

New South Wales

Liquor Bill 2005

Explanatory note

The *Liquor and Gaming Court Bill 2005* is cognate with this Bill.

Overview of Bill

The object of this Bill is to replace the *Liquor Act 1982* with new legislation that simplifies the existing liquor licensing system and regulatory framework and that continues existing liquor harm minimisation measures. The proposed Act gives effect to a number of key reforms arising out of the 2003 NSW Summit on Alcohol Abuse and the National Competition Policy review of liquor licensing legislation (eg the removal of the remaining “needs” test provisions in relation to the granting of liquor licences). The principal reforms introduced by the Bill are as follows:

- (a) to provide for a more flexible liquor licensing system that is to be administered by the Director of Liquor and Gaming instead of the Licensing Court (which will have the primary role of hearing and determining appeals against licensing decisions and which will be reconstituted as the Liquor and Gaming Court under the proposed *Liquor and Gaming Court Act 2005*),
- (b) to streamline the liquor licensing process by removing the practice of formal objections being taken against licence applications, while ensuring that applications for all types of licences, and other relevant applications such as licence removals, are subject to proper assessment and community-based consultation in accordance with a social impact assessment process,

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- (c) to bring clubs under the liquor licensing system and to provide that each set of premises of a club will need to be separately licensed,
- (d) to rationalise the types of liquor licences that may be granted by the Director,
- (e) to introduce a standard trading period of 5 am to midnight, 7 days a week, for both on-premises liquor sales and off-premises (ie take-away) liquor sales and to enable the Director to authorise extended trading hours for on-premises consumption in certain circumstances (but not for take-away sales),
- (f) to enable the regulations to shorten the standard trading period in relation to specified classes of licensed premises and to provide for extended trading after midnight when special events are being held,
- (g) to rationalise exemptions from licensing requirements, in particular by allowing small bed and breakfast or farm stay establishments to supply liquor without a licence in certain circumstances,
- (h) to expand the existing prohibition on selling liquor products that are desirable to minors to cover liquor products that are considered by the Minister to be indecent or offensive,
- (i) to provide for the establishment of local liquor accords with the aim of eliminating or reducing alcohol-related violence or anti-social behaviour,
- (j) to provide for disciplinary action (which may include the imposition of a fine or the cancellation of a licence) to be taken by the Director against licensees and managers of licensed premises or by the Liquor and Gaming Court if the matter is referred to the Court by the Director,
- (k) to enable appeals to be made to the Liquor and Gaming Court against decisions by the Director (including any disciplinary action taken by the Director against a licensee or manager of licensed premises),
- (l) to abolish the Liquor Administration Board (constituted under the *Liquor Act 1982*) and to provide for its functions (which currently include the determination and approval of social impact assessments in connection with hotel licence applications and the determination of noise complaints in relation to licensed premises) to be taken over by the Director,
- (m) to continue the operation, under the new licensing scheme, of existing liquor licences and to preserve current trading entitlements and authorisations.

The Bill also makes consequential amendments to other Acts, particularly the *Registered Clubs Act 1976* (which is renamed the *Clubs Management Act 1976* as a consequence of clubs being licensed under the proposed Act) and the *Gaming Machines Act 2001*.

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Outline of provisions

Part 1 Preliminary

Part 1 (**clauses 1–8**) contains provisions dealing with the name and commencement of the proposed Act and its interpretation. A primary object of the proposed Act is liquor harm minimisation. The Division also includes exemptions from the operation of the proposed Act.

Part 2 Principal offences relating to sale and supply of liquor

Part 2 (**clauses 9–11**) sets out the principal offences in relation to the sale and supply of liquor. Clause 9 makes it an offence to sell liquor without a licence under the proposed Act. Clause 10 makes it an offence to open, keep or use premises for selling liquor unless the premises are licensed premises. Clause 11 makes it an offence for a licensee or an employee or agent of a licensee to sell or supply liquor, or cause or permit liquor to be sold or supplied, in contravention of a licence.

Part 3 Liquor licences

Division 1 Preliminary

Division 1 (**clauses 12 and 13**) sets out the types of licences that may be granted and held under the proposed Act and deals generally with licence conditions (including making it an offence for not complying with the conditions of a licence). The remaining Divisions of Part 3 deal with each of these types of licences in turn.

Division 2 Hotel licences

Division 2 (**clauses 14–16**) describes the authority conferred by a hotel licence, specifies the primary purpose test and other general criteria for the granting of hotel licences and sets out miscellaneous conditions relating specifically to hotel licences.

Division 3 Club licences

Division 3 (**clauses 17–19**) describes the authority conferred by a club licence, specifies the criteria for the granting of club licences and sets out miscellaneous conditions relating specifically to club licences.

Division 4 On-premises licences

Division 4 (**clauses 20–26**) describes the authority conferred by an on-premises licence, specifies the criteria for the granting of on-premises licences and sets out miscellaneous conditions relating specifically to on-premises licences. An on-premises licence may be granted only if the primary purpose of the business or activity carried on at the premises concerned is not the sale or supply of liquor, and

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such a licence may only be granted in relation to certain specified premises or business activities (such as restaurants). An on-premises licence does not authorise the sale or supply of liquor for consumption away from the licensed premises.

