relates.
- (12) An authorisation has effect only while all the conditions to which it is subject are being complied with.
- (13) The Authority must not impose a condition on an authorisation, or revoke or vary an authorisation, other than a variation made on application by a licensee, unless the Authority has:
 - (a) given the licensee to whom the authorisation relates a reasonable opportunity to make submissions in relation to the proposed decision, and
 - (b) taken any such submissions into consideration before making the decision.

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- (14) This section does not authorise the revocation or variation of a condition to which an authorisation is subject if the condition is imposed by this Act or is prescribed by the regulations.

52 Authority may impose special licence conditions

(1) Conditions relating to harm minimisation

The Authority may impose conditions on a licence prohibiting or restricting activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption).

(2) Conditions relating to serving of liquor

The Authority may impose conditions on a licence requiring a licensee, in specified circumstances:

- (a) to cease to serve liquor on the licensed premises, or
- (b) to restrict access to the licensed premises in a manner and to the extent provided by the conditions,

or both, from a time of day that is earlier than the time at which, as otherwise required by the licence, trading must cease.

(3) Conditions relating to local liquor accords

The Authority may impose conditions on a licence requiring the licensee to participate in, and to comply with, a local liquor accord.

53 Authority may impose, vary or revoke licence conditions

- (1) Without limiting any other provision of this Act, the Authority may at any time:

- (a) on application by the Director or the Commissioner of Police, or
- (b) on the Authority's own initiative,

impose conditions not inconsistent with this Act to which a licence is to be subject.

- (2) The Authority may at any time:

- (a) on application by the licensee, the Director or the Commissioner of Police, or
- (b) on the Authority's own initiative,

vary or revoke a condition of a licence that has been imposed (or taken to have been imposed) by the Authority under this Act.

- (3) An application under subsection (1) or (2) must:

- (a) be in the form and manner approved by the Authority, and

- (b) in the case of an application by a licensee—be accompanied by the fee prescribed by the regulations, and
 - (c) be accompanied by such information and particulars as may be prescribed by the regulations, and
 - (d) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
 - (e) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
- (4) The Authority must not impose a condition on a licence after it has been granted, or vary or revoke a condition that has been imposed (or taken to have been imposed) by the Authority, unless the Authority has:
- (a) given the licensee a reasonable opportunity to make submissions in relation to the proposed decision, and
 - (b) taken any such submissions into consideration before making the decision.
- (5) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application under this section to vary or revoke a condition to which a licence is subject.
- (6) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to vary or revoke the licence condition.

54 Director may impose licence conditions

- (1) Without limiting the power of the Director to impose conditions on a licence under any other provision of this Act, the Director may impose conditions on a licence for such reasons, or in such circumstances, as the Director considers necessary or appropriate.
- (2) The Director may:
- (a) on the application of the licensee or the Commissioner of Police, or
 - (b) on the Director's own initiative,
- vary or revoke a condition of a licence that has been imposed by the Director under this or any other section of this Act.
- (3) The Director must not impose a condition on a licence under this section, or vary or revoke a condition that has been imposed by the Director under this or any other section of this Act, unless the Director has:
- (a) given the licensee a reasonable opportunity to make submissions in relation to the proposed decision, and

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- (b) taken any such submissions into consideration before making the decision.
 - (4) The power of the Director to impose conditions on a licence under this section, or to vary or revoke a condition imposed by the Director under this section or any other provision of this Act, may also be exercised in relation to any authorisation to which section 51 applies that is held in relation to the licence concerned.
 - (5) This section does not authorise the Director:
 - (a) to impose a condition that is inconsistent with a condition that has been imposed by the Authority or is imposed by this Act or the regulations, or
 - (b) to vary or revoke a condition of a licence that has been imposed by the Authority or is imposed by this Act or the regulations.

55 Requirement to provide information in relation to persons interested in licensee's business

- (1) If a person (other than the licensee or a financial institution) becomes interested in the business, or the conduct of the business, carried out on licensed premises, it is a condition of the licence that the Authority is provided with the following information within 28 days after the other person becomes so interested:
 - (a) the name and date of birth of the person so interested and, in the case of a proprietary company, the names of the directors and shareholders,
 - (b) a statement, signed by the licensee, that the licensee has made all reasonable inquiries to ascertain the information referred to in paragraph (a).
- (2) For the purposes of subsection (1), a person is interested in the business, or the conduct of the business, carried out on licensed premises if the person is entitled to receive:
 - (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or
 - (b) any rent, profit or other income in connection with the use or occupation of the premises on which the business is to be carried on.
- (3) The information required to be provided to the Authority under this section may be provided by the interested person.
- (4) This section does not apply in relation to limited licences.

56 Incident registers

- (1) If the sale or supply of liquor after midnight on licensed premises is authorised at least once a week on a regular basis, it is a condition of the licence that the licensee maintains an incident register in the form approved by the Authority.
- (2) An incident register required to be kept under this section is to record details of the following incidents that occur outside of the standard trading period for the licensed premises:
 - (a) any incident involving violence or anti-social behaviour occurring on the licensed premises,
 - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the licensed premises and that involves a person who has recently left, or been refused admission to, the premises,
 - (c) any incident that results in a person being turned out of the licensed premises under section 77,
 - (d) any other incident of a kind prescribed by the regulations.
- (3) The incident register must also record details of any action taken in response to any such incident.

57 Authority may establish administrative policies and procedures in relation to licensing matters

- (1) The Authority may approve policies and procedures for administering the licensing scheme under this Act.
- (2) Any such policies and procedures may be applied by the Authority:
 - (a) in dealing with applications for licences, authorisations or other matters that may be granted by the Authority under this Act, and
 - (b) in determining those applications.

58 Courses of training and instruction for applicants and licensees

- (1) The Authority may require an applicant or class of applicants for such kinds of licences as the Authority determines to attend a course of training or instruction approved by the Authority.
- (2) If an applicant is required to attend any such course of training, the Authority:
 - (a) may refuse to grant the licence until such time as the applicant has completed the course to the standard required by the Authority, or
 - (b) may grant the licence subject to the condition that the licensee completes the course to the standard required by the Authority within such time as the Authority determines.

- (3) The Authority may require a licensee to undertake and satisfactorily complete such further courses of training or instruction as may be approved by the Authority in respect of the class of licence concerned. It is a condition of a licence that the licensee comply with any such requirement.

Division 3 Licence removals and transfers

59 Removal of licence to other premises

- (1) A licensee may apply to the Authority for approval to remove the licence to premises other than those specified in the licence.
- (2) An application for approval to remove a licence to other premises must:
- (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
- (3) An application for approval to remove a licence to other premises is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises. Accordingly, the provisions of Division 1, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence.
- (4) The Authority may refuse an application for approval to remove a hotel licence if the Authority is satisfied that the removal of the licence would adversely affect the interest of the owner or a lessee or mortgagee of the premises from which it is proposed to remove the hotel licence, or a sublessee from a lessee or sublessee of those premises.
- (5) The Authority must refuse an application for approval to remove a licence unless the Authority is satisfied that:
- (a) practices will, as soon as the removal of the licence takes effect, be in place at the premises to which the licence is proposed to be removed that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on those premises and that all reasonable steps are taken to prevent intoxication on those premises, and
 - (b) those practices will remain in place.

- (6) The regulations may provide additional mandatory or discretionary grounds for refusing to approve the removal of a licence.
- (7) The approval to remove a licence to other premises takes effect:
 - (a) on payment to the Authority of the fee prescribed by the regulations, and
 - (b) when the Authority endorses the licence to the effect that those other premises are the premises to which the licence relates.

60 Transfer of licence

- (1) The Authority may, on application made in accordance with this section, approve the transfer of a licence to a person who, in the opinion of the Authority, would be entitled to apply for the same kind of licence in relation to the licensed premises.
- (2) An application for approval to transfer a licence may be made by the licensee or the person to whom the licence is proposed to be transferred.
- (3) In the case of the transfer of a limited licence that is held by a person on behalf of a non-proprietary association, the application for approval to transfer the licence may be made:
 - (a) by the secretary or other relevant office holder of the non-proprietary association, or
 - (b) if the non-proprietary association is a local council—by the general manager of the council, or
 - (c) if the non-proprietary association is a public authority or community organisation referred to in paragraph (c) of the definition of *non-proprietary association* in section 4 (1)—by the chief executive officer of the authority or organisation.
- (4) An application for approval to transfer a licence must:
 - (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) if made by a person other than the licensee—be accompanied by the written consent of the licensee to the proposed transfer, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
- (5) An application for approval to transfer a licence to another person is to be dealt with and determined by the Authority as if it were an application for the granting of a licence to the other person and the other person was the applicant for the licence. Accordingly, the provisions of Division 1 apply in relation to an application under this section.

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- (6) A club licence may be transferred to another club only if the Authority is satisfied that the requirements of Division 1A of Part 2 (Provisions relating to club amalgamations) of the *Registered Clubs Act 1976* and of any regulations made for the purposes of this section have been complied with in relation to the transfer.
- (7) The Authority may provisionally approve the transfer of a licence to another person if the Authority is satisfied that:
- (a) there is nothing that would preclude the Authority from approving the transfer of a licence, and
 - (b) the circumstances of the case justify giving the approval on a provisional basis.
- (8) A provisional approval to transfer a licence is sufficient authority for the transfer of the licence. However, any such provisional approval ceases to have effect unless it is confirmed by the Authority before the end of the period specified by the Authority when provisionally approving the transfer (or such later period as may be allowed by the Authority before the expiration of the specified period).
- (9) If a provisional approval to transfer a licence ceases to have effect because of the operation of subsection (8), the Authority may make such orders in relation to the licence as the Authority considers appropriate, including any of the following orders:
- (a) an order that the licence is to revert to the transferor,
 - (b) an order treating a person (with the person's consent) as licensee until a transfer of the licence is effected,
 - (c) an order that the licence cannot be exercised until specified conditions are met or the Authority orders otherwise.
- (10) Any such order has effect according to its terms.
- (11) The Authority must not approve or provisionally approve the transfer of a licence unless satisfied:
- (a) that practices will be in place at the licensed premises of the transferee as soon as the licence is transferred that ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and
 - (b) that those practices will remain in place.
- (12) The transfer of a licence has effect as if the licence had been granted to the transferee.

61 Application for transfer of licence on dispossession of licensee

- (1) This section applies in relation to a licence (other than a club licence) if:
 - (a) the licensee is evicted from the licensed premises, or
 - (b) the owner of the licensed premises comes into, or becomes entitled to, possession of the licensed premises to the exclusion of the licensee, or
 - (c) the owner of the licensed premises comes into possession of the premises and the licensee is no longer employed by that person or in attendance at the premises in the capacity as licensee.
- (2) An application for a transfer of the licence may be made by the owner of the licensed premises.
- (3) The owner of the licensed premises who comes into, or is entitled to, possession of the premises is taken to be the licensee of the premises until:
 - (a) the day that is 28 days after this section becomes applicable, or
 - (b) the day on which application is made under subsection (2),whichever first occurs.
- (4) If an application is made under subsection (2) not later than 28 days after this section becomes applicable, the applicant is, until the application is determined by the Authority, taken to be the licensee under the licence to which the application relates.
- (5) The Authority is not to determine an application for the transfer of a licence under this section unless:
 - (a) the Authority is satisfied:
 - (i) that notice of the application was given to the dispossessed licensee at least 3 clear days before the Authority determines the application (or that all reasonable steps necessary for giving notice were taken by or on behalf of the applicant and that failure to give notice was not due to any neglect or default of the applicant), and
 - (ii) if so notified, that the dispossessed licensee has been given a reasonable opportunity to make submissions in relation to the application, and
 - (b) the Authority is satisfied that any lessee of the licensed premises has been notified of the application for the transfer of the licence and been given a reasonable opportunity to make submissions in relation to the application, and
 - (c) the Authority has taken any submissions made under this subsection into consideration.

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- (6) Section 60 applies, with such modifications as are necessary, in relation to an application for the transfer of a licence under this section.

62 Carrying on licensee's business after death etc of licensee

- (1) In this section, a reference to the business of a licensee is a reference to the business of the licensee carried on by the licensee under the licence immediately before the licensee's death, bankruptcy or other disability referred to in this section.
- (2) If a licensee dies, the business of the licensee may be carried on for a period not exceeding one month by a person of or above the age of 18 years who:
- (a) was the spouse or de facto partner of the licensee, or
 - (b) is a member of the family left by the licensee, or
 - (c) carries on the business on behalf of the family left by the licensee, so long as the Authority is notified immediately that the business of the licensee is being so carried on.
- (3) If, within the period of one month referred to in subsection (2), an application is made to the Authority by:
- (a) the person carrying on the business of the licensee under subsection (2), or
 - (b) a person who claims that, for the purpose of continuing to carry on the business, the person should be preferred to the person referred to in paragraph (a),
- for endorsement of the licence, as agent, of the name of the applicant, the person referred to in paragraph (a) may continue to carry on the business of the licensee until the application is determined.
- (4) If, under the *Bankruptcy Act 1966* of the Commonwealth, a trustee holds office in relation to the business of a licensee, the business of the licensee may be carried on by the trustee, or by a person authorised for the purpose by the trustee, so long as:
- (a) the Authority is notified immediately that the business is being so carried on, and
 - (b) an application is made to the Authority by the trustee as soon as practicable for endorsement on the licence, as agent, of the name of the person so authorised.
- (5) If a licensee becomes a mentally incapacitated person, the business of the licensee may be carried on by the Protective Commissioner or a person authorised for the purpose by the Protective Commissioner, so long as:

- (a) the Authority is notified immediately that the business of the licensee is being so carried on, and
 - (b) an application is made to the Authority by the Protective Commissioner as soon as practicable for endorsement on the licence, as agent, of the name of the person so authorised.
- (6) A person who carries on the business of a licensee under this section is, while the person so carries on the business, taken to be the licensee.
 - (7) An application under this section must be accompanied by the fee prescribed by the regulations.
 - (8) The Authority is to notify the Director and the Commissioner of Police of any application under this section and the Director and the Commissioner are entitled to make submissions in relation to such an application.

63 Grant of application for endorsement of licence following death etc of licensee

- (1) The Authority may grant an application under section 62 if the Authority is satisfied that the person whose name the applicant seeks to have endorsed on the licence is a fit and proper person to carry on the business to which the application relates.
- (2) In deciding whether or not to grant an application under section 62, the Authority is to take into consideration any submissions made by the Director or the Commissioner of Police in relation to the application.
- (3) If, following the death of a licensee, the Authority is so satisfied in relation to more than one such person, the Authority may grant the application of such one of them as the Authority thinks fit.
- (4) The granting of an application under section 62 takes effect with respect to a licence when the Authority endorses the licence accordingly.
- (5) A person whose name is endorsed on a licence under subsection (4) is, while the endorsement has effect, taken to be the licensee.
- (6) Subject to section 64 (4), an endorsement under this section has effect for the period specified by the Authority. Any such specified period may, before the period expires, be extended by the Authority on application by the person who is taken to be the licensee.

64 Transfer of licence after death etc of licensee

- (1) If probate of the will of a deceased licensee is, or letters of administration of the deceased licensee's estate are, granted, the executor or administrator must, as soon as practicable, apply to the Authority for the transfer of the licence to the executor or administrator, or to a person nominated by the executor or administrator, as transferee.

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- (2) A trustee referred to in section 62 (4) who holds office in relation to the business of a licensee may apply under section 60 as transferor for the transfer of the licence to a person nominated by the trustee.
 - (3) If section 62 (5) applies in relation to a licensee, the Protective Commissioner may apply under section 60 as transferor for the transfer of the licence to a person nominated by the Protective Commissioner.
 - (4) If a licence is transferred under an application authorised by this section, any endorsement of the licence under section 63 ceases to have effect.

Division 4 Special provisions relating to corporate licensees

65 Application of Division

This Division applies in relation to any licence that is held by a corporation (including a registered club).

66 Appointment of managers

- (1) A licensee (other than a registered club):
 - (a) must appoint a manager approved by the Authority under this Division for the licensed premises, and
 - (b) must not cause or permit the conduct of business under the licence for a period of more than 28 days except under the personal supervision and management of a person so approved.Maximum penalty: 50 penalty units.
- (2) A registered club that has more than one set of premises:
 - (a) must appoint a different manager, approved by the Authority under this Division, for each set of premises of the club at which the secretary of the club is not in attendance, and
 - (b) must not cause or permit the conduct of business on any such premises for a period of more than 2 months except under the management of a person so approved.Maximum penalty: 50 penalty units.
- (3) Subsection (2) does not apply to a registered club:
 - (a) that has no more than 2 sets of premises and the premises concerned:
 - (i) are, in the case where the main premises of the club are situated in a metropolitan area, within 10 kilometres of the other premises of the club or are, in the case where the main premises of the club are not situated in a metropolitan area, within 50 kilometres of the other premises of the club, or

- (ii) are staffed by less than 5 full-time employees, or
 - (b) in such other circumstances as are prescribed by the regulations.
- (4) Despite subsection (2), a registered club may appoint a person to act as a manager of any of the club's premises for the purposes of that subsection even though the person has not been approved by the Authority, but only if an application for the approval of the person to manage licensed premises has been made under section 68.
- (5) A person's authorisation to be appointed under subsection (4) to act as manager of club premises expires on the determination by the Authority of the relevant application for approval.
- (6) In this section:
metropolitan area means any of the following areas as determined by the Australian Bureau of Statistics:
 - (a) the Sydney Statistical Division,
 - (b) the Statistical Local Areas of Newcastle (Statistical Local Areas 5901 and 5902),
 - (c) the Statistical Local Area of Lake Macquarie (Statistical Local Area 4650),
 - (d) the Statistical Local Area of Wollongong (Statistical Local Area 8450).

67 Restrictions on who may be appointed as manager

- (1) The following provisions apply to the appointment under section 66 of a manager of licensed premises:
 - (a) a person may not be appointed as the manager of licensed premises unless the person is approved by the Authority to manage licensed premises and the approval applies to the premises or class of premises concerned,
 - (b) only an individual may be appointed to manage licensed premises,
 - (c) a person cannot be appointed as the manager of licensed premises if at the time of the appointment the person already holds an appointment as the manager of other licensed premises.
- (2) Subsection (1) (c) does not apply in the case of a registered club referred to in section 66 (3).
- (3) Subject to section 66 (4), an appointment in contravention of this section is void for the purposes of this Act.

68 Approval of persons to manage licensed premises

- (1) An application for the Authority's approval of a person to manage licensed premises must be in the form and manner approved by the Authority and be accompanied by the fee prescribed by the regulations.
- (2) The Authority may grant any such application or refuse to grant the application.
- (3) In determining an application for approval of a person to manage licensed premises, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence.
- (4) The Authority's approval may not be given unless the Authority is satisfied that the person concerned:
 - (a) is a fit and proper person to manage licensed premises, and
 - (b) understands the person's responsibilities in relation to, and is capable of implementing, practices in place at licensed premises for ensuring the responsible sale, supply and service of alcohol and the prevention of intoxication, and
 - (c) if the Authority has required the person to attend a course of training or instruction approved by the Authority—has completed the course to the standard required by the Authority.
- (5) If the Authority is satisfied that there is nothing that might preclude the Authority from approving of the person to manage licensed premises, but requires more information before making a final decision, the Authority may give a provisional approval of the person to be such a manager.
- (6) A provisional approval is sufficient to authorise the appointment of the person, in accordance with section 69, as manager of the licensed premises until such time as the Authority confirms the approval of the person.
- (7) An approval or provisional approval of a person to manage licensed premises may be given so as to apply in relation to any particular licensed premises, to all licensed premises of a specified class or to all licensed premises, as the Authority thinks fit.

69 Notice of appointments

- (1) A licensee must give the Authority notice of the appointment of a person as manager of licensed premises.
Maximum penalty: 20 penalty units.

- (2) The appointment of a manager is not in force until the licensee has given the Authority notice of the appointment as required by this section, accompanied by the declaration referred to in subsection (5) (b).
- (3) The appointment of a manager is revoked by the licensee giving notice under this section of the appointment of a new manager or by the licensee or manager giving the Authority notice of the manager's ceasing to act as manager.
- (4) A notice under this section may specify a day that is later than the day the notice is given as the day the notice is to take effect, and the notice takes effect accordingly.
- (5) A notice under this section:
 - (a) must be completed in writing in the form approved by the Authority, and
 - (b) must be accompanied by a declaration in writing, in a form approved by the Authority, of the person to be appointed as manager of the premises concerned:
 - (i) signifying the person's acceptance of the appointment, and
 - (ii) certifying such matters as the form of notice may require (including matters relating to the person's responsibilities in relation to, and capacity to implement, practices in place at the premises for ensuring the responsible sale, supply and service of alcohol, and the prevention of intoxication, on the premises).
- (6) In any proceedings in which the question of whether notice was given to the Authority under this section is at issue, the party alleged to have given the notice bears the onus of establishing on the balance of probabilities that the notice was given.

70 Liability of licensee for contravention by manager

The licensee of licensed premises is taken to have contravened any provision of this Act or the regulations that the manager of the licensed premises has contravened as a result of section 91 unless the licensee establishes that the licensee:

- (a) did not authorise or knowingly permit the contravention by the manager, and
- (b) maintained control over and supervision of the activities of the manager of the licensed premises in an effort to prevent any such contravention occurring.

71 Liability of directors etc of corporate licensees

- (1) If a licensee that is a corporation contravenes (whether by act or omission) any provision of this Act or the regulations, each person who occupies a position of authority in the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.
- (2) If a licensee that is a corporation is taken to have contravened (whether by act or omission) any provision of this Act or the regulations by reason of a contravention by the manager of the licensed premises, each person who occupies a position of authority in the corporation is taken to have contravened the same provision unless the person establishes that the person:
 - (a) was not knowingly a party to any authorisation by the corporation of the contravention by the manager, and
 - (b) took all reasonable steps (within the scope of the person's authority) to ensure that the corporation maintained control over and supervision of the activities of the manager of the licensed premises in an effort to prevent any such contravention by the manager occurring.
- (3) A person may be proceeded against and convicted under a provision in accordance with this section whether or not the corporation or manager of the licensed premises has been proceeded against or convicted.
- (4) This section does not affect any liability imposed on a corporation or the manager of licensed premises for an offence committed by the corporation or manager under this Act or the regulations.
- (5) Without limiting any other law or practice regarding the admissibility of evidence, evidence that an officer, employee or agent of a corporation (while acting in his or her capacity as such) had, at any particular time, a particular intention, is evidence that the corporation had that intention at that time.

72 Corporate licences—interpretative provisions

- (1) A reference in this Act to a *position of authority* in a corporation is a reference to the position of chief executive officer, director or secretary of the corporation. However for the purposes of section 71, a person who is a director of a registered club is not a person who occupies a position of authority in that corporation.
- (2) For the purposes of this Act, a person who occupies a position of authority in a corporation is to be regarded as interested in an application for a licence made by the corporation and as interested in the business of the licensed premises to which a licence held by the corporation relates.

Clause 72 Liquor Bill 2007

Part 4 Licensing procedures and related matters

- (3) For the purposes of this Act, a person who is a shareholder in a corporation is not (merely because of being a shareholder) to be regarded as a person who will be interested in an application for a licence made by the corporation or in the business, or the profits or conduct of the business, to be carried on pursuant to the licence applied for or of the licensed premises to which a licence held by the corporation relates.

Part 5 Regulation and control of licensed premises

Division 1 Conduct on licensed premises

73 Prevention of excessive consumption of alcohol on licensed premises

- (1) A licensee must not permit:
 - (a) intoxication, or
 - (b) any indecent, violent or quarrelsome conduct, on the licensed premises.
Maximum penalty: 100 penalty units.
- (2) A licensee or an employee or agent of a licensee must not, on the licensed premises, sell or supply liquor to an intoxicated person.
Maximum penalty: 100 penalty units.
- (3) A person (other than a licensee or an employee or agent of a licensee) must not, on licensed premises, supply liquor to an intoxicated person.
Maximum penalty: 10 penalty units.
- (4) If an intoxicated person is on licensed premises, the licensee is taken to have permitted intoxication on the licensed premises unless the licensee proves:
 - (a) that the licensee, and the licensee's employees or agents, took the steps set out in subsection (5) or all other reasonable steps to prevent intoxication on the licensed premises, or
 - (b) that the intoxicated person did not consume alcohol on the licensed premises.
- (5) For the purposes of subsection (4) (a), the following are the relevant steps:
 - (a) asked the intoxicated person to leave the premises,
 - (b) contacted, or attempted to contact, a police officer for assistance in removing the person from the premises,
 - (c) refused to serve the person any alcohol after becoming aware that the person was intoxicated.
- (6) In the application of this section to an on-premises licence that relates to a catering service, a reference to licensed premises does not include private domestic premises except for the purposes of subsection (2).

74 Sale of stolen goods and possession, use or sale of drugs on licensed premises

- (1) A licensee must not permit the licensed premises to be used for the sale of:
 - (a) any goods that the licensee suspects of being stolen, or
 - (b) any substance that the licensee suspects of being a prohibited plant or a prohibited drug.Maximum penalty: 50 penalty units.
- (2) A licensee must not permit the possession or use on the licensed premises of any substance that the licensee suspects of being a prohibited plant or a prohibited drug.
Maximum penalty: 50 penalty units.
- (3) An employee or agent of a licensee or a person (other than the licensee) in charge of licensed premises must not permit the licensed premises to be used for the sale of:
 - (a) any goods that the employee, agent or person suspects of being stolen, or
 - (b) any substance that the employee, agent or person suspects of being a prohibited plant or a prohibited drug.Maximum penalty: 50 penalty units.
- (4) An employee or agent of a licensee or a person (other than the licensee) in charge of licensed premises must not permit the possession or use on the licensed premises of any substance that the employee, agent or person suspects of being a prohibited plant or a prohibited drug.
Maximum penalty: 50 penalty units.
- (5) It is a defence to a prosecution for an offence under this section if it is proved that the goods concerned were not stolen or that the substance concerned was not a prohibited plant or a prohibited drug.

75 Directions to licensees and staff of licensed premises

- (1) The Director may give a licensee, or any employee or agent of a licensee, a written direction concerning any matter relating to the licensed premises (including any conduct on the licensed premises).
- (2) The direction takes effect when the direction is given to the licensee or person concerned or on a later date specified in the direction.
- (3) A licensee, employee or agent who, without reasonable excuse, fails to comply with a direction under this section is guilty of an offence.
Maximum penalty: 50 penalty units.

- (4) The power conferred by this section includes a power to give a direction to adopt, vary, cease or refrain from any practice on or in respect of the licensed premises.
- (5) The Director may revoke or vary a direction given under this section.
- (6) A direction under this section must not be inconsistent with this Act and the authorisation conferred by the licence concerned.

Division 2 Exclusion of persons from licensed premises

76 Self-exclusion of patrons from licensed premises

- (1) A person (*the participant*) may request a licensee to enter into an agreement (*a self-exclusion agreement*) with the person under which the person agrees to be prevented from entering or remaining on the licensed premises specified in the agreement.
- (2) A self-exclusion agreement is to be in the form approved by the Authority. The approved form may contain specified requirements that must be complied with in relation to such an agreement, including specifying the circumstances in which licensees are required to comply with a request to enter into an agreement. The approved form may also include provision for the manner in which a self-exclusion agreement may be terminated by the parties to the agreement.
- (3) If a request is made by a person to enter into a self-exclusion agreement, the licensee must enter into the agreement if the circumstances in which the request is made comply with the circumstances specified in the form approved by the Authority.
- (4) A self-exclusion agreement may, if the licensee who enters into the agreement is a party to a local liquor accord, also apply in relation to any or all of the other licensed premises that are subject to the accord, but only if those other premises are specified in the agreement. In any such case, the licensee of each of the premises is taken to have entered into the agreement concerned.
- (5) Each of the parties to a self-exclusion agreement is required to comply with the terms of the agreement.
- (6) It is lawful for a responsible person for licensed premises specified in a self-exclusion agreement, using no more force than is reasonable in the circumstances:
 - (a) to prevent the participant from entering the licensed premises, and
 - (b) to remove the participant, or cause the participant to be removed, from the licensed premises.

- (7) No civil or criminal liability is incurred by a responsible person for licensed premises to which a self-exclusion agreement relates (or, in the case of club premises, by the registered club itself):
- (a) for any act done or omitted to be done in good faith, and in accordance with this section, to or in respect of the participant concerned, or
 - (b) if the participant enters or remains on the licensed premises to which the agreement relates.
- (8) This section does not affect the operation of any self-exclusion scheme under section 49 of the *Gaming Machines Act 2001*.

77 Non-voluntary exclusion of persons from licensed premises

- (1) In this section:
- authorised person** means a licensee, an employee or agent of a licensee or a police officer.
- employee** includes, in the case of a registered club, a person engaged under a contract for services.
- vicinity** of licensed premises means any place less than 50 metres from any point on the boundary of the premises.
- (2) An authorised person may refuse to admit to, or may turn out of, licensed premises any person:
- (a) who is at the time intoxicated, violent, quarrelsome or disorderly, or
 - (b) whose presence on the licensed premises renders the licensee liable to a penalty under this Act, or
 - (c) who smokes, within the meaning of the *Smoke-free Environment Act 2000*, while on any part of the licensed premises that is a smoke-free area within the meaning of that Act, or
 - (d) who uses, or has in his or her possession, while on the premises any substance that the authorised person suspects of being a prohibited plant or a prohibited drug, or
 - (e) whom the authorised person, under the conditions of the licence or according to a term (of the kind referred to in section 134) of a local liquor accord, is authorised or required to refuse access to the licensed premises.
- (3) If, under subsection (2), a person has been refused admission to, or has been turned out of, licensed premises, an authorised person may, at any time, refuse to admit that person to the licensed premises or may turn the person out of the licensed premises.

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- (4) If a person in respect of whom an authorised person is, under subsection (2) or (3), entitled to refuse admission to the licensed premises is on the premises, the person must, on being required so to do by an authorised person, leave the premises.
Maximum penalty: 50 penalty units.
- (5) For the purposes of this section, such reasonable degree of force as may be necessary may be used to turn a person out of licensed premises.
- (6) A person who has been refused admission to, or turned out of, licensed premises in accordance with this section because the person was intoxicated, violent, quarrelsome or disorderly, must not re-enter or attempt to re-enter the premises within 24 hours of being refused admission or being turned out.
Maximum penalty: 50 penalty units.
- (7) After the 24-hour period ends in relation to any such person, an authorised person is not prevented from exercising the powers under subsection (3) in relation to the person.
- (8) A person who has been refused admission to, or turned out of, licensed premises in accordance with this section because the person was intoxicated, violent, quarrelsome or disorderly, must not, without reasonable excuse:
- (a) remain in the vicinity of the premises, or
 - (b) re-enter the vicinity of the premises within 6 hours of being refused admission or being turned out.
- Maximum penalty: 50 penalty units.
- (9) Without limiting subsection (8), a person has a reasonable excuse for remaining in, or re-entering, the vicinity of the licensed premises if:
- (a) the person reasonably fears for his or her safety if he or she does not remain in, or re-enter, the vicinity of the premises, or
 - (b) the person needs to remain in, or re-enter, the vicinity of the premises in order to obtain transport, or
 - (c) the person resides in the vicinity of the premises.
- (10) In the prosecution for an offence under subsection (8), the burden of proving that a person had a reasonable excuse for remaining in, or re-entering, the vicinity of the licensed premises concerned is on the person charged.
- (11) The functions that may be exercised under this section by an authorised person who is a licensee or employee or agent of a licensee may only be exercised in relation to the licensed premises to which the licensee's licence relates.

- (12) A reference in this section to turning a person out of licensed premises includes a reference to causing the person to be turned out.

78 Banning orders

- (1) The Authority may, by order in writing given to a person, prohibit the person from entering or remaining on the licensed premises specified in the order.
- (2) An application for an order under this section may be made by:
 - (a) the Director, or
 - (b) the Commissioner of Police, or
 - (c) a licensee who is a party to a local liquor accord, or
 - (d) any other person (or class of persons) prescribed by the regulations.
- (3) The application must be in the form approved by the Authority.
- (4) The Authority may make such an order under this section only if the Authority is satisfied that the person the subject of the proposed order has repeatedly been intoxicated, violent, quarrelsome or disorderly on or in the immediate vicinity of licensed premises.
- (5) The regulations may prescribe other circumstances in which the Authority is authorised to make an order under this section.
- (6) An order under this section must specify a period (not exceeding 6 months) during which the order is in force.
- (7) In deciding whether to make an order under this section, the Authority is not to take into consideration the person's race or ethnic or national origins.
- (8) A person who is the subject of an order under this section must not enter or attempt to enter, or remain on, the licensed premises to which the order relates.

Maximum penalty: 50 penalty units.

Division 3 Disturbance complaints

79 Making of complaint

- (1) A person may complain to the Director that the quiet and good order of the neighbourhood of licensed premises are being unduly disturbed because of:
 - (a) the manner in which the business of the licensed premises is conducted, or

- (b) the behaviour of persons after they leave the licensed premises (including, but not limited to, the incidence of anti-social behaviour or alcohol-related violence).
- (2) Such a complaint must be in writing and be made or verified by statutory declaration.
- (3) A complaint under this section may only be made by any of the following persons (referred to in this Division as *the complainant*):
 - (a) a person authorised in writing by 3 or more persons residing in the neighbourhood of the licensed premises or a person who is such a resident and is authorised in writing by 2 or more other such residents,
 - (b) the Commissioner of Police,
 - (c) a person authorised by the local consent authority in relation to the licensed premises,
 - (d) a person who satisfies the Director that his or her interests, financial or other, are adversely affected by the undue disturbance to which the person's complaint relates.
- (4) A complaint may relate to more than one licensed premises.
- (5) In the application of this Division to an on-premises licence that relates to a catering service:
 - (a) a reference to licensed premises does not include private domestic premises, and
 - (b) a reference to the business of the licensed premises is a reference to the business of providing catering services on licensed premises (other than private domestic premises) under the licence.