Division 5 Packaged liquor licences

Division 5 (**clauses 27 and 28**) describes the authority conferred by a packaged liquor licence (which is the type of licence that relates to a bottle shop) and specifies the criteria for the granting of packaged liquor licences.

Division 6 Producer/wholesaler licences

Division 6 (**clauses 29 and 30**) describes the authority conferred by a producer/wholesaler licence and sets out miscellaneous conditions that apply in the case where the licensee concerned carries on business as a wine producer.

Division 7 Limited licences

Division 7 (**clauses 31–33**) describes the authority conferred by a limited licence (known as function licences under the former Act), specifies the criteria for the granting of limited licences and sets out miscellaneous conditions relating specifically to limited licences.

Division 8 Special facility licences

Division 8 (**clauses 34 and 35**) describes the authority conferred by a special facility licence (known as Governor's licences and community liquor licences under the former Act) and specifies the criteria for the granting of special facility licences.

Division 9 Special event licences

Division 9 (**clause 36**) provides for the granting of a special event licence by the Minister in relation to an event that the Minister considers to be of State or regional significance.

Part 4 Licensing procedures and related matters

Division 1 Licence applications and granting of licences

Division 1 (**clauses 37–42**) provides for the making of applications for licences (except for special event licences) to the Director of Liquor and Gaming and matters relating to the assessment and granting of those applications by the Director and the submissions that may be made in relation to licence applications.

Division 2 Social impact assessment process for licence and other relevant applications

Division 2 (**clauses 43–46**) provides that social impact assessments are required in connection with applications for licences (except for special event licences) and

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certain other applications under the proposed Act. Such an application may not be granted unless the Director approves the social impact assessment.

Division 3 Additional authorisations

Division 3 (**clauses 47–49**) provides for the granting of authorisations by the Director in connection with the sale and supply of liquor under certain kinds of licences. An extended trading authority authorises the sale of liquor beyond the standard trading period. A dine-or-drink authority authorises the consumption of liquor in a licensed restaurant otherwise than with a meal consumed at a table. A drink on-premises authority authorises a licensed wine producer to sell liquor for consumption on the licensed premises.

Division 4 Licence removals

Division 4 (**clause 50**) provides for the removal of a licence to premises other than those specified in the licence. An application for a licence removal is to be dealt with as if it were an application for the granting of a licence relating to those other premises.

Division 5 Licence transfers

Division 5 (**clauses 51–55**) contains provisions dealing with the transfer of licences (including club licences) and for the continuation of a licensee's business in certain circumstances.

Division 6 Miscellaneous provisions

Division 6 (**clauses 56–63**) contains provisions dealing with applications for licences, drink-or-dine authorities, extended trading authorities and drink on-premises authorities, the conditions that may be imposed by the Director on licences, the provision of information about persons interested in the business of a licensee, the keeping of incident registers by licensees who operate late-trading venues, the annual fees payable in respect of licences and the duration of licences.

Division 7 Special provisions relating to corporate licensees

Division 7 (**clauses 64–70**) contains provisions relating to licences held by corporations (including licensed clubs), in particular the appointment of managers to run licensed premises in the case of a corporate licence.

Part 5 Regulation of licensed premises

Division 1 Conduct on or in relation to licensed premises

Division 1 (**clauses 71–74**) contains a number of measures that aim to prevent anti-social or illegal conduct on or in connection with licensed premises, including measures to prevent excessive consumption of alcohol on licensed premises and the exclusion of certain persons from licensed premises (eg because of intoxication or

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violent behaviour). Measures are also included to ensure the quiet and good order of the neighbourhood of licensed premises. Offences are also included in relation to the use or sale of prohibited drugs, and the sale of stolen goods, on licensed premises.

Division 2 Closure orders

Division 2 (**clauses 75–79**) provides for the making of closure orders by authorised officers and the Liquor and Gaming Court in certain circumstances. A Local Court or the Liquor and Gaming Court will also be able to order the closure of licensed premises for a specified period, on application by any person if satisfied that there is, or is likely to be, a breach of peace in the neighbourhood of the licensed premises.

Division 3 General provisions relating to licensed premises

Division 3 (**clauses 80–86**) contains general provisions applying to licensed premises, including provisions specifying the persons who are responsible for the conduct of business on licensed premises, restricting the leasing or subleasing of licensed premises, enabling the specified boundaries of licensed premises to be changed by the Director and enabling business to be carried on by a licensee on temporary premises.

Part 6 Miscellaneous offences and regulatory controls

Division 1 General

Division 1 (**clauses 87–100**) makes provision for the responsible service of alcohol and includes a number of miscellaneous offences, including selling or supplying undesirable liquor products (including liquor products that the Minister considers to be indecent or offensive), undesirable liquor promotions, taking liquor away from licensed premises outside of trading hours or from premises to which an on-premises licence relates and carrying liquor about for the purpose of sale.