80 Director may convene conference

- (1) If the Director receives a complaint under this Division, the Director may convene a conference to hear submissions relating to the complaint.
- (2) A conference may relate to more than one complaint.
- (3) A conference convened in relation to licensed premises the subject of a complaint may be extended to include any other licensed premises if the Director is satisfied:
 - (a) that the evidence given in support of the complaint would support a complaint against the other licensed premises, or
 - (b) that, assuming that the complaint is shown to be justified, action taken in relation to the licensed premises the subject of the

complaint will be ineffective unless similar action is taken in relation to the other licensed premises.

- (4) Any licensed premises to which a conference is extended as referred to in subsection (3) is, for the purposes of this Division, taken to be the subject of a complaint under this Division.
- (5) Notice of the time and place of the conference is to be given to all complainants and the licensee or licensees as specified by the Director.
- (6) The conference is to be presided over by the Director and the procedure at the conference is to be determined by the Director.

81 Decision by Director in relation to complaint

- (1) The Director may, after giving each complainant present and the licensee (if present) a reasonable opportunity to be heard in relation to a complaint under this Division:
 - (a) impose a condition on the licence concerned, or
 - (b) adjourn the conference subject to implementation and continuation of undertakings given by the licensee, or
 - (c) issue a warning to the licensee, or
 - (d) take no action.
- (2) The conditions that may be imposed on a licence include, but are not limited to, conditions relating to any one or more of the following:
 - (a) noise abatement,
 - (b) prohibition of the sale or supply of liquor before 10 am and after 11 pm,
 - (c) prohibition of, or restriction on, activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption),
 - (d) restricting the trading hours of, and public access to, the licensed premises,
 - (e) requiring the licensee to participate in, and to comply with, a local liquor accord.
- (3) The Director is to take the following matters into consideration before making a decision under subsection (2):
 - (a) the order of occupancy between the licensed premises and the complainant,
 - (b) any changes in the licensed premises and the premises occupied by the complainant, including structural changes to the premises,

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- (c) any changes in the activities conducted on the licensed premises over a period of time.
 - (4) For the purposes of subsection (3), *complainant* does not include a complainant who is the Commissioner of Police or a person authorised by the local consent authority.

Division 4 Closure orders

82 Short-term closure of licensed premises

- (1) An authorised officer or the Authority may, by notice served on a licensee or a person apparently in charge of licensed premises, order the licensee to close the licensed premises from a time specified in the order until a later specified time.
- (2) An authorised officer or the Authority may only make an order under this section:
 - (a) on the application of the Director or the Commissioner of Police, and
 - (b) only if the authorised officer or the Authority (as the case requires) is satisfied that a serious breach of this Act has occurred, or is likely to occur, on the premises and that the closure of the premises is necessary to prevent or reduce a significant threat or risk to the public interest.
- (3) Without limiting the generality of subsection (2), circumstances in which there may be a significant threat or risk to the public interest include circumstances in which there is:
 - (a) a threat to public health or safety, or
 - (b) a risk of substantial damage to property, or
 - (c) a significant threat to the environment, or
 - (d) a risk of serious offences (having a maximum penalty of not less than 2 years imprisonment) being committed on the premises.
- (4) An order may not require the closure of premises for a period longer than 72 hours.
- (5) Subject to subsection (4), an order may require the closure of premises until specified conditions are met.
- (6) A licensee must not fail to comply with an order made under this section.
Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

- (7) More than one order closing the same premises may not be made under this section in any period of one week.

83 Urgent application for short-term closure order

- (1) An application under section 82 may be made by telephone.
- (2) An authorised officer or the Authority must not issue an order under section 82 on an application made by telephone unless the officer or the Authority (as the case requires) is satisfied that the order is required urgently and that it is not practicable for the application to be made in person.
- (3) An application under this section must be made by facsimile if the facilities to do so are readily available for that purpose.
- (4) An authorised officer or member of the Authority who issues an order under section 82 on an application made by telephone must:
- (a) complete and sign the order, and
 - (b) furnish the order to the applicant or inform the applicant of the terms of the order and of the date and time when it was signed.
- (5) If an order under section 82 is issued on an application made by telephone and the applicant is not furnished with the order, the applicant must:
- (a) complete a form of order in the terms indicated by the authorised officer or member of the Authority under subsection (4), and
 - (b) write on the form the name of the authorised officer or member of the Authority and the date and time when the order was signed.
- (6) A form of order so completed is taken to be an order issued under section 82.
- (7) An order under section 82 issued on an application made by telephone is to be furnished by an authorised officer or the Authority by transmitting it by facsimile, if the facilities to do so are readily available, and the copy produced by that transmission is taken to be the original document.
- (8) In this section:
- (a) **telephone** includes radio, facsimile or other communication device, and
 - (b) a reference to facsimile includes a reference to any electronic communication device which transmits information in a form from which written material is capable of being reproduced with or without the aid of any other device or article.

84 Order by Authority for long-term closure of licensed premises

- (1) The Authority may, on the application of the Director or the Commissioner of Police, order a licensee to close the licensed premises from a time specified in the order until a later specified time.
- (2) The Authority may not make an order under this section unless:
 - (a) the licensee or manager of the licensed premises is the subject of an investigation by the Director under section 138 or an investigation by the NSW Police Force, or the licensed premises are the subject of a complaint under Division 3, or disciplinary action under Part 9 has been (or is proposed to be) taken by the Authority against the licensee or manager or a close associate of the licensee, and
 - (b) the licensee has been given notice of the application for closure of the licensed premises and has been given a reasonable opportunity to make submissions to the Authority in relation to the application, and
 - (c) the Authority is satisfied that a serious breach of this Act has occurred, or is likely to occur, on the licensed premises and that the closure of the premises is necessary to prevent or reduce a significant threat or risk to the public interest.
- (3) Without limiting the generality of subsection (2), circumstances in which there may be a significant threat or risk to the public interest include circumstances in which there is:
 - (a) a threat to public health or safety, or
 - (b) a risk of substantial damage to property, or
 - (c) a significant threat to the environment, or
 - (d) a risk of serious offences (having a maximum penalty of not less than 2 years imprisonment) being committed on the premises.
- (4) An order ceases to have effect at the time specified or when a complaint concerning the licensee or manager of the premises is determined under this Act, whichever is the earlier.
- (5) An order may not require the closure of premises for a period longer than the period prescribed by the regulations.
- (6) An order may require the closure of premises until specified conditions are met but must not require closure for a period longer than that permitted under subsection (5).
- (7) A licensee must comply with an order made under this section.
Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

- (8) The regulations may make provision for or with respect to an application for an order under this section, including the procedure to be followed at or in connection with the hearing and determination of any such application.

85 Further long-term closure orders

- (1) The Authority may grant 2 or more orders in respect of premises under section 84.
- (2) An application for another order may be made, and determined, before the end of a current order.

86 Breach of the peace

- (1) The Local Court may, on application by any person, order a licensee to close the licensed premises for a period of time specified in the order if the Court is satisfied that there is, or is likely to be, a breach of the peace in the neighbourhood of the licensed premises.
- (2) A licensee must comply with an order made under this section.
Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

Division 5 Late hour entry declarations

87 Director may make late hour entry declaration

- (1) The Director may, in accordance with this Division, make a late hour entry declaration.
- (2) The purpose of such a declaration is to prevent patrons entering licensed premises during late trading hours even though the premises are authorised to trade during that time.
- (3) A late hour entry declaration must be in writing and specify:
- (a) the area or locality to which it applies, and
 - (b) the licensed premises (or class of licensed premises) to which it applies, and
 - (c) the times when it applies.
- (4) A late hour entry declaration has effect despite any other provision of this Act or the conditions of a licence relating to any licensed premises to which the declaration applies.

88 Effect of late hour entry declaration

- (1) The licensee of any licensed premises to which a late hour entry declaration applies must not permit patrons to enter the licensed premises during the time the declaration applies.
Maximum penalty: 50 penalty units.
- (2) For the avoidance of doubt, patrons already present in licensed premises at the time from which a late hour entry declaration applies to the premises may:
 - (a) leave the premises at any time, or
 - (b) remain on the premises while the premises are authorised to trade,but are not permitted to re-enter the premises during the time the declaration applies.

89 Provisions relating to making of late hour entry declaration

- (1) The Director must give written notice of a proposed late hour entry declaration:
 - (a) to each licensee whose licensed premises are the subject of the proposed declaration, and
 - (b) to the local consent authority for those premises.
- (2) Any such licensee or the local consent authority may, within 21 days after the notice is given to the licensee or the authority (as the case requires), make a written submission to the Director in relation to the proposed declaration.
- (3) The Director must, before deciding whether to make a late hour entry declaration, take into consideration any submissions received by the Director under subsection (2).
- (4) The regulations may prescribe other requirements that the Director must comply with before making a late hour entry declaration.

90 Director may vary or revoke late hour entry declaration

- (1) The Director may, in accordance with this section, vary or revoke a late hour entry declaration.
- (2) The Director must give written notice of a proposed variation or revocation of a late hour entry declaration:
 - (a) to each licensee whose licensed premises are subject to the declaration, and
 - (b) to the local consent authority for those premises.

- (3) Any such licensee or the local consent authority may, within 21 days after the notice is given to the licensee or the authority (as the case requires), make a written submission to the Director in relation to the proposed variation or revocation.
- (4) The Director must, before deciding whether to vary or revoke a late hour entry declaration, take into consideration any submissions received by the Director under subsection (3).

Division 6 General provisions relating to licensed premises

91 Responsibilities and liabilities in relation to licensed premises

- (1) The following persons are, subject to this Act, responsible at all times for the personal supervision and management of the conduct of the business of the licensed premises under the licence:
 - (a) if the licensee is an individual—the licensee,
 - (b) if the licensee is a corporation—the manager of the licensed premises.
- (2) If an element of an offence under this Act or the regulations is an act or omission by a licensee, the manager of the licensed premises is, while responsible under subsection (1), responsible for the offence as though that person were also the licensee and is liable for the offence accordingly.
- (3) This section does not affect any liability of a licensee for a contravention by the licensee of a provision of this Act or the regulations.

92 Control of business conducted on licensed premises

- (1) A licensee or a related corporation of the licensee must not:
 - (a) if the licensee is an individual—allow any person to have the personal supervision and management of the conduct of the business under the licence for a longer continuous period than 6 weeks except with the approval of the Authority, or
 - (b) lease or sublease the right to sell liquor on the licensed premises, or
 - (c) lease or sublease any part of the licensed premises on which liquor is ordinarily sold or supplied for consumption on the premises or on which approved gaming machines are ordinarily kept, used or operated, or
 - (d) lease or sublease any other part of the licensed premises except with the approval of the Authority.

Maximum penalty: 50 penalty units.

- (2) The owner of licensed premises must not:
- (a) lease or sublease any part of the premises on which liquor is ordinarily sold or supplied for consumption on the premises, or on which an approved gaming machine is ordinarily kept, used or operated, to any person other than the licensee or a related corporation of the licensee, or
 - (b) except with the approval of the Authority, lease or sublease any other part of the licensed premises to any person other than the licensee or a related corporation of the licensee.

Maximum penalty: 50 penalty units.

93 Cessation of trade

If licensed premises cease trading during any continuous period of more than 6 weeks, the licensee must notify the Authority in writing that the premises have ceased to trade.

Maximum penalty: 50 penalty units.

94 Boundaries of licensed premises

- (1) The boundaries of licensed premises are to be specified by the Authority when the licence is granted.
- (2) The specified boundaries of any licensed premises may be changed by the Authority on the Authority's own initiative or on the application of:
 - (a) the owner of the premises, or
 - (b) the licensee.
- (3) Before changing the boundaries of any licensed premises (whether on application or otherwise), the Authority is:
 - (a) to give the licensee, the Director and the Commissioner of Police a reasonable opportunity to make submissions in relation to the proposed change, and
 - (b) to take any such submissions into consideration before deciding whether to make the change.
- (4) Any change in the specified boundaries of licensed premises under this section does not take effect until such fee as may be prescribed by the regulations has been paid.
- (5) The Authority must not specify or change the boundaries of any licensed premises unless the Authority is of the opinion that any primary purpose requirement under this Act in relation to the licensed premises is or will be complied with.

95 Name of licensed premises

- (1) A licensee must cause to appear and be maintained on the front of the licensed premises, in accordance with the regulations, a sign that specifies:
 - (a) a name for the licensed premises (not being a name that is a prohibited name for the licensed premises under this section), and
 - (b) the type of licence for the premises, and
 - (c) any other particulars prescribed by the regulations.Maximum penalty: 5 penalty units.
- (2) A licensee must not alter the name referred to in subsection (1) (a) unless the Authority has, on payment of such fee as may be prescribed by the regulations:
 - (a) approved in writing of the proposed new name, and
 - (b) endorsed the change of name on the licence.Maximum penalty: 5 penalty units.
- (3) The Authority may not approve an alteration of the name of licensed premises if the name as proposed to be altered is a prohibited name for the licensed premises under this section.
- (4) A licensee must not cause or permit the use on any sign displayed on the exterior of the licensed premises or in any advertising with respect to the licensed premises of a name that is a prohibited name for the licensed premises under this section.
Maximum penalty: 5 penalty units.
- (5) A name is a prohibited name for licensed premises under this section if:
 - (a) it is a name or a name of a kind, or contains words or words of a kind, prescribed by the regulations as prohibited, either in relation to all licensed premises or in relation to the particular class of licensed premises of which the licensed premises form part, or
 - (b) it is a name that the Authority has notified the licensee in writing is prohibited as being objectionable, inappropriate or misleading.
- (6) A regulation for the purposes of subsection (5) may be made so as to apply to licensed premises generally or so as to apply only to a specified class or specified classes of licensed premises.
- (7) A name may not be prohibited in respect of licensed premises by notification under this section if the regulations provide that the name is permitted for use in relation to the licensed premises concerned or in relation to the particular class of licensed premises concerned.

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- (8) It is a defence to a prosecution for an offence under this section if it is proved that:
- (a) the licensee had taken all reasonable precautions to avoid commission of the alleged offence, and
 - (b) at the time of the alleged offence, the licensee did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.
- (9) This section does not apply in relation to a limited licence or an on-premises licence that relates to a catering service.

96 Temporary premises

- (1) If, for any reason, any licensed premises are (or are about to be) rendered unfit for the carrying on of business on the premises, the Authority may, on application by the licensee, authorise the licensee to temporarily carry on business under the licence either on some part of the licensed premises approved by the Authority or on some other premises approved by the Authority.
- (2) The licensee may carry on business on the temporary premises for a period of not more than 12 months (or such longer period as may be allowed by the Authority on application by the licensee before the expiration of the period sought to be extended).
- (3) An application under this section must:
- (a) be accompanied by the fee prescribed by the regulations, and
 - (b) if required by the regulations to be advertised—be advertised in accordance with the regulations.

97 Breath analysis equipment

- (1) Evidence of the results of a test indicating the presence or concentration of alcohol in the breath or blood of a person by means of a breath analysing instrument installed on licensed premises is not admissible:
- (a) in any civil proceedings against the licensee of the licensed premises (subject to subsection (2)), or
 - (b) in any criminal proceedings.
- (2) This section does not prevent the admission into evidence in civil proceedings of the results of a test if it is established that at the time of the test:
- (a) the breath analysing instrument concerned did not comply with the relevant Australian Standard (as in force at the date of the manufacture of the instrument), or

- (b) the licensee was aware or should have been aware that the instrument was not operating correctly, or
 - (c) subsection (4) was being contravened in respect of the breath analysing instrument concerned.
- (3) For the purposes of this section, a ***breath analysing instrument*** is an instrument that is designed to ascertain by analysis of a person's breath the concentration of alcohol present in the person's breath or blood, being an instrument of a type specified in AS 3547—1997: *Breath alcohol testing devices for personal use*, published by Standards Australia. That standard, as in force from time to time, is the relevant Australian Standard for the purposes of this section.
- (4) At all times that a breath analysing instrument installed on licensed premises is available for use by patrons on those premises there must be prominently displayed on or in close proximity to the instrument a sign that complies with the requirements prescribed by the regulations.
- (5) If subsection (4) is contravened, the licensee of the licensed premises is guilty of an offence.
Maximum penalty: 20 penalty units.

98 Work carried out on licensed premises

A person required or authorised to carry out work on licensed premises in accordance with an order or direction of a public authority and persons authorised by the person may, for the purpose of doing such things as are connected with preparing or tendering for, or carrying out and completing, the work to which the order or authorisation relates, enter and remain on the licensed premises at such times as are reasonably necessary for that purpose.

Part 6 Miscellaneous offences and regulatory controls

Division 1 General

99 Responsible sale, supply, service or promotion of liquor

- (1) The regulations may make provision for or with respect to requiring or encouraging the adoption of responsible practices in the sale, supply, service and promotion of liquor.
- (2) In particular, the regulations may make provision for or with respect to the following:
 - (a) restricting or prohibiting the conduct of promotions or other activities (including the discounting or supply of liquor free of charge) that could result in misuse or abuse of liquor, such as binge drinking or excessive consumption,
 - (b) the standards to be observed on licensed premises in the sale and service of liquor, for the purpose of preventing misuse or abuse of liquor,
 - (c) requiring licensees, managers and other persons engaged in the sale, supply, service and promotion of liquor and other activities on the licensed premises to undergo courses of training that will promote responsible practices in those activities,
 - (d) specifying the circumstances in which the Director may, in accordance with the regulations, require promotions or advertisements that involve the discounting of liquor to be accompanied by messages that encourage the responsible consumption of alcohol.
- (3) Without limiting subsection (2), the regulations may adopt with or without modification the standards contained in an industry code of practice as standards to be observed on licensed premises in the sale, supply, service and promotion of liquor.

100 Regulations may declare undesirable liquor products

- (1) The regulations may declare a specified liquor product (or class of liquor products) to be an undesirable liquor product.
- (2) A licensee must not sell or supply any such liquor product that is declared to be an undesirable liquor product.
Maximum penalty: 50 penalty units.
- (3) The Minister may recommend the making of a regulation under this section only if, in the opinion of the Minister:

- (a) the name of the liquor product, or its design or packaging, is indecent or offensive, or
 - (b) the name of the liquor product, or its design or packaging, encourages irresponsible, rapid or excessive consumption of the product, or
 - (c) the name of the liquor product, or its design or packaging, is likely to be attractive to minors, or
 - (d) the liquor product is likely, for any reason, to be confused with soft drinks or confectionery, or
 - (e) the liquor product is, for any other reason, likely to have a special appeal to minors, or
 - (f) it is otherwise in the public interest to declare the liquor product to be an undesirable liquor product.
- (4) The Minister must, before recommending the making of a regulation under this section, consult with relevant liquor industry representatives and the manufacturer of any liquor product proposed to be prescribed by the regulations (where the manufacturer is known to the Minister).
- (5) The validity of a regulation under this section is not affected by any failure to comply with subsection (3) or (4).

101 Director may restrict or prohibit sale or supply of undesirable liquor products

- (1) The Director may, by notice in writing given to a licensee, restrict or prohibit the licensee selling or supplying a liquor product specified in the notice.
- (2) The Director may restrict or prohibit the sale or supply of any such specified liquor product by notice under this section only if the Director is satisfied that:
- (a) the name of the liquor product, or its design or packaging, is indecent or offensive, or
 - (b) the name of the liquor product, or its design or packaging, encourages irresponsible, rapid or excessive consumption of the product, or
 - (c) the name of the liquor product, or its design or packaging, is likely to be attractive to minors, or
 - (d) the liquor product is likely, for any reason, to be confused with soft drinks or confectionery, or
 - (e) the liquor product is, for any other reason, likely to have a special appeal to minors, or

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- (f) it is otherwise in the public interest to restrict or prohibit the licensee selling or supplying the liquor product.
- (3) The Director must not give a notice under this section unless the Director is satisfied that:
- (a) the liquor product is being sold on the licensed premises to which the proposed notice relates, and
 - (b) the premises are situated in an area or locality in respect of which there are significant concerns regarding intoxication or underage or irresponsible drinking.
- (4) The Director must not give a notice under this section to a licensee unless the Director has:
- (a) provided the licensee with a reasonable opportunity to make submissions in relation to the proposed restriction or prohibition, and
 - (b) taken any such submissions into consideration in deciding whether to give the notice.
- (5) The regulations may prescribe other requirements that the Director must comply with in relation to a notice under this section.
- (6) A notice under this section may, but need not, relate to a liquor product that is declared to be an undesirable liquor product under section 100.
- (7) A licensee must comply with a notice given to the licensee under this section.
- Maximum penalty: 50 penalty units.

102 Director may restrict or prohibit undesirable promotion of liquor

- (1) The Director may, by notice in writing given to a licensee, restrict or prohibit the licensee carrying on, or being involved in, an activity that:
- (a) promotes the sale or supply of liquor, and
 - (b) is specified or described in the notice.
- (2) The Director may restrict or prohibit any such activity only if the Director is of the opinion that:
- (a) the promotion is likely to have a special appeal to minors because of the use of designs, names, motifs or characters in the promotion that are, or are likely to be, attractive to minors or for any other reason, or
 - (b) the promotion is indecent or offensive, or

- (c) the promotion involves the provision of liquor in non-standard measures or the use of emotive descriptions or advertising that encourages irresponsible drinking and is likely to result in intoxication, or
 - (d) the promotion involves the provision of free drinks, or extreme discounts or discounts of a limited duration, that creates an incentive for patrons to consume liquor more rapidly than they otherwise might, or
 - (e) the promotion otherwise encourages irresponsible, rapid or excessive consumption of liquor, or
 - (f) the restriction or prohibition is otherwise in the public interest.
- (3) A licensee must comply with a notice given to the licensee under this section.
Maximum penalty: 50 penalty units.
- (4) The Director must not give a notice under this section unless the Director has issued publicly available guidelines that indicate the kinds of activities or promotions that the Director would consider being the subject of a notice under this section.

103 Closing of certain hotel and bottle shop areas

- (1) A hotelier must:
- (a) at any time when the hotel is not authorised to be open for the sale or supply of liquor, and
 - (b) at any time when the sale or supply of liquor is permitted only for consumption in a specified part of the hotel,
- close and keep closed to the public every bar area of the hotel, and every other part of the hotel in which liquor is ordinarily sold or supplied to the public, except a bar area or other part open in accordance with the conditions of the licence in a part of the hotel referred to in paragraph (b).
- (2) The holder of a packaged liquor licence must, at any time when the licensed premises are not authorised to be open for the sale of liquor, close and keep closed to the public that part of any counter or place at or in which liquor is usually sold or supplied under the licence.
Maximum penalty: 20 penalty units.

104 Person in bar area or certain other areas of hotel outside trading hours

- (1) A person must not be in a bar area of a hotel, or any other part of the hotel in which liquor is sold or supplied to the public, at a time that is:

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- (a) later than 30 minutes after the commencement of any period on that day when the bar area, or other part of the hotel, is not authorised to be open for the sale of liquor, and
- (b) earlier than the end of that period.
- Maximum penalty: 5 penalty units.
- (2) A person does not commit an offence under subsection (1) if the person was at the relevant time:
- (a) an employee of the hotelier or a resident of the hotel, or
- (b) present in the bar area or other part of the hotel for a lawful purpose.
- (3) A police officer:
- (a) may require a person who is in a bar area or other part of a hotel in contravention of subsection (1) to state the person's name and address, and
- (b) if the officer has reasonable cause to suspect that the name or address given is false—the officer may require the person to produce evidence of its correctness.
- (4) If a person refuses or fails to comply with a requirement under subsection (3), the police officer may apprehend the person and, as soon as practicable, bring the person before an authorised officer to be dealt with according to law.
- (5) If a person is in a bar area of a hotel or other part of a hotel in contravention of subsection (1), the hotelier is guilty of an offence unless:
- (a) the person was in the area or part for a lawful purpose, or
- (b) the hotelier took all reasonable care to prevent the person entering, or remaining in, the area or part for an unlawful purpose, or
- (c) the hotelier took all reasonable care to ascertain, and believed, that the purpose for which the person had entered, and remained in, the hotel was a lawful purpose, or
- (d) the person was, at the relevant time, an employee of the licensee or a resident of the hotel.
- Maximum penalty: 20 penalty units.

105 Carrying liquor away from licensed premises outside trading hours

- (1) If liquor is authorised to be sold or supplied on licensed premises for consumption away from the premises, a person must not carry liquor

away from the premises at a time when the licensee is not authorised to sell or supply liquor for consumption away from the premises.

Maximum penalty: 5 penalty units.

- (2) A person does not commit an offence under subsection (1) if:
- (a) the person:
 - (i) has purchased the liquor from licensed premises at a time when the liquor was authorised to be sold for consumption away from the licensed premises, and
 - (ii) is carrying the liquor away from the licensed premises not later than 30 minutes after the licensee last ceased to be authorised to sell or supply liquor for consumption away from the premises, or
 - (b) the person is:
 - (i) a licensee or an employee of a licensee, or
 - (ii) a resident of any licensed premises on which liquor may be sold or supplied for consumption away from the premises, and is carrying away from the licensed premises liquor that is reasonably required for consumption by the licensee, employee or resident on the day on which it is carried away.
- (3) This section does not apply in relation to a minor.
Note. Section 118 (1) (d) makes it an offence for a minor to carry liquor away from licensed premises.

106 Delivery of liquor from unlicensed premises

- (1) A person must not:
- (a) indicate or state, by way of an advertisement or any other manner, that the person will, or is prepared to, accept orders from, or act as agent for, another person for the purchase, supply or delivery of liquor, and
 - (b) deliver liquor ordered by another person, or obtained by the person as agent for another person, from premises that are not licensed premises.
- Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.
- (2) A person does not commit an offence under this section if the person is the subject of an order in writing by the Authority exempting the person from the operation of this section.

107 Production of licence on licensed premises

- (1) A responsible person for licensed premises must, if requested to do so by a police officer or inspector while on the licensed premises, produce the licence to the officer or inspector.
Maximum penalty: 5 penalty units.
- (2) A person does not commit an offence under subsection (1) if the person is an employee or agent of the licensee (otherwise than in the capacity as manager of the licensed premises).

108 Prohibition on extension of credit for gambling

- (1) A responsible person for licensed premises must not extend, or offer to extend, a cash advance or any other form of credit to another person for the purpose of enabling the other person to gamble on the licensed premises.
Maximum penalty: 50 penalty units.
- (2) Subsection (1) does not apply to the extension of a cash advance in the form of a prize or bonus provided as referred to in section 17 (1) or 20 (1) (b).

109 Misrepresentation or misdescription of credit transactions

- (1) A responsible person for licensed premises must not, in any credit transaction, describe or represent any cash advance extended to another person who the responsible person knows, or could reasonably be expected to know, intends to use the cash advance to gamble on the licensed premises to be a payment for goods or services lawfully provided on the licensed premises or elsewhere.
Maximum penalty: 50 penalty units.
- (2) In subsection (1), *credit transaction* means any transaction involving a payment to licensed premises by means of a credit facility provided by a financial institution.

110 Falsely indicating that premises are licensed or that person is authorised to sell or supply liquor

- (1) A person must not, by means of a notice, sign or otherwise, indicate:
 - (a) that liquor is available for sale or supply on or from premises if the premises are not licensed premises, or
 - (b) that premises are licensed premises under a particular kind of licence if the premises are not such licensed premises, or
 - (c) that a person is authorised to sell or supply liquor if the person is not so authorised.
Maximum penalty: 50 penalty units.

- (2) Nothing in this section prevents a person from using the term “hotel” to describe unlicensed premises on which tourist or visitor accommodation is provided on a commercial basis or from using that term as part of the name of any such unlicensed premises.

111 Carrying liquor away from premises to which on-premises licence relates

- (1) A person must not carry away any liquor from the premises to which an on-premises licence relates.
Maximum penalty: 5 penalty units.
- (2) A person does not commit an offence under subsection (1) if:
- (a) the liquor was in the person’s possession when the person entered the premises, or
 - (b) the sale of liquor for consumption away from the licensed premises is authorised under section 26 and the liquor that is being carried away was purchased on the premises, or
 - (c) the liquor was, in accordance with section 25 (8), sold to the person for consumption away from licensed accommodation premises.
- (3) A person does not commit an offence under subsection (1) if, in the case of a licensed restaurant (including a restaurant that is part of licensed accommodation premises) or a licensed public entertainment venue that provides meals:
- (a) the liquor is wine, and
 - (b) the wine was purchased in a bottle or other container at the restaurant or public entertainment venue and was partly consumed at the restaurant or venue, and
 - (c) the bottle or container is re-corked or otherwise resealed before being carried away.

112 Obtaining liquor by false representation

A person must not obtain, or attempt to obtain, liquor on licensed premises by falsely representing that the person:

- (a) is a resident of the premises or a guest of a resident of the premises, or
- (b) is intending to eat, or has eaten, a meal on the premises, or
- (c) is intending to purchase, or make use of, a product or service provided or supplied on the premises, or
- (d) is attending a function on the premises, or

(e) is an employee or agent of the licensee.

Maximum penalty: 5 penalty units.

113 Carrying liquor for sale

- (1) A person must not:
- (a) carry liquor about for the purpose of sale, or
 - (b) offer or expose liquor for sale at or on any place other than a place at or on which liquor may lawfully be sold, or
 - (c) carry liquor, for the purpose of sale, to a place other than a place at or on which liquor may lawfully be sold.

Maximum penalty: 20 penalty units.

- (2) If liquor is carried, offered or exposed by a person in contravention of subsection (1) and is so carried, offered or exposed on behalf of another person, that other person is taken to have contravened that subsection.
- (3) It is a defence to a prosecution for a contravention of subsection (1) or (2) if it is proved that the liquor was carried, offered or exposed for the purpose of a sale that may lawfully be made.
- (4) In the prosecution for an offence under this section, the burden of proving that liquor that has been carried about, or carried to any place, was not so carried for the purpose of sale is on the person charged.

114 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 displayed in any advertisement or information published in writing or electronically in connection with such sales.

Maximum penalty: 20 penalty units.

- (2) A licensee who sells liquor through an internet site must ensure that the licence number is prominently displayed on the site and in any advertisement or information published in writing or electronically in connection with such sales.

Maximum penalty: 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:
- (a) must, at the time at which an agreement for sale is made, require the prospective purchaser to supply the purchaser's date of birth so as to confirm that the prospective purchaser is of or above the age of 18 years, unless the prospective purchaser has previously supplied the purchaser's date of birth to the licensee, and

- (b) must 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 delivery is made on a day after the day the order is taken, or the sale made through an internet site, in accordance with the customer's instructions.

Maximum penalty: 20 penalty units.

- (4) If delivery of any liquor sold in a manner described in this section is taken by a minor:
 - (a) the delivery is taken to constitute a supply to which section 117 (2) applies, and
 - (b) the licensee, and any person by whom the liquor was delivered on the licensee's behalf, are each taken to have supplied the liquor contrary to section 117 (2).
- (5) A licensee who, in accordance with subsection (4), is prosecuted for an offence under section 117 (2) has a defence under this subsection if it is proved that the licensee:
 - (a) complied with the requirements of subsection (3) in relation to the supply concerned, and
 - (b) at the time of the alleged offence did not know, and could not reasonably be expected to have known, that the alleged offence was committed.
- (6) A person (not being a licensee) who, in accordance with subsection (4), is prosecuted for an offence under section 117 (2) has a defence under this subsection if it is proved that:
 - (a) the person to whom the liquor was delivered was of or above the age of 14 years and, before the liquor was delivered, there was produced to the defendant an evidence of age document that may reasonably be accepted as applying to the person and as proving that the person was of or above the age of 18 years, and
 - (b) at the time of the alleged offence the defendant did not know, and could not reasonably be expected to have known, that the alleged offence was committed.
- (7) A minor must not take delivery of any liquor sold in a manner described in this section unless the minor was ordered or requested by his or her parent or guardian to take delivery of the liquor.
Maximum penalty: 20 penalty units.

- (8) A person must not order or request a minor to take delivery of liquor sold in a manner described in this section.
Maximum penalty: 30 penalty units.
- (9) This section does not apply to or in respect of the sale of liquor to persons authorised to sell liquor.

Division 2 Restricted alcohol areas

115 Declaration of restricted alcohol area

- (1) The regulations may:
- (a) declare any area of the State that is specified in the regulations to be a restricted alcohol area for the purposes of this Act, and
 - (b) restrict the sale, supply, possession or consumption of liquor on any premises (whether or not licensed premises) in any such restricted alcohol area.
- (2) Without limiting the restrictions that may be imposed, the regulations may restrict:
- (a) the trading hours for licensed premises in a restricted alcohol area, and
 - (b) the kinds of liquor that may be sold or supplied, and the way in which liquor is sold or supplied, on licensed premises in a restricted alcohol area.
- (3) A restricted alcohol area may be declared in respect of an area that is an alcohol-free zone established under the *Local Government Act 1993*. In that case, a person cannot, in respect of the same act or omission, be convicted of an offence under that Act and an offence created by the regulations for the purposes of this Division.
- (4) A regulation made under this Division has effect despite any other provision of this Act.
- (5) For the removal of any doubt, an offence under any other provision of this Act (including Part 2) is not prevented from applying in a restricted alcohol area merely because the regulations create offences for the purposes of this Division.