Division 2 Underage drinking

Division 2 (**clauses 101–107**) contains provisions that aim to prevent the sale or supply of liquor to persons under the age of 18 years and the consumption of liquor by minors on licensed premises.

Division 3 Minors on licensed premises

Division 3 (**clauses 108–114**) provides for the granting of a minors area authority (which allows a minor to be in a hotel in the company of a responsible adult) and a minors functions authority (which allows a minor to attend a function in a hotel). The Division also contains offences relating to minors being on licensed premises otherwise than as permitted under the proposed Act.

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Part 7 Local liquor accords

Part 7 (**clauses 115–119**) provides for the making of local liquor accords between licensees and other parties (for example, the Director-General of the Department of Gaming and Racing, NSW Police, local councils, bodies representing business interests in the locality and community groups). Local liquor accords are voluntary codes of practice, memorandums of understanding or other arrangements that affect the supply of liquor, the opening and closing of licensed premises or other aspects of the management of or conduct of business on those premises and that are entered into for the purpose of eliminating or reducing alcohol-related violence or anti-social behaviour or other alcohol-related harm.

Part 8 Disciplinary action

Division 1 Preliminary

Division 1 (**clauses 120 and 121**) contains interpretation provisions for the purposes of the proposed Part and enable the Director to carry out inquiries and investigations in relation to disciplinary matters involving licensees, managers of licensed premises, non-proprietary associations on whose behalf limited licences are held and close associates of licensees.

Division 2 Disciplinary action taken by Director

Division 2 (**clauses 122–125**) provides for the taking of disciplinary action by the Director against a licensee, manager or non-proprietary association on whose behalf a limited licence is held. The disciplinary powers of the Director include the suspension or cancellation of a licence and, in the case of a licensee or manager, the imposition of a monetary penalty of up to 500 penalty units in the case of a corporation or 200 penalty units in the case of an individual. Before taking any disciplinary action, the Director is required to invite the licensee, manager or non-proprietary association concerned to show cause why the Director should not take the proposed action.

Division 3 Disciplinary action taken by Liquor and Gaming Court

Division 3 (**clauses 126–129**) provides for the taking of disciplinary action by the Liquor and Gaming Court on the referral of the matter by the Director or at the request of the Commissioner of Police. The Court will also be able to take, if the matter is referred to it by the Director, disciplinary action against close associates of licensees or against persons who have an interest in the business of a licensee. The Court will be able to take the same action that the Director may take in relation to disciplinary matters, except that the Court will be able to impose a monetary penalty of up to 1,000 penalty units (\$110,000) in the case of a corporation or 400 penalty units (\$44,000) in the case of an individual if circumstances of aggravation exist in relation to the disciplinary matter concerned.

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Part 9 Enforcement powers

Part 9 (**clauses 130–135**) contains powers of entry, inspection and seizure in relation to licensed premises and unlicensed premises in certain circumstances, provides for the production of information and documents in relation to licensed premises, creates an offence of obstructing police officers or special inspectors in exercising their functions under the proposed Act and provides for the forfeiture of liquor to the Crown if a person is found guilty of selling or supplying liquor in contravention of the proposed Act.

Part 10 Legal proceedings and related matters

Division 1 Appeals

Division 1 (**clauses 136–140**) provides for appeals to be made to the Liquor and Gaming Court against certain decisions, including decisions of the Director in relation to applications for licences, authorisations, the removal or transfer of licences and the taking of disciplinary action under Part 8 of the proposed Act. A person aggrieved by any decision of the Liquor and Gaming Court may appeal against the decision to the Supreme Court on a question of law. The Division also provides for an application to be made to the Liquor and Gaming Court for removal of a disqualification under the proposed Act to hold a licence or to manage licensed premises.

Division 2 General provisions

Division 2 (**clauses 141–149**) deals with the bringing of proceedings for offences under the Act in a Local Court (which may be constituted by a Liquor and Gaming Magistrate) and provides a limitation period of 12 months for most offences (or 3 years for certain offences). The Division also provides for increased maximum penalties and additional penalties in certain cases, makes licensees and managers of licensed premises liable for offences relating to the sale or supply of liquor committed by their employees or agents, provides for penalty notices to be issued for offences under the proposed Act, provides that formal hearings are not required in relation to applications or other matters dealt with by the Director and prevents minors from being imprisoned as a consequence of committing an offence under the proposed Act.

Part 11 Administrative provisions

Part 11 (**clauses 150–156**) contains provisions dealing with administrative matters such as the appointment of the Director, the appointment of special inspectors, the delegation of functions under the proposed Act, the placing of restrictions on key officials and former key officials, the secrecy of information acquired under the proposed Act and the protection of certain persons from personal liability.

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Part 12 Miscellaneous

Part 12 (**clauses 157–165**) provides a general regulation-making power, repeals the *Liquor Act 1982* and certain other legislation, provides for the amendment of the *Registered Clubs Act 1976* and the *Gaming Machines Act 2001*, requires the Act to be reviewed after 5 years and contains other provisions of a machinery nature.

Schedule 1 Savings and transitional provisions

Schedule 1 contains savings and transitional provisions consequential on the enactment of the proposed Act, and empowers regulations under the proposed Act to make further provision of a savings or transitional nature. In particular, provision is made for existing liquor licences to be continued under the proposed Act.

Schedule 2 Amendment of Registered Clubs Act 1976

Schedule 2 contains amendments to the *Registered Clubs Act 1976* that are consequential on the making of the proposed Act. As a consequence of clubs no longer being registered under the *Registered Clubs Act 1976*, that Act is renamed as the *Clubs Management Act 1976*.

Schedule 3 Amendment of Gaming Machines Act 2001

Schedule 3 contains amendments to the *Gaming Machines Act 2001* that are consequential on the making of the proposed Act. The Director of Liquor and Gaming will take over the functions of the Liquor Administration Board in relation to gaming machine matters (eg the allocation of poker machine entitlements, the approval of social impact assessments and the granting of authorisations for hotels and clubs to keep gaming machines) as well as the functions of the Licensing Court (eg the granting of gaming-related licences and the taking of disciplinary action against hoteliers, licensed clubs and gaming-related licensees).

Schedule 4 Amendment of other Acts

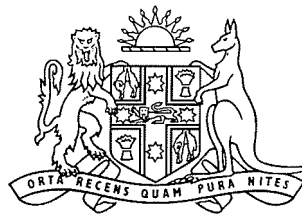
Schedule 4 contains amendments of other Acts that are consequential on the making of the proposed Act.

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Liquor Bill 2005

No , 2005

A Bill for

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 to make consequential amendments to the *Registered Clubs Act 1976*, the *Gaming Machines Act 2001* and certain other Acts; and for other purposes.

See also the *Liquor and Gaming Court Bill 2005*.

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Clause 1 Liquor Bill 2005

Part 1 Preliminary

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Liquor Act 2005*.

2 Commencement

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

3 Liquor harm minimisation is a primary object of this Act

- (1) A primary object of this Act is liquor harm minimisation, that is, the minimisation of harm associated with misuse and abuse of liquor (such as harm arising from violence and other anti-social behaviour).
- (2) The Director, the Commissioner of Police, the Liquor and Gaming Court and all other persons having functions under this Act are required to have due regard to the need for liquor harm minimisation when exercising functions under this Act.
- (3) In particular, due regard is to be had to the need for liquor harm minimisation when considering for the purposes of this Act what is or is not in the public interest.

4 Definitions

- (1) In this Act:
 - accommodation premises* means a motel or a bed and breakfast establishment.
 - accord area*—see section 115.
 - 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*.
 - bed and breakfast establishment* means premises that provide temporary home-stay or farm-stay style guest accommodation (whether or not comprising bedrooms each with en-suite bathing and toilet facilities).
 - catering service* means a service that provides for the preparation and supply of food for consumption at a function, occasion or event.
 - close associate*—see section 5.
 - club premises* means the premises to which a club licence relates.

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Clause 4

Preliminary

Part 1

community hotel means licensed premises referred to in section 35, but does not include any premises to which a hotel 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.

dine-or-drink authority means an authority referred to in section 48.

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

Director—see section 150.

drink on-premises authority means an authority referred to in section 49.

employ includes engage under a contract for services.

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

existing RTA proof of age card means a document 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.

extended trading authority means an authority referred to in section 47.

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's 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) an existing RTA proof of age card,

Note. Existing RTA proof of age cards (as defined elsewhere in this section) cease to be valid for any purpose 3 years after the commencement of the *Photo Card Act 2005*—see Division 3 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,
- (e) an Australian or foreign passport,
- (f) any other class of document prescribed by the regulations for the purposes of this definition.

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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.

hotel means the premises to which a hotel licence relates.

hotelier means the holder of a hotel licence.

increased maximum penalty—see section 143.

intoxicated has the meaning given by the regulations.

licence means a licence in force under this Act.

licensed club means a club that holds a club licence.

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.

Liquor and Gaming Court means the Liquor and Gaming Court of New South Wales constituted by the *Liquor and Gaming Court Act 2005*.

Liquor and Gaming Magistrate means a Liquor and Gaming Magistrate appointed under the *Liquor and Gaming Court Act 2005*.

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

- (a) except in the case of paragraph—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 115.

manager of licensed premises means:

- (a) a person appointed by the licensee under section 65 to manage the licensed premises, or

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- (b) in the case of a licensed club that has only one set of premises—the secretary of the licensed club.

meal means:

- (a) a genuine meal consumed by a person seated or standing at a dining table, and
- (b) in the case of a bed and breakfast establishment—a meal supplied by the proprietor whether for consumption on or away from the premises.