116 Provisions relating to making of regulations declaring restricted alcohol areas

- (1) The following provisions apply in relation to any regulation that declares a specified area of the State to be a restricted alcohol area:
- (a) the Minister may recommend that the regulation be made only if the Authority, in response to a request by a group of persons:

- (i) who are seeking to have the area declared a restricted alcohol area, and
 - (ii) who, in the opinion of the Authority, represent the interests of the community in that area,has recommended that the area should be declared a restricted alcohol area,
- (b) the Authority may not make such a recommendation unless it is satisfied, after consultation with:
 - (i) the Commissioner for Police, and
 - (ii) the council of each local government area in which the proposed restricted alcohol area would be located, and
 - (iii) if the proposed restricted alcohol area has a recognised Aboriginal community—the Minister for Aboriginal Affairs, and
 - (iv) such other persons as the Authority considers appropriate to consult (including representatives of the community that is likely to be affected by the declaration),that the proposed regulation is in the public interest and has the support of the majority of the community that is likely to be affected by the declaration.
- (2) A regulation made under this Division declaring an area of the State to be a restricted alcohol area must specify a period (not exceeding 3 years) during which the declaration is to have effect. The declaration ceases to have effect at the end of that specified period.
- (3) The regulations may prescribe other requirements that must be complied with before an area may be declared to be a restricted alcohol area.

Part 7 Special provisions relating to minors

Division 1 Underage drinking

117 Offences relating to sale or supply of liquor to minors

(1) **Selling liquor to minors**

A person must not sell liquor to a minor.

Maximum penalty: 100 penalty units or 12 months imprisonment (or both).

(2) **Supplying liquor to minors on licensed premises**

A person must not supply liquor to a minor on licensed premises.

Maximum penalty: 100 penalty units or 12 months imprisonment (or both).

(3) It is a defence to a prosecution for an offence under subsection (1) or (2) if it is proved that:

- (a) the person to whom the liquor was sold or supplied was of or above the age of 14 years, and
- (b) before the liquor was sold or supplied to the person the defendant was provided with an evidence of age document that may reasonably be accepted as applying to the person and as proving that the person was of or above the age of 18 years.

(4) **Supplying liquor to minors on other premises**

A person must not supply liquor to a minor on any premises other than licensed premises unless the person is a parent or guardian of the minor.

Maximum penalty: 100 penalty units or 12 months imprisonment (or both).

(5) It is a defence to a prosecution for an offence under subsection (4) if it is proved that the defendant was authorised to supply liquor to the minor by the parent or guardian of the minor.

(6) **Obtaining liquor for minors from licensed premises**

A person must not obtain liquor from licensed premises on behalf of a minor unless the person is the parent or guardian of the minor.

Maximum penalty: 100 penalty units or 12 months imprisonment (or both).

(7) It is a defence to a prosecution for an offence under subsection (6) if it is proved that the defendant was authorised to obtain liquor on behalf of the minor by the parent or guardian of the minor.

(8) **Allowing liquor to be sold or supplied to minors on licensed premises**

A licensee must not, on licensed premises, allow liquor to be sold or supplied to a minor.

Maximum penalty: 100 penalty units or 12 months imprisonment (or both).

(9) It is a defence to a prosecution for an offence under subsection (8) if it is proved that the liquor was supplied to the minor by the parent or guardian of the minor.

(10) **Burden of proof**

In the prosecution for an offence under this section, the burden of proving that a person was a parent or guardian of a minor, or was authorised by a parent or guardian of a minor, is on the person charged.

(11) In the application of this section to an on-premises licence that relates to a catering service, a reference to licensed premises does not include any private domestic premises.

(12) For the purposes of this section, *supply* of liquor includes serving liquor to a person.

118 Offences relating to consumption etc of liquor by minor

(1) **Minor not to obtain, consume or carry away liquor**

A minor must not:

- (a) consume liquor on licensed premises, or
- (b) consume liquor on the premises of an unlicensed restaurant unless the minor consumes the liquor in the company of, and with the permission of, his or her parent or guardian, or
- (c) obtain, or attempt to obtain, liquor for consumption on licensed premises, or
- (d) carry liquor away, or attempt to carry liquor away, from licensed premises unless the minor was ordered or requested by another person to carry the liquor away from the licensed premises.

Maximum penalty: 20 penalty units.

(2) **Person not to send, order or request minor to obtain liquor**

A person must not:

- (a) send a minor to licensed premises, or
- (b) order or request a minor to go to licensed premises, for the purpose of obtaining liquor.

Maximum penalty: 30 penalty units.

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- (3) In the application of this section to an on-premises licence that relates to a catering service, a reference to licensed premises does not include any private domestic premises.

119 Licensee not to allow minors to sell or supply liquor on licensed premises

A licensee must not cause or allow a minor to sell, supply or serve liquor on the licensed premises except with the approval of the Authority.

Maximum penalty: 50 penalty units.

120 Responsible adult not to allow minor to consume liquor on licensed premises

- (1) If, under this Act, a minor is required to be accompanied by a responsible adult while in a hotel or on club premises, the responsible adult who is accompanying the minor must not allow the minor to consume liquor on the licensed premises.

Maximum penalty: 30 penalty units.

- (2) In the prosecution for an offence under this section, the defendant has the burden of proving that he or she was not the responsible adult in relation to the minor at the relevant time.

Division 2 Minors on licensed premises

121 Minors in hotels in company of responsible adult

- (1) The Authority may, on the application by a hotelier, grant an authorisation (*a minors area authorisation*) to enable the use by a minor of a specified part of the hotel while in the company of a responsible adult.

Note. Section 51 applies to a minors area authorisation.

- (2) The specified part of the hotel to which a minors area authorisation applies may, if the authorisation so provides, comprise the whole of the hotel.

122 Functions for minors in hotels and public entertainment venues

- (1) In this section:
licensed premises means a hotel or a licensed public entertainment venue.

- (2) The Authority may, on application by the licensee concerned, grant an authorisation (*a minors functions authorisation*) to enable minors to attend a function or functions in a specified part of licensed premises.

Note. Section 51 applies to a minors functions authorisation.

- (3) A minors functions authorisation is to designate function areas (that is, each part of the licensed premises on which the functions concerned are permitted to be held) and access areas (that is, each part of the licensed premises through or by means of which persons attending those functions are to be permitted to obtain entry to or to depart from a function area).
- (4) Without limiting section 51, a minors functions authorisation is subject to the following conditions:
 - (a) at least 7 days notice must be given to the local police before any function is held,
 - (b) the notice must specify the name and nature of the function, the number of minors attending, the number of adult supervisors, details of the security arrangements and such other particulars as may be prescribed by the regulations,
 - (c) the licensee and person conducting the function must comply with any directions given by the local police or the Authority with respect to the conduct of functions for minors,
 - (d) liquor must not be sold, supplied, disposed of or consumed in the area in which a function is held,
 - (e) gaming machines and tobacco vending machines must not be located in the area in which a function is held and any area of the licensed premises in which gaming machines or tobacco vending machines are located must not be accessible to any minor attending the function,
 - (f) such other conditions as may be prescribed by the regulations.
- (5) A licensee is guilty of an offence if any conditions of a minors functions authorisation held by the licensee are contravened.
Maximum penalty: 20 penalty units.
- (6) Nothing in this section prevents a minors functions authorisation from applying to the whole of the licensed premises concerned.
- (7) For the purposes of this section, *function* includes, but is not limited to, a function as defined in section 4 (1).

123 Minor not to enter or remain in certain licensed premises

- (1) A minor must not:
 - (a) enter or remain in the bar area of a hotel or club premises, or
 - (b) enter or remain in a part of a hotel to which a minors area authorisation relates unless the minor is in the company of a responsible adult, or

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- (c) enter or remain in a licensed public entertainment venue unless:
- (i) the minor is in the company of a responsible adult, or
 - (ii) a function is being held in the venue in accordance with a minors functions authorisation.

Maximum penalty: 20 penalty units.

- (2) A minor does not commit an offence under subsection (1) if:
- (a) the minor is an apprentice or trainee (within the meaning of the *Apprenticeship and Traineeship Act 2001*) and has entered, or is on, the licensed premises concerned for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee, or
 - (b) the minor has entered, or is on, the licensed premises concerned for the purpose only of receiving training and instruction in respect of the servicing, repair or maintenance of gaming machines under the supervision of the holder of a technician's licence within the meaning of the *Gaming Machines Act 2001*.
- (3) A minor does not commit an offence under subsection (1) (a) if the minor:
- (a) is present in the bar area only for so long as is reasonably necessary to pass through the area in order to conveniently gain access to another area of the hotel or club premises that the minor may enter without contravening this Act, or
 - (b) is performing in a show or other live entertainment performance held in the bar area,
- and is in the company of a responsible adult while in the bar area.
- (4) A minor does not commit an offence under subsection (1) (a) in relation to being in the bar area of club premises if:
- (a) a reception is being held in the bar area in association with the wedding of a member of the club or of a person who is a child or parent of a member of the club or for whose maintenance a member of the club is or has been responsible, and
 - (b) the minor has been invited to the reception by a person entitled to issue the invitation.
- (5) It is a defence to a prosecution for an offence under subsection (1) (a) or (c) if it is proved that the defendant believed on reasonable grounds that a minors functions authorisation was in force at the relevant time to enable minors to attend a function in a bar area of the hotel or in the public entertainment venue.

- (6) In the prosecution for an offence under this section, the defendant has the burden of proving that a particular person was the responsible adult in relation to the defendant at the relevant time.

124 Licensee not to allow minors to enter or remain in certain licensed premises

- (1) If a minor:
- (a) enters a bar area of a hotel or club premises, or
 - (b) enters a part of a hotel to which a minors area authorisation is in force, but is not in the company of a responsible adult, or
 - (c) enters a licensed public entertainment venue, but is not in the company of a responsible adult,
- the licensee is guilty of an offence.
Maximum penalty: 50 penalty units.
- (2) If a minor:
- (a) is in a bar area of a hotel or club premises, or
 - (b) is in a part of a hotel to which a minors area authorisation is in force, but is not in the company of a responsible adult, or
 - (c) is in a licensed public entertainment venue, but is not in the company of a responsible adult,
- the licensee is guilty of an offence unless the minor is immediately removed from the area or premises concerned.
Maximum penalty: 50 penalty units.
- (3) A licensee does not commit an offence under this section if the minor:
- (a) is at least 14 years of age and produces to the licensee (or an employee or agent of the licensee) an evidence of age document that may reasonably be accepted as applying to the minor and as proving that the minor is of or above the age of 18 years, or
 - (b) is an apprentice or trainee (within the meaning of the *Apprenticeship and Traineeship Act 2001*) who has entered, or is on, the licensed premises concerned for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee, or
 - (c) has entered, or is on, the licensed premises concerned for such purposes, or in such circumstances, as may be approved by the Authority and are specified in the licence concerned.
- (4) A licensee does not commit an offence under this section in relation to a minor entering, or being or remaining in, a bar area of a hotel or club premises if the minor:

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- (a) is present in the bar area only for so long as is reasonably necessary to pass through the area in order to conveniently gain access to another area of the hotel or club premises that the minor may enter without contravening this Act, and
 - (b) is in the company of a responsible adult while in the bar area.
- (5) A licensee does not commit an offence under this section in relation to a minor being in the bar area of club premises if:
- (a) a reception is being held in that area in association with the wedding of a member of the club or of a person who is a child or parent of a member of the club or for whose maintenance a member of the club is or has been responsible, and
 - (b) the minor has been invited to the reception by a person entitled to issue the invitation.
- (6) A licensee does not commit an offence under this section in relation to a minor being in a licensed public entertainment venue if a function is being held in the venue in accordance with a minors functions authorisation.
- (7) In the prosecution for an offence under this section, the defendant has the burden of proving that a particular person was the responsible adult in relation to a minor at the relevant time.

125 Responsible adult not to leave minor unaccompanied on licensed premises

- (1) If, under this Act, a minor is required to be accompanied by a responsible adult while in a hotel or licensed public entertainment venue, the responsible adult who is accompanying the minor must not leave the minor unaccompanied on the licensed premises without first informing the licensee or an employee or agent of the licensee.
- Maximum penalty: 30 penalty units.
- (2) In the prosecution for an offence under this section, the defendant has the burden of proving that he or she was not the responsible adult in relation to a minor at the relevant time.

126 Minors must be refused entry to licensed premises

If:

- (a) a responsible person for a hotel, club premises or licensed public entertainment venue is aware that a person (*the relevant person*) who may reasonably be suspected of being under the age of 18 years is attempting to enter the licensed premises, and

- (b) the presence of the relevant person on the licensed premises would, if the relevant person were under the age of 18 years, be an offence under this Act,

the responsible person must refuse the relevant person entry to the premises unless there is produced to the responsible person an evidence of age document that may reasonably be accepted as applying to the relevant person and as proving that the relevant person is of or above the age of 18 years.

Maximum penalty: 50 penalty units.

127 Notices to be displayed in relation to minors on licensed premises

- (1) The regulations may make provision for or with respect to the display, on licensed premises or on an internet site through which a licensee offers liquor for sale, of notices in relation to minors.
- (2) Without limiting subsection (1), any such notices may relate to any of the following:
 - (a) the exclusion of minors from licensed premises or any part of licensed premises,
 - (b) the presence of minors on licensed premises or any part of licensed premises while in the company of a responsible adult,
 - (c) the sale of liquor to minors.
- (3) The regulations under this section may create offences punishable by a penalty not exceeding 50 penalty units.

Division 3 Other provisions relating to minors

128 Minor required to provide information

- (1) An authorised person may require a person (*the relevant person*) who is reasonably suspected of being a minor and who, if a minor, would be committing an offence under this Act:
 - (a) to state the relevant person's full name, residential address and date of birth, and
 - (b) to produce then, or at a police station within a reasonable time, an evidence of age document for the person.
- (2) A person who is the subject of a requirement under subsection (1) must not:
 - (a) refuse or fail to state his or her full name, residential address and date of birth, or

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- (b) without reasonable excuse, refuse or fail to produce an evidence of age document that may reasonably be accepted as applying to the person.

Maximum penalty: 20 penalty units.

- (3) In this section:

authorised person means a licensee, an employee or agent of a licensee, a police officer or an inspector.

129 Minor must not use false evidence of age

A minor who uses any document purporting to be an evidence of age document in order to gain entry to, remain in, or obtain liquor from, licensed premises, is guilty of an offence if the document is false in a material particular in relation to the minor.

Maximum penalty: 20 penalty units.

130 Minors not to be detained

A minor may not be imprisoned, or detained in a detention centre, as a consequence of a failure to pay:

- (a) a penalty for an offence under this Act or the regulations, or
(b) an amount ordered to be paid under Division 4 of Part 3 of the *Fines Act 1996* in respect of a penalty notice issued under this Act.

Part 8 Local liquor accords

131 Definitions

In this Part:

accord area means the area to which a local liquor accord applies (being the area determined or varied by the Commissioner of Police and the Director in accordance with this Part).

local liquor accord means any code of practice, memorandum of understanding or other arrangement that:

- (a) affects the supply of liquor, the opening and closing of licensed premises or other aspects of the management of or conduct of business on licensed premises, and
- (b) is entered into, in accordance with this Part, for the purpose of eliminating or reducing alcohol-related violence or anti-social behaviour or other alcohol-related harm.

132 Eligible parties to local liquor accord

Each of the following bodies or persons may be a party to a local liquor accord and is, for the purposes of this Part, an **eligible party**:

- (a) a licensee,
- (b) the Director,
- (c) the NSW Police Force (to be represented by a police officer nominated by the Commissioner of Police),
- (d) a local council,
- (e) any body or organisation (such as a Chamber of Commerce) representing commercial or business interests in the relevant local area,
- (f) a community or residents' group with an interest in alcohol-related harm or the amenity of the relevant local area,
- (g) any other person or body (or person or body belonging to a class of persons or bodies) prescribed by the regulations.

133 Establishing local liquor accord

- (1) Any 2 or more eligible parties (at least one of whom is a licensee) may prepare a draft local liquor accord in writing and submit it to the Commissioner of Police and the Director for approval.
- (2) The draft local liquor accord must include:
 - (a) the names of the parties to the accord, and

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- (b) the name and address of the coordinator of the accord (being a party to the accord or the representative of a party), and
 - (c) the proposed area to which the accord is to apply, and
 - (d) any other matter that may be prescribed by the regulations.
- (3) The Commissioner of Police and the Director are to endeavour to ensure that local liquor accords are prepared for, and apply to, all areas of the State.