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

minors area authority means an authority referred to in section 108.

minors functions authority means an authority referred to in section 109.

motel means premises that provide temporary accommodation to travellers, comprising bedrooms each with en-suite bathing and toilet facilities, and includes an apartment complex that comprises separately owned apartments providing self-contained accommodation and that is operated to provide motel-style temporary accommodation to travellers, but does not include:

- (a) an apartment in any such complex if the apartment is used as a private residence (and not for the temporary accommodation of travellers) or is not the subject of the agreement or other arrangement under which apartments in the complex are operated to provide motel-style temporary accommodation, or
- (b) a bed and breakfast establishment, or
- (c) a hotel, or
- (d) a guest-house, boarding house, lodging house, nursing home or caravan park, or
- (e) any other form of residential accommodation prescribed by the regulations to not be a motel for the purposes of this Act.

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

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- (c) any public authority 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.

premises includes land or a vessel, railway train, tram car (whether or not running on rails or self-propelled) or aircraft.

public hall means a public hall that is used or intended to be used for the purpose of conducting public meetings or providing 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.

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 in respect of which the primary purpose is the business of preparing and serving meals to the public.

restricted 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 room in the hotel or on the club premises, or

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- (b) any part of the hotel in which liquor is, otherwise than as authorised under section 16 (5), sold or supplied exclusively to residents, or
- (c) any part of the hotel in respect of which a minors area authority or minors functions authority is in force, whenever the authority operates to authorise the use by a minor of that part, or
- (d) any part of the club premises in respect of which:
 - (i) a junior members authority under section 22A of the *Clubs Management Act 1976* is in force, or
 - (ii) a club functions authority under section 23 of that Act is in force,whenever the authority operates to authorise the use by a minor of that part.

restricted trading day means Good Friday or Christmas Day.

secretary of a licensed club has the same meaning as in the *Clubs Management 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.

special inspector means a person holding office under section 151 as a special inspector.

standard trading period—see section 6.

supply includes dispose of or deliver.

the Department means the Department of Gaming and Racing.

theatre means a theatre or cinema that is used or intended to be used for the purpose of providing public entertainment.

wine includes cider, perry and mead.

- (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 “close associate”

- (1) For the purposes of this Act, a person is a **close associate** of an applicant for a licence or a licensee if the person:
 - (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own

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right or on behalf of any other person), in the business of the applicant or licensee that is or will be carried on under the authority of the licence, and by virtue of that interest or power is or will be able, in the opinion of the Director, to exercise a significant influence over or with respect to the management or operation of that business, or

(b) holds or will hold any relevant position, whether in his or her own right or on behalf of any other person, in the business of the applicant or licensee that is or will be carried on under the authority of the licence.

(2) In this section:

relevant financial interest, in relation to a business, means:

- (a) any share in the capital of the business, or
- (b) any entitlement to receive any income derived from the business, or to receive 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
- (c) any entitlement to receive any rent, profit or other income in connection with the use or occupation of premises on which the business is or is to be carried on (such as, for example, an entitlement of the owner of licensed premises to receive rent as lessor of the premises).

relevant position means:

- (a) the position of director, manager or secretary, or
- (b) any other position, however designated, if it is an executive position.

relevant power means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others:

- (a) to participate in any directorial, managerial or executive decision, or
- (b) to elect or appoint any person to any relevant position.

(3) For the purposes of this section, a financial institution is not a close associate by reason only of having a relevant financial interest in relation to a business.

(4) For the purposes of this section, a Presiding Officer (within the meaning of the *Parliamentary Precincts Act 1997*) is not a close associate of an applicant for a licence or a licensee in the case of a licence that relates to premises within the Parliamentary precincts (within the meaning of that Act).

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6 Meaning of “standard trading period”

- (1) For the purposes of this Act, the *standard trading period* means:
- (a) the period from 5 am to midnight, or
 - (b) if the regulations prescribe a shorter period—the period as so prescribed.

Note. The standard trading period applies in relation to hotels and clubs and to the premises (other than a vessel) to which an on-premises licence relates, the premises to which a packaged liquor licence relates (ie bottle shops) and to the licensed premises of a wine producer. The standard trading period applies to each day of the week (other than Good Friday and Christmas Day).

- (2) Any such regulation 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).

7 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.
- (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.
- (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.

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8 Exemptions from Act

(1) General exemptions

This Act does not apply to the following:

- (a) the sale of liquor to adults on such trains under the control of the Rail Corporation New South Wales as are determined by the 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 pharmacist under the *Pharmacy Act 1964*,
- (d) the sale of liquor at an auction conducted by an auctioneer, but only in the circumstances prescribed by the regulations and only if the liquor is sold to persons who are not minors,
- (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,
- (g) the sale of liquor to an adult on board an aircraft that takes off and lands at different locations,
- (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 from licensed premises authorised to sell liquor for consumption away from the premises, and
 - (iii) the volume of liquor supplied in respect of each gift delivered by the vendor does not exceed 2 litres,
- (j) the sale or supply of liquor to an adult who:

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- (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,
 - (l) the sale or supply of liquor in such other circumstances as may be prescribed by the regulations.
- (2) **Exemption for small bed and breakfast establishments**
- This Act does not apply to 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 6 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 from licensed premises authorised to sell liquor for consumption away from the premises,
 - (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 Director, in the form approved by the Director, that the B&B sells or supplies liquor to guests as provided by this subsection.

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Clause 9 Liquor Bill 2005

Part 2 Principal offences relating to sale and supply of liquor

Part 2 Principal offences relating to sale and supply of liquor

9 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: 50 penalty units or imprisonment for 6 months, or both or, if an increased maximum penalty applies in relation to the offence, 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 authority 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.

10 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.
Maximum penalty: 50 penalty units or imprisonment for 6 months, or both or, if an increased maximum penalty applies in relation to the offence, 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.

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Clause 11

Principal offences relating to sale and supply of liquor

Part 2

11 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) on any premises other than the premises on which the licensee is authorised under this Act to sell or supply liquor, or
 - (c) otherwise than in accordance with the authority conferred on the licensee by or under this Act.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both or, if an increased maximum penalty applies in relation to the offence, 100 penalty units or imprisonment for 12 months, or both.

- (2) Without limiting subsection (1), a licensee must not:
- (a) keep the 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 to sell or supply liquor.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both or, if an increased maximum penalty applies in relation to the offence, 100 penalty units or imprisonment for 12 months, or both.

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Clause 12 Liquor Bill 2005

Part 3 Liquor licences

Part 3 Liquor licences

Division 1 Preliminary

12 Types of licences and authority 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,
 - (g) special facility licence,
 - (h) special event 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 authority conferred by a licence is subject to this Act and the regulations.

13 Licence conditions—general provisions

- (1) A licence is subject to:
 - (a) such conditions as may be imposed by 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: 50 penalty units or imprisonment for 6 months, or both or, if an increased maximum penalty applies in relation to the offence, 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.

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Liquor licences

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Division 2 Hotel licences

14 Authority conferred by hotel licence

- (1) A hotel licence authorises the licensee to sell liquor by retail on the licensed premises as follows:
 - (a) for consumption on the licensed premises only:
 - (i) on any day of the week other than a restricted trading day—during the standard trading period or such other period as may be authorised by an extended trading authority or as provided by subsection (3), and
 - (ii) on a day that is 31 December—from the start of the standard trading period on that day until 2 am on the next succeeding day, and
 - (iii) on a restricted trading day—from 10 am to midnight,
 - (b) for consumption away from the licensed premises—on any day of the week (other than a restricted trading day) during the standard trading period,
 - (c) for consumption on the licensed premises only—at any time to a resident of the licensed premises or to a guest of such a resident while the guest is in the resident's company.
- (2) 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 Director may, on application by the licensee, authorise, but only for consumption on those premises and at such times as may be specified by the Director.

Note. Section 56 applies to an authorisation referred to in subsection (2).
- (3) The regulations may prescribe a period, beyond the standard trading period, during which liquor may be sold or supplied for consumption on the licensed premises to which a hotel licence relates. 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.
- (4) For the purposes of subsection (3), *special event* means an event that the Minister considers to be of State, national or international significance.
- (5) A regulation under subsection (3) may apply to a specified class of hotel. Without limitation, any such class of hotel may be specified by reference to hotels that are located in a particular area (however described).
- (6) Subsection (3) 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.

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Clause 15 Liquor Bill 2005

Part 3 Liquor licences

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 authority conferred by a hotel licence does not apply unless the hotel primary purpose test is complied with in relation to the hotel.
- (3) Any premises (other than the actual hotel) that are authorised by the Director 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—miscellaneous conditions

- (1) 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) Except to the extent provided by this Act or the regulations, the business carried on under a hotel licence must not be, or include, a business that is limited at any time only to the sale or supply of liquor to persons who have been invited to use or attend the hotel or to a particular class, or particular classes, of persons who use or attend the premises.
- (3) 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 liquor is made available at the time when liquor is being sold or supplied on the premises.
- (4) Except as provided by subsection (5), liquor must not be sold or supplied to, or consumed by, a resident or an employee of the licensee in a restricted 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 restricted area of the hotel.

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- (5) The Director may, on application by a hotelier, authorise the use of a restricted 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 restricted area of the hotel.

Note. Section 56 applies to an authorisation referred to in subsection (5).

Division 3 Club licences

17 Authority 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) as follows:
- (a) for consumption on the licensed premises only:
 - (i) on any day of the week other than a restricted trading day—during the standard trading period or such other period as may be authorised by an extended trading authority or as provided by subsection (2), and
 - (ii) on a day that is 31 December—from the start of the standard trading period on that day until 2 am on the next succeeding day, and
 - (iii) on a restricted trading day—from 10 am to midnight,
 - (b) for consumption away from the licensed premises—on any day of the week (other than a restricted trading day) during the standard trading period.
- (2) The regulations may prescribe a period, beyond the standard trading period, during which liquor may be sold or supplied for consumption on the licensed premises to which a club licence relates. 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.
- (3) For the purposes of subsection (2), *special event* means an event that the Minister considers to be of State, national or international significance.
- (4) A regulation under subsection (2) may apply to a specified class of club premises. Without limitation, any such class of club premises may be specified by reference to club premises that are located in a particular area (however described).
- (5) Subsection (2) does not authorise the sale, supply or consumption of liquor on any licensed premises contrary to a restriction or prohibition imposed under this Act in respect of the trading hours for the licensed premises.