134 Terms of local liquor accords

- (1) Without limiting the terms that may be included in a local liquor accord, an accord may make provision for or with respect to any one or more of the following:
- (a) authorising or requiring any licensee who is a party to the accord:
 - (i) to cease to serve liquor (including take-away liquor) on the licensed premises, or
 - (ii) to restrict the public's access to the licensed premises in a manner and to the extent provided by the accord,or both, from a time of day that is earlier than the time at which, as required by the relevant licence, trading must cease,
 - (b) authorising or requiring any licensee who is a party to the accord:
 - (i) to restrict the use of glass containers, or
 - (ii) to maintain an incident register, or
 - (iii) to install and operate closed-circuit television or any other security device, or
 - (iv) to provide security staff, or
 - (v) to do any other thing that may be prescribed by the regulations in order to minimise alcohol-related harm.
- (2) Entry by any person into a local liquor accord, and any conduct on the part of any person for the purpose of promoting or giving effect to the terms of a local liquor accord, are specifically authorised by this Act for the purposes of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*.
- (3) Conduct authorised by subsection (2) is authorised only to the extent (if any) to which the conduct, so far as it consists of things done to regulate the supply of liquor or in some other respect, would otherwise contravene Part IV of the *Trade Practices Act 1974* of the Commonwealth or the *Competition Code of New South Wales*.

135 Approval, variation and termination of local liquor accord

- (1) A local liquor accord takes effect when it is approved by the Commissioner of Police and the Director.
- (2) In approving a local liquor accord, the Commissioner of Police and the Director are to determine the area to which the accord is to apply.
- (3) In determining the accord area, the Commissioner of Police and the Director are to take into account the area proposed by the parties in the draft accord and any other relevant matters.
- (4) The Commissioner of Police and the Director may vary an accord area at any time by notice in writing to the coordinator of the accord (whether of their own initiative or on the application of the parties to the accord).
- (5) The coordinator of a local liquor accord is to notify the Commissioner of Police or the Director if the parties to the accord wish to terminate the accord.

136 Requirement to contribute to costs of implementing local liquor accord

- (1) The Director may give a direction to any licensee in an accord area (including any licensee in the area who is not a party to the local liquor accord concerned) to contribute to the costs of promoting or giving effect to the accord.
- (2) The licensee is required to comply with any such direction.

Part 9 Disciplinary action

137 Interpretation

- (1) In this Part, a reference:
 - (a) to a licensee includes a reference to a former licensee and, in the case of a limited licence, includes a reference to the non-proprietary association on whose behalf the licence is held, and
 - (b) to a manager includes a reference to a former manager, and
 - (c) to a conviction for an offence under this Act or the regulations does not include a reference to a conviction for an offence prescribed by the regulations for the purposes of this section.
- (2) Without limiting the grounds on which disciplinary action may be taken under this Part, the grounds for taking any such action may relate to conduct occurring before the commencement of this Part.
- (3) For the purposes of this Part, a person is *interested* in the business, or in the conduct or profits of the business, carried on under a licence if the person:
 - (a) is named in the written statement referred to in section 41 that accompanied the application for the licence, or
 - (b) is a person referred to in section 55 who has become interested in the business, or the conduct of the business, carried out on the licensed premises concerned, or
 - (c) in the case of a licence held by a corporation—is an individual who occupies a position of authority in the corporation that holds the licence, or
 - (d) in the case where the person referred to in paragraph (a) or (b) is a proprietary company:
 - (i) is a director of, or shareholder in, the proprietary company, or
 - (ii) is a director of, or shareholder in, a corporation that, within the meaning of the *Corporations Act 2001* of the Commonwealth, is a related body corporate of the proprietary company.

138 Director may carry out inquiries and investigations in relation to proposed complaint

- (1) The Director may carry out such investigations and inquiries as the Director considers necessary in order to ascertain whether a complaint should be made under this Part in relation to:

- (a) a licensee, or
 - (b) a manager, or
 - (c) a close associate of a licensee.
- (2) The Commissioner of Police may inquire into, and report to the Director on, such matters as the Director may request concerning the licensee, manager or close associate to whom the complaint, if made, would relate.
- (3) The Director may, by notice in writing, require a licensee, manager or close associate who is the subject of an investigation under this section to do one or more of the following things:
- (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as, in the opinion of the Director, is relevant to the investigation and is specified in the notice,
 - (b) produce, in accordance with directions in the notice, such records as, in the opinion of the Director, are relevant to the investigation and permit examination of the records, the taking of extracts from them and the making of copies of them,
 - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
 - (d) furnish to the Director such authorisations and consents as the Director requires for the purpose of enabling the Director to obtain information (including financial and other confidential information) from other persons concerning the person under investigation and the person's associates.
- (4) A person who complies with a requirement of a notice under subsection (3) does not on that account incur a liability to another person.
- (5) A person must not fail to comply with a requirement of the Director contained in a notice under subsection (3).
Maximum penalty: 20 penalty units.

139 Grounds for making complaint

- (1) A complaint in relation to a licensee, manager or close associate of a licensee may be made to the Authority by any of the following persons (referred to in this Part as *the complainant*):
- (a) the Director,
 - (b) the Commissioner of Police,
 - (c) a person authorised by the regulations to make a complaint under this Part.

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- (2) A complaint must be in writing and specify the grounds on which it is made.
- (3) The grounds on which a complaint in relation to a licensee, manager or close associate may be made are as follows:
- (a) that the licensee or manager has, while holding a licence or managing licensed premises, been convicted of an offence under this Act or the regulations (or under the former Act) or of an offence prescribed by the regulations,
 - (b) that the licensee or manager has failed to comply with any of the conditions to which the licence is subject,
 - (c) that the licensee has failed to comply with any of the conditions to which any authorisation or approval held by the licensee under this Act is subject,
 - (d) that the licensee or manager has failed to comply with any other requirement under this Act or the regulations (or under the former Act), relating to the licence or the licensed premises,
 - (e) that the licensee or manager has failed to comply with a direction or other requirement of the Authority, the Director or the Commissioner of Police under this Act (or of the Director or the Commissioner under the former Act),
 - (f) that the licensee or manager has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption),
 - (g) that intoxicated persons have frequently been on the licensed premises or have frequently been seen to leave those premises,
 - (h) that acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises,
 - (i) that the licensee is not a fit and proper person to be the holder of a licence or the manager is not a fit and proper person to be the manager of the licensed premises,
 - (j) that the close associate is not a fit and proper person to be a close associate of a licensee,
 - (k) that a complaint against a licensee under this section has been made and that:
 - (i) the close associate knew or ought reasonably to have known that the licensee was engaging (or was likely to engage) in conduct of the kind to which the complaint relates, and
 - (ii) the close associate failed to take all reasonable steps to prevent the licensee from engaging in conduct of that kind,

- (l) that the close associate is (or has become) a close associate of a licensee while disqualified by the Authority from being a close associate,
 - (m) that a person who is interested in the business, or in the conduct or profits of the business, carried on under the licence is not a fit and proper person to be so interested,
 - (n) that a person is (or has become) a person who is interested in the business, or in the conduct or profits of the business, carried on under a licence while disqualified by the Authority under this Part from being a person so interested,
 - (o) in the case of a limited licence—that the licensee has not exercised proper control and supervision over a function held under the licence,
 - (p) in the case of a limited licence—it is not in the public interest for liquor to be sold or supplied at functions held by or under the auspices of the non-proprietary association on whose behalf the licence is held,
 - (q) in the case of a licence held by a corporation—that a person who occupies a position of authority in the corporation is not a fit and proper person to occupy such a position in a corporation that is the holder of a licence,
 - (r) that public entertainment has been conducted on the licensed premises otherwise than in accordance with any requirements under the *Environmental Planning and Assessment Act 1979* relating to the use of the premises for public entertainment,
 - (s) that the licence has not been exercised in the public interest,
 - (t) that the continuation of the licence is not in the public interest.
- (4) In subsection (3), *former Act* means the *Liquor Act 1982* or the regulations made under that Act and includes, in the case of a licensee that is a registered club, the *Registered Clubs Act 1976* as in force immediately before the repeal of section 9 of that Act by Schedule 2 to the *Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007*.

140 Procedure for taking disciplinary action

- (1) If a complaint in relation to a licensee, manager or close associate is made under this Part, the Authority must, before taking any disciplinary action against the licensee, manager or close associate, notify the licensee, manager or close associate in writing of the grounds on which the Authority is proposing to take disciplinary action.

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- (2) Any such notice is to invite the licensee, manager or close associate to show cause, by way of a written submission, as to why the Authority should not take disciplinary action against the licensee, manager or close associate.
 - (3) The Authority must also, before taking disciplinary action against a licensee, invite written submissions from the following persons:
 - (a) if the licensee occupies the licensed premises under a lease—the lessor,
 - (b) each person named in the written statement referred to in section 41 that accompanied the application for the licence,
 - (c) each person named in the information provided to the Authority (as required by section 55) who has become interested in the business, or the conduct of the business, carried out on the licensed premises concerned,
 - (d) if the grounds for taking the proposed disciplinary action relate to a person (other than the licensee) not being a fit and proper person—that person.
 - (4) The Authority may specify:
 - (a) the time within which a submission under this section may be made, and
 - (b) any other requirements that must be complied with in relation to the making of any such submission.
 - (5) If any written submission is made in accordance with this section, the Authority must take the submission into consideration in deciding whether or not to take disciplinary action against the licensee, manager or close associate concerned.

141 Disciplinary powers of Authority

- (1) The Authority may deal with and determine a complaint that is made to it under this Part.
- (2) If the Authority is satisfied that any of the grounds on which the complaint was made apply in relation to the licensee, manager or close associate, the Authority may decide not to take any action or may do any one or more of the following:
 - (a) cancel the licence,
 - (b) suspend the licence for such period not exceeding 12 months (or, if circumstances of aggravation exist in relation to the complaint, not exceeding 24 months) as the Authority thinks fit,
 - (c) order the licensee or manager to pay, within such time as is specified in the order:

- (i) a monetary penalty not exceeding 500 penalty units (in the case of a corporation) or 200 penalty units (in the case of an individual), or
 - (ii) if circumstances of aggravation exist in relation to the complaint—a monetary penalty not exceeding 1,000 penalty units (in the case of a corporation) or 400 penalty units (in the case of an individual),
 - (d) suspend or cancel any authorisation or other approval (other than the licence itself) held by the licensee under this Act,
 - (e) impose a condition to which the licence, or any authorisation or approval held by the licensee under this Act, is to be subject or revoke or vary a condition to which the licence or any such authorisation or approval is subject,
 - (f) disqualify the licensee from holding a licence for such period as the Authority thinks fit,
 - (g) withdraw the manager's approval to manage licensed premises,
 - (h) disqualify the manager from being the manager of licensed premises,
 - (i) in the case of a limited licence held on behalf of a non-proprietary association—order that a limited licence is not, for a period of not more than 3 years from the date on which the decision takes effect, to be granted to any person on behalf of the non-proprietary association,
 - (j) disqualify the close associate from being a close associate of a licensee for such period as the Authority thinks fit,
 - (k) disqualify the close associate from holding a licence for such period as the Authority thinks fit,
 - (l) order the licensee, manager or close associate to pay the amount of any costs incurred by:
 - (i) the Director in carrying out any investigation or inquiry under section 138 in relation to the licensee, manager or close associate, or
 - (ii) the Authority in connection with the taking of disciplinary action against the licensee, manager or close associate under this section,
 - (m) reprimand the licensee, manager or close associate.
- (3) If the Authority orders a licensee or manager to pay a monetary penalty under this section and the penalty is not paid within the time specified in the order, the Authority may:
- (a) cancel the licence, or

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- (b) suspend the licence until such time as the penalty is paid (or for such other period as the Authority thinks fit).
- (4) While a person is disqualified by the Authority from being a close associate of a licensee, the person is conclusively presumed for the purposes of this Act to be a person who is not a fit and proper person to be a close associate of a licensee.
- (5) **Action against other interested persons**
- In deciding whether to take disciplinary action under this section against a licensee in relation to a complaint, the Authority may take disciplinary action against a person who is interested in the business, or in the conduct or profits of the business, carried on under the licence (regardless of whether the Authority takes any disciplinary action under this section against the licensee concerned).
- (6) If the Authority decides to take disciplinary action against any such interested person, the Authority may do any one or more of the following:
- (a) disqualify the person, for a period commencing on a specified day, from being a person interested in the business, or in the conduct or profits of the business, carried on under a licence,
- (b) reprimand the person.
- (7) **Circumstances of aggravation**
- For the purposes of this section, circumstances of aggravation exist in relation to a complaint if (and only if) each of the following paragraphs applies:
- (a) the complaint concerns a contravention or alleged contravention of section 73 or 74,
- (b) the complaint alleges that for the reasons specified in the complaint the matter of the complaint is so serious as to warrant the taking of action that is available to the Authority when circumstances of aggravation exist,
- (c) the Authority, in finding that the matter of the complaint has been made out, is of the opinion (having regard to any matter such as the number of contraventions of the Act involved, the seriousness of the contravention involved, the number of people involved in the contravention or the seriousness of the outcome of the contravention, or any other relevant consideration) that the matter of the complaint is so serious as to warrant the taking of action that is available to the Authority when circumstances of aggravation exist.

142 Procedure for implementing disciplinary action

- (1) If the Authority decides to take disciplinary action against or in relation to a licensee, manager, close associate or other person under this Part, the Authority is required to serve on the licensee, manager, close associate or person a notice informing the person of the Authority's decision.
- (2) The notice must include the reasons for the Authority's decision.
- (3) Any disciplinary action under this Part takes effect when notice of the action is served on the licensee, manager, close associate or person concerned (or on such later date as may be specified in the notice).
- (4) The Authority may, by serving a further notice on the licensee, manager, close associate or person concerned, cancel a notice under this section before the notice takes effect.
- (5) The Authority is not prevented from taking disciplinary action under this Part merely because the licensee, manager, close associate or person concerned is subject to criminal or civil proceedings that relate to the same matters or incident to which the disciplinary action relates.
- (6) If a licensee is disqualified from holding a licence under this Part, the Authority, may, on application by:
 - (a) the spouse or de facto partner of the licensee, or
 - (b) a member of the family of the licensee who is of or above the age of 18 years, or
 - (c) the owner of the licensed premises, or
 - (d) a person directly or indirectly interested in the business, or the conduct of the business, carried out on the licensed premises,transfer the licence to that spouse, de facto partner or member of the family or to some other person approved by the Authority.

143 Requirement for legal member of Authority to be present

The Authority cannot determine any complaint made to it under this Part (including any decision to take any disciplinary action) unless a member of the Authority who is or has been a Judge, or who has been an Australian lawyer for at least 7 years, is present at the meeting of the Authority (or the committee of the Authority) at which the complaint is determined or the decision to take the action is made.

144 Review by ADT of decision by Authority under this Part

- (1) An application for the review of a decision by the Authority in relation to a complaint under this Part may be made to the Administrative Decisions Tribunal.

- (2) An application for such a review may be made by:
 - (a) the person against whom any disciplinary action is taken by the Authority in relation to the complaint, or
 - (b) the complainant.
- (3) Part 2 of Chapter 5 of the *Administrative Decisions Tribunal Act 1997* does not apply to an application to the Administrative Decisions Tribunal for a review of a decision by the Authority under this Part.

Part 10 Criminal proceedings and related matters

145 Proceedings for offences

Proceedings for an offence under this Act or the regulations are to be dealt with summarily before the Local Court.

146 Time within which proceedings for offences may be commenced

- (1) Except as provided by subsection (2), proceedings for an offence under this Act or the regulations may be commenced within but not later than 12 months after the date on which the offence is alleged to have been committed.
- (2) Proceedings for an offence under section 7, 8, 9, 40 (5), 66, 69 or 92 may be commenced within but not later than 3 years after the date on which the offence is alleged to have been committed.

147 Maximum penalties for certain offences

- (1) This section applies to any offence under this Act in respect of which the specified maximum penalty is 100 penalty units or imprisonment for 12 months, or both.
- (2) In convicting a person for an offence to which this section applies, the court may not impose a monetary penalty of more than 50 penalty units, or sentence the person to a term of imprisonment for more than 6 months, or both, unless the court is satisfied that the higher penalty is warranted.
- (3) Without limiting the matters that the court may take into consideration in deciding whether such a higher penalty is warranted, the court may take into consideration:
 - (a) the seriousness of the offence, or
 - (b) the number of occasions on which the offender has committed an offence under this Act or the *Liquor Act 1982*.