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Part 3 Liquor licences

18 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 *Clubs Management Act 1976*, and
 - (b) otherwise complies with the requirements of that Act.
- (2) If a licensed 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 licensed club is the licensee for each set of licensed premises.

19 Club licence—miscellaneous conditions

The following requirements apply in relation to a licensed 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.

Division 4 On-premises licences

20 On-premises licence—general provisions

- (1) An on-premises licence may only be granted in relation to premises if:
 - (a) the primary purpose of the business or activity carried out on the premises is not the sale or supply of liquor, and
 - (b) the premises are, or the business or activity carried out on the premises is, any of the following:
 - (i) a restaurant,
 - (ii) accommodation premises,
 - (iii) a public hall,
 - (iv) a theatre (other than a drive-in or open-air theatre),
 - (v) a university,
 - (vi) a vessel,
 - (vii) premises at an airport,
 - (viii) a catering service.

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- (2) An on-premises licence is to specify the type of business or activity that is carried out on the licensed premises and that is ancillary to the sale or supply of liquor on those premises.
- (3) If:
 - (a) the primary purpose of the business or activity carried out on the licensed premises to which an on-premises licence relates becomes the sale or supply of liquor, or
 - (b) the business or activity carried out on the licensed premises is no longer the business or activity specified in the licence,the authority conferred by the licence ceases to apply.
- (4) In the case of an on-premises licence that relates to a catering service, the licensed premises include any premises on which the licensee provides catering services.
- (5) An on-premises licence may not be granted in relation to a public hall unless the public hall is operated by a non-proprietary association (other than a licensed club).

21 Authority conferred by on-premises licence

(1) Restaurants

An on-premises licence that relates to a restaurant authorises the licensee to sell liquor by retail on the licensed premises, for consumption on the licensed premises only:

- (a) on any day of the week other than a restricted trading day—during the standard trading period or such other period as may be authorised by an extended trading authority, and
- (b) on any day that is 31 December—from the start of the standard trading period on that day until 2 am on the next succeeding day, and
- (c) on a restricted trading day—from 10 am to midnight.

(2) Accommodation premises

An on-premises licence that relates to accommodation premises authorises the licensee to sell liquor for retail on the licensed premises, for consumption on the licensed premises only:

- (a) in any part of the licensed premises in which the sale or supply of liquor is authorised under section 23 (4) (a) or (c):
 - (i) on any day of the week other than a restricted trading day—during the standard trading period or such other period as may be authorised by an extended trading authority, and

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- (ii) on any day that is 31 December—from the start of the standard trading period on that day until 2 am on the next succeeding day, and
 - (iii) on a restricted trading day—from 10 am to midnight, and
 - (b) in any part of the licensed premises in which the sale or supply of liquor is authorised under section 24 (4) (b)—at any time, but only to a resident, or to a guest of a resident while in the resident's company, for consumption in that area, and
 - (c) at any time to a resident, or to a guest of a resident while in the resident's company, for consumption in the resident's bedroom only, and
 - (d) at any time to an employee of the licensee.
- (3) **Public halls, theatres and universities**
- An on-premises licence that relates to a public hall, theatre (not being a drive-in or open air theatre) or premises within a university authorises the licensee to sell liquor by retail on the licensed premises, for consumption on the licensed premises only:
- (a) on any day of the week other than a restricted trading day—during the standard trading period or such other period as may be authorised by an extended trading authority, and
 - (b) on a restricted trading day—from 10 am to midnight.
- (4) **Licensed premises at airports**
- An on-premises licence that relates to premises at an airport authorises the licensee to sell liquor by retail on the licensed premises, for consumption on the licensed premises only, on any day of the week during the standard trading period or such other period as may be authorised by an extended trading authority.
- (5) **Catering services**
- An on-premises licence that relates to a catering service authorises the licensee to sell liquor by retail on the licensed premises, for consumption on the licensed premises only:
- (a) on any day of the week—during the standard trading period or such other period as may be authorised by an extended trading authority, and
 - (b) on any day that is 31 December—from the start of the standard trading period on that day until 2 am on the next succeeding day.

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(6) **Vessels**

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 Director may, on application by the licensee, authorise.

Note. Section 56 applies to an authorisation referred to in this subsection.