148 Additional penalties may be imposed by court

In addition to any other penalty that a court may impose on a licensee or other person for an offence under this Act or the regulations, the court may, if it thinks it appropriate, do any one or more of the following:

- (a) reprimand the licensee or person,
- (b) impose a condition to which a licence is to be subject or revoke or vary a condition to which a licence is subject,
- (c) suspend a licence for such period, not exceeding 12 months, as the court thinks fit,

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- (d) cancel a licence,
 - (e) disqualify the licensee from holding a licence for such period as the court thinks fit,
 - (f) withdraw the person's approval to manage licensed premises,
 - (g) disqualify the person from being the holder of an approval to manage licensed premises for such period as the court thinks fit,
 - (h) give such directions as to the exercise of the licence as the court thinks fit.

149 Licensees and managers liable for act of employees etc

If, in contravention of this Act or the regulations:

- (a) an employee or agent of a licensee, or
- (b) an employee or agent of the manager of licensed premises, or
- (c) a person acting, or purporting to act, on behalf of a licensee or the manager of licensed premises,

sells or supplies liquor on the licensed premises, the licensee or manager (as the case requires) is guilty of an offence and liable to the punishment specified for the contravention.

150 Penalty notices

- (1) In this section:
authorised officer means a police officer or an inspector.
- (2) An authorised officer may serve a penalty notice on a person (including a licensee) if it appears to the officer that the person has committed an offence under this Act or the regulations and the offence is one that is prescribed by the regulations to be an offence to which this section applies.
- (3) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay within a time and to a person specified in the notice the amount of penalty prescribed by the regulations for the offence if dealt with under this section.
- (4) A penalty notice may be served personally or by post.
- (5) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is liable to any further proceedings or action in relation to the alleged offence, except the taking of disciplinary action under Part 9.

- (6) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence.
- (7) However, if a penalty is paid under this section in respect of a penalty notice served on a person, the person is, for the purposes of Part 9, taken to have been convicted of the offence to which the penalty notice related.
- (8) The regulations may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (9) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty which could be imposed for the offence by a court.
- (10) This section does not limit the operation of any other provision of, or made under, this or any other Act or law relating to proceedings that may be taken in respect of offences.

151 Forfeiture and seizure of liquor and other things

- (1) If a person is found guilty of an offence under section 7, any liquor that was, at the time of the commission of the offence, in the person's possession or apparently under the person's control is forfeited to the Crown.
- (2) If the holder of a producer/wholesaler licence, or an employee or agent of such a licensee, is found guilty of an offence under section 9 (1) (b) of selling liquor that is not authorised to be sold under the licence, any liquor (other than liquor the licensee is authorised to sell under the licence) that was, at the time of the commission of the offence, in the licensee's possession or apparently under the licensee's control is forfeited to the Crown.
- (3) If a person is found guilty of an offence under section 113:
 - (a) any liquor to which the offence relates, and
 - (b) any vehicle, boat or other thing in which the liquor was being carried, offered or exposed,is forfeited to the Crown.

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- (4) If a licence is cancelled under this Act, any liquor found, not earlier than 7 days after the cancellation takes effect, in the former licensee's possession on the former licensed premises is forfeited to the Crown.
 - (5) A police officer or inspector may seize and carry away anything that the officer or inspector reasonably suspects may be liable to forfeiture under this section.
 - (6) For the purposes of this section, *liquor* includes any bottle or other container in which the liquor is contained.

152 Evidentiary provisions

- (1) In any proceedings for an offence under this Act or the regulations, any one or more of the following allegations (however expressed) is evidence of the truth of the allegation unless the contrary is proved:
 - (a) that a specified person was or was not the holder of a licence or a specified kind of licence at a specified time or during a specified period,
 - (b) that a specified licence was or was not subject to a specified condition at a specified time or during a specified period,
 - (c) that a specified authorisation to which section 51 applies was or was not in force at a specified time or during a specified period,
 - (d) that a specified licence was or was not endorsed with a specified endorsement at a specified time or during a specified period,
 - (e) that a specified person was or was not the secretary or an office holder of a specified non-proprietary association at a specified time or during a specified period,
 - (f) that a specified licence was or was not held by a specified person on behalf of a specified non-proprietary association at a specified time or during a specified period,
 - (g) that a specified body or association was or was not a specified non-proprietary association at a specified time or during a specified period,
 - (h) that a specified licence was or was not suspended or cancelled at a specified time or during a specified period,
 - (i) that specified premises were or were not licensed premises at a specified time or during a specified period,
 - (j) that a specified part of premises was or was not a bar area at a specified time or during a specified period,
 - (k) that specified hours were or were not the trading hours of specified licensed premises at a specified time or during a specified period,

- (l) that specified premises were subject to a closure order under this Act at a specified time or during a specified period,
 - (m) that a minors area authorisation or minors functions authorisation was or was not in force in respect of a specified part of any premises at a specified time or during a specified period,
 - (n) that a specified person has or has not been approved by the Authority as a person who may be appointed as the manager of licensed premises,
 - (o) that a specified person is or was, at a specified time or during a specified period, the Director,
 - (p) that a specified person is or was, at a specified time or during a specified period, a delegate of the Minister, or of the Commissioner of Police, or of the Authority, to whom a specified function has been delegated under this Act or the *Casino, Liquor and Gaming Control Authority Act 2007*,
 - (q) that a specified person is or was, at a specified time or during a specified period, an inspector,
 - (r) that a liquid or other substance is liquor.
- (2) In any proceedings for an offence under this Act or the regulations, an allegation that, at a specified time, a person was under the age of 18 years is evidence of the truth of the allegation unless the defendant denies the allegation in the manner prescribed by the regulations.
- (3) In any proceedings for an offence under this Act or the regulations, evidence of delivery or supply of liquor is evidence of a sale of the liquor.
- (4) In any proceedings for an offence under section 9 (2), liquor is taken to have been sold or consumed on the licensed premises to which the proceedings relate regardless of whether the licensee took or carried, or caused another person to take or carry, the liquor out of the licensed premises for the purpose of being sold or consumed at another place occupied by the licensee or in a public place.

Part 11 Miscellaneous provisions

153 Review by Authority of Director's decisions

- (1) This section applies to any of the following decisions of the Director:
 - (a) a decision to impose, or to vary or revoke, a condition under section 54 (Director may impose licence conditions),
 - (b) a direction under section 75 (Directions to licensees and staff of licensed premises),
 - (c) a decision under section 81 (Decision by Director in relation to complaint),
 - (d) a decision under section 87 to make a late hour entry declaration,
 - (e) a decision under section 90 to vary or revoke a late hour entry declaration,
 - (f) a decision under section 101 (Director may restrict or prohibit sale or supply of undesirable liquor products),
 - (g) a decision under section 102 (Director may restrict or prohibit undesirable promotion of liquor),
 - (h) a direction under section 136 to contribute to the costs of promoting or giving effect to a local liquor accord.
- (2) Any person who is aggrieved by a decision to which this section applies may, in accordance with the regulations, apply in writing to the Authority for a review of the decision.
- (3) An application for such a review does not operate to stay the decision of the Director unless the Authority otherwise directs.
- (4) In determining an application for review under this section, the Authority may:
 - (a) confirm the decision the subject of the application, or
 - (b) vary the decision, or
 - (c) revoke the decision.
- (5) The Director is to give effect to any decision of the Authority under this section to vary or revoke the decision the subject of the application for review.
- (6) The Authority may not make any decision in relation to an application for review under this section unless a member of the Authority who is or has been a Judge, or has been an Australian lawyer for at least 7 years, is present at the meeting of the Authority or the committee of the Authority at which the decision of the Authority is made.

154 Review of disqualification by Authority

- (1) A person may, in accordance with the regulations, apply to the Authority for removal of a disqualification of more than 3 years imposed by the Authority under section 141 (2).
- (2) The application may be made only after:
 - (a) any minimum period set by the Authority during which the application may not be made has expired, or
 - (b) if no minimum period has been set, the disqualification has been in force for 3 years.
- (3) On application being made for the removal of a disqualification, the Authority may:
 - (a) remove the disqualification, or
 - (b) shorten the period of disqualification, or
 - (c) confirm the disqualification and set a minimum period during which a further application under this section may not be made.

155 Procedure for dealing with matters under Act to be informal

- (1) A formal hearing involving the legal representation of parties is not required to be held in relation to any application or other matter (including the taking of disciplinary action under Part 9) that may be dealt with or decided by the Authority or the Director under this Act.
- (2) However, subsection (1) does not prevent the Authority or the Director, in such cases as the Authority or the Director considers appropriate:
 - (a) from conducting an interview or convening a conference or meeting, or
 - (b) from receiving submissions,in relation to any application or other matter that may be dealt with or decided by the Authority or the Director under this Act.
- (3) Any such conference or meeting is to be presided over by the Authority or the Director, as the case requires, and the procedure at the conference or meeting is to be determined by the Authority or the Director, as the case requires.

156 Report by Authority on liquor licensing matters

- (1) The Authority is to include the following information in its annual report under the *Annual Reports (Statutory Bodies) Act 1984*:
 - (a) the number of licences in force in each Statistical Local Area determined by the Australian Bureau of Statistics (along with the

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- total State-wide number of licences) during the financial year to which the report relates,
- (b) the number of new licences granted by the Authority during that year,
 - (c) the number of licences suspended or cancelled by the Authority during that year,
 - (d) the number of authorisations to which section 51 applies granted by the Authority during that year,
 - (e) the number of licences in respect of which disciplinary action was taken by the Authority during that year and the nature of the disciplinary action taken.
- (2) The information provided in relation to licences and authorisations in the annual report is, where relevant, to be categorised according to the different types of licences and authorisations that may be granted and held under this Act.

157 Delegations

- (1) An office holder may delegate to a person any function conferred or imposed on the office holder by or under this Act, other than this power of delegation.
- Note.** The power of the Authority to delegate its functions under this Act is contained in the *Casino, Liquor and Gaming Control Authority Act 2007*.
- (2) A person to whom a function has been delegated by the Minister or the Commissioner of Police may delegate the function to another person, subject to any conditions to which the delegation by the Minister or the Commissioner is subject.
- (3) In this section:
- office holder** means any of the following:
- (a) the Minister,
 - (b) the Commissioner of Police,
 - (c) the Director.

158 Crown not liable for any compensation

- (1) Damages or compensation are not payable by or on behalf of the Crown because of:
- (a) the enactment or operation of this Act, or for the consequences of that enactment or operation, or
 - (b) a representation or conduct of any kind about any restrictions or limitations on the sale or supply of liquor on any premises or kind of premises.

- (2) In subsection (1), *the Crown* means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes any employee or agent of the Crown.

159 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made for or with respect to the following:
- (a) the payment of fees for or in connection with any application made under this Act or the regulations,
 - (b) any matter relating to fees payable under this Act or the regulations (including the waiver or refunding of fees),
 - (c) requiring the keeping of records relating to licences,
 - (d) requiring or authorising the placing of notices or signs in or on licensed premises and the form and content of those notices or signs,
 - (e) the endorsement of licences and their production for endorsement or for any other purpose,
 - (f) requirements in relation to local liquor accords,
 - (g) any other matter relating to licences and licensed premises.
- (3) The regulations may create offences punishable by a penalty not exceeding 50 penalty units.
- (4) The regulations may exempt specified persons or classes of persons, or specified premises or classes of premises, or specified licences or classes of licences, from any specified provision of this Act.
- (5) A regulation may apply, adopt or incorporate any publication as in force from time to time.

160 Savings and transitional provisions

Schedule 1 has effect.

161 Repeals

The following Acts and regulations are repealed:

- (a) *Liquor Act 1982*,
- (b) *Liquor (Repeals and Savings) Act 1982*,

- (c) *Liquor Regulation 1996,*
- (d) *Liquor (Transitional Provisions) Regulation 1983.*

162 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Savings and transitional provisions

(Section 160)

Part 1 Preliminary

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of this Act

Division 1 Preliminary

2 Definitions

In this Part:

existing licence means a licence granted under a provision of the former Act and in force immediately before the repeal of that provision by this Act.

former Act means the *Liquor Act 1982*.

former Board means the Liquor Administration Board constituted by section 72 of the former Act.

former Court means the Licensing Court constituted under Part 2 of the former Act.

Division 2 Existing liquor licences

3 General provisions

- (1) An existing licence is taken to be a licence of the corresponding kind (as determined in accordance with this Division) in force under this Act.
Note. Transitional arrangements dealing with existing certificates of registration for registered clubs, and the continuation of existing trading hours for registered clubs, are contained in Part 20 of Schedule 2 to the *Registered Clubs Act 1976*.
- (2) Any such existing licence may be dealt with under, and is otherwise subject to, the provisions of this Act and the regulations.
- (3) Subject to the regulations, an existing licence is not subject to the conditions or restrictions to which the licence was subject under the former Act other than a condition or restriction imposed by the former Court or the former Board specifically in relation to the existing licence or the licensed premises to which it relates.
- (4) Any such condition or restriction imposed by the former Court or the former Board in relation to an existing licence or the licensed premises to which it relates is taken to be a condition or restriction imposed by the Authority under this Act (and accordingly a reference to the former Court or the former Board in or in relation to any such existing condition or restriction is to be construed as a reference to the Authority). The Authority has such powers as are necessary to continue to give effect to any such condition or restriction and may vary or revoke the condition or restriction in accordance with this Act.
- (5) A reference in any other Act, or in an instrument under any other Act or in any other document, to an existing liquor licence of any kind is to be read as a reference to a licence of the corresponding kind (as determined in accordance with this Division).
- (6) A reference in this Division to any condition, restriction or authorisation under the former Act is a reference to a condition, restriction or authorisation that had effect (or was otherwise in force) under the former Act immediately before its repeal by this Act.
- (7) In this clause, a reference to the former Act includes a reference to the *Liquor (Repeals and Savings) Act 1982*.

4 Existing hotelier's licence

- (1) The corresponding licence for an existing hotelier's licence is a hotel licence.
- (2) The standard trading period applies to the licensed premises to which the existing licence relates. If trading outside of the standard trading period was authorised on the licensed premises under the former Act, an

extended trading authorisation under this Act that relates to that extended trading period is taken to be in force in relation to the licensed premises.

- (3) Any authority under section 112 of the former Act applying in respect of the licensed premises continues to apply as a minors area authorisation under this Act.

5 Existing nightclub licence

- (1) The corresponding licence for an existing nightclub licence is:
- (a) in the case where the licensed premises were only allowed to trade after 8 pm under the former Act—an on-premises licence that relates to a public entertainment venue, or
 - (b) in any other case—an on-premises licence that relates to a public entertainment venue and a restaurant.
- (2) If, in either case, the licensed premises concerned included a motel under the former Act, the corresponding licence for the existing nightclub licence is also an on-premises licence that relates to accommodation premises.
- (3) The following provisions apply in relation to an existing nightclub licence:
- (a) the standard trading period applies to the licensed premises to which the licence relates,
 - (b) if trading outside of the standard trading period was authorised on the licensed premises under the former Act, an extended trading authorisation that relates to that extended trading period is taken to be in force in relation to the licensed premises,
 - (c) if the existing licence was endorsed with a dine-or-drink authority under the former Act (being an authority in force immediately before the commencement of this clause), the licence is taken to be endorsed with an authorisation under section 24 (3) of this Act allowing liquor to be sold or supplied, in accordance with any conditions of that authorisation, on the licensed premises otherwise than with, or ancillary to, another product or service,
 - (d) any minors functions authority under section 111A of the former Act applying in respect of the licensed premises continues to apply as a minors functions authorisation under this Act.

6 Existing off-licence (retail)

- (1) The corresponding licence for an existing off-licence to sell liquor by retail is a packaged liquor licence.

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- (2) The standard trading period applies to the licensed premises to which any such existing licence relates. If trading outside of the standard trading period was authorised on the licensed premises under the former Act, an extended trading authorisation that relates to that extended trading period is taken to be in force in relation to the licensed premises.

7 Existing restaurant licence

- (1) The corresponding licence for an existing on-licence relating to a restaurant (except where the licensed premises include a motel) is an on-premises licence that relates to a restaurant.
- (2) The corresponding licence for an existing on-licence relating to a restaurant, in the case where the licensed premises include a motel, is an on-premises licence that relates to a restaurant and accommodation premises.
- (3) The standard trading period applies to the licensed premises to which any such existing licence relates. If trading outside of the standard trading period was authorised on the licensed premises under the former Act, an extended trading authorisation that relates to that extended trading period is taken to be in force in relation to the licensed premises.
- (4) If the existing licence was endorsed with a dine-or-drink authority under the former Act (being an authority in force immediately before the commencement of this clause), the licence is taken to be endorsed with an authorisation under section 24 (3) of this Act allowing liquor to be sold or supplied, in accordance with any conditions of that authorisation, on the licensed premises otherwise than with, or ancillary to, another product or service.

8 Other existing on-licences

- (1) The corresponding licence:
- (a) for an existing on-licence relating to a motel is an on-premises licence that relates to accommodation premises, or
 - (b) for an existing on-licence relating to a vessel is an on-premises licence that relates to a vessel, or
 - (c) for an existing on-licence relating to premises at an airport is an on-premises licence that relates to premises at an airport, or
 - (d) for an existing on-licence relating to a public hall is an on-premises licence that relates to a public hall, or
 - (e) for an existing on-licence relating to a theatre is an on-premises licence that relates to a public entertainment venue, or

- (f) for an existing on-licence relating to a university is an on-premises licence that relates to premises occupied by a tertiary institution, or
 - (g) for an existing on-premises licence referred to in section 18 (4) (g) of the former Act is an on-premises licence that relates to the business or activity specified by the Authority in the licence.
- (2) The standard trading period applies to the licensed premises to which any such existing licence relates (other than an existing on-licence relating to a vessel).
 - (3) In the case of an existing on-licence that relates to a vessel, the trading hours authorised under the former Act continue to apply.
 - (4) If trading outside of the standard trading period was authorised on the licensed premises under the former Act, an extended trading authorisation that relates to that extended trading period is taken to be in force in relation to the licensed premises.
 - (5) In the case of an existing on-licence granted in respect of a public hall or premises at an airport, the licensee is, within 6 months of the commencement of this clause, to provide the Authority with a statement of the trading hours for the licensed premises under the former Act. The statement is to be in the form approved by the Authority and the licensee is to verify the statement by way of statutory declaration.
 - (6) If the Authority is satisfied that the trading hours of the premises referred to in subclause (5) under the former Act extended beyond the standard trading period, the Authority is to grant an extended trading authorisation relating to that extended trading period in respect of the premises.
 - (7) For the purposes of subclause (1) (d), **public hall** means a public hall that is used for the purpose of conducting public meetings or providing public entertainment on an intermittent basis.

9 Existing on-premises licence (function)

- (1) The corresponding licence for an existing on-licence (function), whether permanent or temporary, is a limited licence.
- (2) The trading hours authorised under the former Act for the licensed premises to which any such existing on-licence (function) relates, including the number of functions and dates on which they may be held, continue to apply, but only in relation to functions that were approved or otherwise authorised under the former Act.

10 Existing caterer's licence

- (1) The corresponding licence for an existing caterer's licence is an on-premises licence that relates to a catering service.
- (2) The following provisions apply in relation to an existing caterer's licence that is converted to an on-premises licence under subclause (1):
 - (a) the standard trading period applies to the licensed premises,
 - (b) an extended trading authorisation is taken to be in force in respect of the licensed premises to authorise trading until 3 am on any day of the week and from 6 am on a Sunday.

11 Existing vigneron, wholesaler and brewer licences

The corresponding licence for an existing off-licence:

- (a) for a vigneron, or
 - (b) to sell liquor to persons authorised to sell liquor, or
 - (c) for a brewer,
- is a producer/wholesaler licence.

12 Existing community liquor licence

- (1) The corresponding licence for an existing community liquor licence is a hotel licence.
- (2) The following provisions apply in relation to an existing community licence that is converted to a hotel licence under subclause (1):
 - (a) the keeping or operation of gaming machines on the licensed premises cannot be authorised under the *Gaming Machines Act 2001*,
 - (b) the licence cannot be removed to other premises unless the other premises are situated within the same area (as determined in accordance with the regulations) as the licensed premises,
 - (c) the trading hours authorised under the former Act for the licensed premises continue to apply until such time as they are varied under this Act,
 - (d) if trading outside of the standard trading period was authorised on the licensed premises under the former Act, an extended trading authorisation that relates to that extended trading period is taken to be in force in relation to the licensed premises.

13 Existing Governor's licence

- (1) The corresponding licence for an existing Governor's licence is:
 - (a) an on-premises licence that relates to a business or activity specified by the Authority in the licence, or
 - (b) if the Authority, within the period of 12 months following the commencement of this clause, determines another type of licence in relation to the existing licence—that type of licence.
- (2) Despite clause 3 (3), an existing Governor's licence is subject to the conditions and restrictions to which the licence was subject under the former Act.
- (3) The trading hours authorised under the former Act for the licensed premises to which an existing Governor's licence relates continue to apply until such time as they are varied under this Act.
- (4) If trading outside of the standard trading period was authorised on the licensed premises under the former Act, an extended trading authorisation that relates to that extended trading period is taken to be in force in relation to the licensed premises.

14 Existing special event licence

- (1) The corresponding licence for an existing special event licence is a limited licence.
- (2) Despite clause 3 (3), an existing special event licence is subject to the conditions and restrictions to which the licence was subject under the former Act.
- (3) The trading hours authorised under the former Act for the licensed premises to which an existing special event licence relates continue to apply until such time as they are varied under this Act.

15 Existing Australian wine licence

- (1) This clause applies to a licence (referred to as *an existing Australian wine licence*) to which Schedule 4 (Special provisions relating to Australian wine licences) to the *Liquor (Repeals and Savings) Act 1982* (*the relevant Act*) applied immediately before the repeal of the relevant Act by this Act.
- (2) The corresponding licence for an existing Australian wine licence referred to in clause 1 (2) (a) of Schedule 4 to the relevant Act is a packaged liquor licence.
- (3) The following provisions apply in relation to an existing Australian wine licence that is converted to a packaged liquor licence under subclause (2):

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- (a) the standard trading period applies to the licensed premises,
 - (b) if trading outside of the standard trading period was authorised on the licensed premises under the former Act, an extended trading authorisation that relates to that extended trading period is taken to be in force in relation to the licensed premises,
 - (c) only wine may be sold or supplied on the licensed premises,
 - (d) the licence cannot be removed to other premises unless the other premises are situated within the same area (as determined in accordance with the regulations) as the licensed premises.
- (4) The corresponding licence for an existing Australian wine licence referred to in clause 1 (2) (b) of Schedule 4 to the relevant Act is:
- (a) an on-premises licence that relates to a wine bar, or
 - (b) if the Authority, within the period of 12 months following the commencement of this clause, determines another type of licence in relation to the existing licence—that type of licence.
- (5) The following provisions apply in relation to an existing Australian wine licence that is converted to an on-premises licence (or other type of licence) under subclause (4):
- (a) the trading hours authorised under the former Act for the licensed premises continue to apply until such time as they are varied under this Act,
 - (b) if trading outside of the standard trading period was authorised on the licensed premises under the former Act, an extended trading authorisation that relates to that extended trading period is taken to be in force in relation to the licensed premises,
 - (c) liquor may be sold or supplied for consumption on the licensed premises only,
 - (d) the licence cannot be removed to other premises unless the other premises are situated within the same area (as determined in accordance with the regulations) as the licensed premises.
- (6) The corresponding licence for an existing Australian wine licence referred to in clause 1 (2) (c) of Schedule 4 to the relevant Act is:
- (a) an on-premises licence that relates to a wine bar, or
 - (b) if the Authority, within the period of 12 months following the commencement of this clause, determines another type of licence in relation to the existing licence—that type of licence.
- (7) The following provisions apply in relation to an existing Australian wine licence that is converted to an on-premises licence (or other type of licence) under subclause (6):

- (a) the trading hours authorised under the former Act for the licensed premises continue to apply until such time as they are varied under this Act,
 - (b) if trading outside of the standard trading period was authorised on the licensed premises under the former Act, an extended trading authorisation that relates to that extended trading period is taken to be in force in relation to the licensed premises,
 - (c) liquor may be sold or supplied on the licensed premises for consumption on or away from the premises (however, only wine may be sold or supplied for consumption away from the premises),
 - (d) the licence cannot be removed to other premises unless the other premises are situated within the same area (as determined in accordance with the regulations) as the licensed premises.
- (8) The conditions and restrictions imposed by this clause on a licence cannot be varied on application by the licensee.

Division 3 Proof of age cards

16 Definition

In this Division:

proof of age card means:

- (a) an existing RTA proof of age card, or
- (b) a document issued by a public authority of the Commonwealth, or of another State or Territory, for the purpose of attesting to a person's identity and age.

17 Phasing-out of existing RTA proof of age cards

An existing RTA proof of age card ceases to be valid for any purpose on 14 December 2008 (being the date that is 3 years after the commencement of Schedule 2.3 [1] to the *Photo Card Act 2005*).

18 Manufacturing false proof of age cards

- (1) A person must not make a false document that could reasonably be taken to be a proof of age card with the intent that the document be used by any person as a proof of age card for the purposes of this Act or the *Gaming Machines Act 2001*.
Maximum penalty: 30 penalty units.
- (2) A person (*the offender*) must not give to another person a false document that could reasonably be taken to be a proof of age card with the intent that the document be used by any person as a proof of age card

for the purposes of this Act or the *Gaming Machines Act 2001* if the offender knows or could reasonably be expected to know that the document is false.

Maximum penalty: 30 penalty units.

- (3) A person is guilty of an offence under this subclause if the person commits an offence under subclause (1) or (2) in circumstances of aggravation.

Maximum penalty: 50 penalty units.

- (4) For the purposes of this clause, a person commits an offence in circumstances of aggravation if:

- (a) the offence involved a high degree of planning, or
- (b) the offence involved the use of other people acting at the direction of the person convicted of the offence in the commission of the offence, or
- (c) the person committed the offence solely or principally for financial reward, or
- (d) the offender has a previous conviction for an offence under this clause or under section 117EB of the former Act.

19 Giving or lending proof of age cards

A person must not give or lend the person's proof of age card to another person, if the person giving or lending the card knows or could reasonably be expected to know that the card may be used:

- (a) as a proof of age card for the purposes of this Act or the *Gaming Machines Act 2001* by the person to whom the card was given or lent, or by any other person, or
- (b) to obtain a proof of age card for the person to whom the card was given or lent, or any other person, for the purposes of this Act or the *Gaming Machines Act 2001*.

Maximum penalty: 30 penalty units.

20 Tampering with proof of age cards

A person must not for an improper purpose wilfully or negligently alter, deface, or otherwise interfere with a proof of age card or with any of the material particulars contained on the card.

Maximum penalty: 30 penalty units.

21 Confiscation of existing RTA proof of age cards

- (1) An authorised person to whom an existing RTA proof of age card, or thing resembling such an existing RTA proof of age card, is produced

by a person representing it to be the person's proof of age card (whether as proof of age or of identity) may, with no authority other than this clause, seize the card or thing if the authorised person reasonably suspects that the card or thing:

- (a) is not the person's proof of age card or contains information that is false or misleading as to that person's name or age, or
 - (b) has been forged or fraudulently altered, or
 - (c) is being used in contravention of any provision of this Act, the *Gaming Machines Act 2001* or the *Registered Clubs Act 1976*.
- (2) A card or thing seized under this clause is to be forwarded to the Commissioner of Police. The Commissioner must cause the card or thing to be returned (by delivery or by post) to the person who produced it unless subclause (3) applies.
- (3) The Commissioner of Police may retain possession of and deal with a proof of age card or thing forwarded to the Commissioner in such manner as the Commissioner thinks fit if satisfied that the card or thing:
- (a) is not the proof of age card of the person from whom it was seized or contains information that is false or misleading as to that person's name or age, or
 - (b) has been forged or fraudulently altered, or
 - (c) is being used in contravention of any provision of this Act, the *Gaming Machines Act 2001* or the *Registered Clubs Act 1976*.
- (4) Each of the following is an **authorised person** for the purposes of this clause:
- (a) any police officer,
 - (b) any person while acting in the administration of this Act, the *Gaming Machines Act 2001* or the *Registered Clubs Act 1976*,
 - (c) the licensee and any employee or agent of the licensee on the licensed premises concerned, but only on those licensed premises or in a place in the immediate vicinity of those licensed premises.

Division 4 Other savings and transitional provisions

22 Definitions

In this Division:

relevant repeal date means the date on which Part 2 of the former Act is repealed by this Act.

23 Abolition of Licensing Court and continuation of judicial office

- (1) The Licensing Court of New South Wales is abolished on the relevant repeal date.
- (2) A person who, immediately before the relevant repeal date, held office as a Licensing Magistrate under Part 2 of the former Act is, unless the person holds an appointment as Magistrate for at least the remainder of the term for which the person was appointed as a Licensing Magistrate, entitled (without loss of remuneration) to hold office as a Magistrate for the remainder of the term for which the person was appointed as a Licensing Magistrate under Part 2 of the former Act.
Note. See section 56 (2) of the *Constitution Act 1902* which provides for the consequences of abolishing a judicial office.
- (3) A reference in this clause to a Licensing Magistrate includes a reference to the Chairperson of the Licensing Court and the Deputy Chairperson of the Licensing Court.

24 Abolition of Liquor Administration Board

The Liquor Administration Board constituted under section 72 of the former Act is abolished.

25 Pending applications and proceedings under former Act

- (1) Any licence, authorisation, approval or other matter granted or determined under a provision of the former Act (as continued by this clause) is taken to have been granted or determined under the corresponding provision of this Act.
- (2) **Proceedings pending before the Licensing Court**
If, before the relevant repeal date, proceedings in relation to any matter under the former Act or any other Act were commenced in the former Court but the former Court had not determined the matter:
 - (a) the matter may continue to be dealt with and determined by the Local Court as if it were sitting as the former Court, and
 - (b) the provisions of the former Act continue to apply, as if they had not been repealed, for the purposes of:
 - (i) the hearing and determination of the matter, and
 - (ii) any appeal against the former Court's determination of the matter.
- (3) In hearing and determining a matter that is the subject of any such pending proceedings, the Local Court has the same jurisdiction as the former Court had immediately before it was abolished.

(4) **Matters being dealt with by the Liquor Administration Board**

If, before the repeal of section 72 of the former Act, any matter was being dealt with by the former Board (including by any person to whom the functions of the Board were delegated under section 75 of the former Act) but had not been determined by the date of that repeal:

- (a) the former Board (or the person to whom those functions were delegated) is to continue to deal with the matter as if the former Board had not been abolished, and
 - (b) the provisions of the former Act continue to apply in relation to the determination of the matter by the former Board (or by the person to whom those functions were delegated) as if those provisions had not been repealed by this Act.
- (5) If any such pending matter before the former Board is not determined within such period as may be prescribed by the regulations, the Authority may deal with the matter instead under the corresponding provision of this Act.
- (6) The continuation of the provisions of the former Act for the purposes of this clause is subject to such modifications as may be prescribed by the regulations.

26 General savings provision

- (1) Subject to this Act and the regulations, anything done under or for the purposes of a provision of the former Act is, to the extent that the thing has effect immediately before the repeal of the provision, taken to have been done under or for the purposes of the corresponding provision of this Act.
- (2) Without limiting subclause (1) or any provision of Division 2, any approval, authority or appointment in force under a provision of the former Act immediately before the repeal of the provision is taken to be an approval, authority or appointment in force under the corresponding provision of this Act.

Schedule 2 Kings Cross precinct

(Section 49 (3))

Ward Avenue, from its intersection with Kings Cross Road, north to its intersection with Elizabeth Bay Road and Baroda Street.

Baroda Street, from its intersection with Elizabeth Bay Road and Ward Avenue, north and west to its intersection with Greenknowe Avenue.

Greenknowe Avenue, from its intersection with Baroda Street, west to its intersection with Macleay Street.

Macleay Street, from its intersection with Greenknowe Avenue, north to its intersection with Manning Street.

Manning Street, from its intersection with Macleay Street, west to its intersection with Tusculum Street.

Tusculum Street, from its intersection with Manning Street, south to its intersection with Hughes Street.

Hughes Street, from its intersection with Tusculum Street, west to its intersection with Victoria Street.

Victoria Street, from its intersection with Hughes Street, south to its intersection with Brougham Lane.

Brougham Lane, from its intersection with Victoria Street, west to its intersection with Brougham Street.

Brougham Street, from its intersection with Brougham Lane, south to its intersection with William Street.

William Street, from its intersection with Brougham Street, east to its intersection with Kings Cross Road.

Kings Cross Road, from its intersection with William Street, east to its intersection with Ward Avenue.

Schedule 3 Oxford Street–Darlinghurst precinct

(Section 49 (3))

Liverpool Street, from its intersection with Oxford Street, east to its intersection with Victoria Street.

Victoria Street, from its intersection with Liverpool Street, south and south-west to its intersection with Oxford Street.

Oxford Street, from its intersection with Victoria Street, east to its intersection with Barcom Avenue and South Dowling Street.

South Dowling Street, from its intersection with Oxford Street and Barcom Avenue, south to its intersection with Flinders Street.

Flinders Street, from its intersection with South Dowling Street, north-north-west to its intersection with Albion Street.

Albion Street, from its intersection with Flinders Street, west to its intersection with Bourke Street.

Bourke Street, from its intersection with Albion Street, north to its intersection with Campbell Street.

Campbell Street, from its intersection with Bourke Street, west to its intersection with Riley Street.

Riley Street, from its intersection with Campbell Street, north to its intersection with Oxford Street.

Oxford Street, from its intersection with Riley Street, north-west to its intersection with Liverpool Street.