22 On-premises licence (restaurants)—miscellaneous conditions

- (1) If the licensed premises to which an on-premises licence relates are a restaurant:
 - (a) the primary purpose of the business carried out on the premises must be the preparation and serving of meals, and accordingly the premises must at all times be operated consistently with this primary purpose, whether or not the licence is endorsed with a dine-or-drink authority, and
 - (b) liquor may only be sold, supplied or consumed in the restaurant:
 - (i) in any reception area of the restaurant, or
 - (ii) with, or as ancillary to, a meal consumed at a table in the restaurant, or
 - (iii) in accordance with a dine-or-drink authority, and
 - (c) the number of patrons in the reception area (if any) of the restaurant at any one time must not exceed such number as may be determined by the Director, and
 - (d) except to the extent provided by this Act or the regulations, the business carried out on the licensed premises must not be, or include, a business that is limited at any time only to the sale or supply of liquor to persons who have been invited to use or attend the licensed premises or to a particular class, or particular classes, of persons who use or attend the premises.
- (2) Subsection (1) (b) (ii) does not prevent a person from consuming liquor away from a table in the restaurant, or from standing while consuming liquor, so long as there is a seat for the person at a table.

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23 On-premises licence (accommodation premises)—miscellaneous conditions

- (1) This section applies to an on-premises licence that relates to accommodation premises.
- (2) The primary purpose of the business carried out on the licensed premises must be the provision of temporary accommodation to travellers.
- (3) Liquor may be sold or supplied on the licensed premises:
 - (a) to a resident of the licensed premises (or to a guest of a resident while the guest is in the resident's company) for consumption in the resident's bedroom, but only if the bedroom has its own toilet facilities, and
 - (b) in the case of a licensed bed or breakfast establishment—only if the sale or supply is ancillary to the provision of the accommodation or a meal.
- (4) The Director may, on application by the licensee, authorise the sale or supply of liquor in any one or more of the following:
 - (a) in any part of the licensed premises set aside as a restaurant and that is open to the public,
 - (b) in any part of the licensed premises set aside for the exclusive use of the residents and their guests,
 - (c) in a function area forming part of the licensed premises (but only to persons attending the function).

Note. Section 56 applies to an authorisation referred to in subsection (4).
- (5) If the sale or supply of liquor in a restaurant on the licensed premises is authorised by the Director, liquor may only be sold, supplied or consumed in the restaurant:
 - (a) in any reception area of the restaurant, or
 - (b) with, or as ancillary to, a meal consumed at a table in the restaurant, or
 - (c) in accordance with a dine-or-drink authority.
- (6) The number of patrons in the reception area (if any) of the restaurant at any one time must not exceed such number as may be determined by the Director.
- (7) Subsection (5) (b) does not prevent a person from consuming liquor away from a table in the restaurant, or from standing while consuming liquor, so long as there is a seat for the person at a table.

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24 On-premises licence (theatres)—miscellaneous conditions

- (1) If the licensed premises to which an on-premises licence relates are a theatre (not being a drive-in or open air theatre):
- (a) the primary purpose of the business or activity carried out on the licensed premises must be the provision of stage or cinematographic entertainment, and
 - (b) the licensed premises must be promoted as a theatre or cinema, and
 - (c) liquor may only be sold or supplied on the licensed premises in an area that:
 - (i) is separate to the area in which the entertainment is provided, and
 - (ii) is accessible only to those persons attending the entertainment at the theatre.
- (2) Despite subsection (1) (c) (i), the Director may, on application by the licensee, authorise the sale or supply of liquor in an area of the licensed premises specified by the Director.

Note. Section 56 applies to an authorisation referred to in subsection (2).

25 On-premises licence (universities)—miscellaneous conditions

If the licensed premises to which an on-premises licence relates are within a university:

- (a) the licensed premises must be occupied by a union, association or club within the university, and
- (b) the membership of the union, association or club must be open to the whole student body of the university, and
- (c) liquor may only be sold or supplied on the licensed premises if:
 - (i) it is sold or supplied only to the members of the student body of the university and their guests, and
 - (ii) food of a nature and quantity consistent with the responsible sale, supply and service of liquor is made available when liquor is being sold or supplied on the premises.

26 On-premises licence (catering services)—miscellaneous conditions

If the business or activity carried out under an on-premises licence is a catering service, liquor may only be sold or supplied under the authority of the licence if:

- (a) the sale or supply is ancillary to a function, occasion or event for which the licensee provides catering services, and

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- (b) the catering services provided by the licensee include the provision of food of a nature and quantity consistent with the responsible sale, supply and service of liquor and with the type of function, occasion or event at which the licence is being exercised, and
- (c) the food is provided in conjunction with the sale or supply of liquor, so that liquor is sold or supplied and consumed with or as ancillary to the consumption of the food.

Division 5 Packaged liquor licences

27 Authority conferred by packaged liquor licence

- (1) 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, during the standard trading period on any day of the week other than a restricted trading day.
- (2) The authority conferred by a packaged liquor licence extends to supplying liquor to customers and intending customers for consumption while on the licensed premises if the liquor is supplied for free as part of a promotion or for the purposes of tasting.

28 Packaged liquor licences—general provisions

- (1) If the primary purpose of the business carried out on the premises to which a packaged liquor licence relates is not the sale or supply of liquor, the licence may be granted only if the Director is satisfied that:
 - (a) the sale of liquor under the licence will take place in an area of the licensed premises (*the liquor sales area*) that is adequately separated from other areas of the premises in which other activities are carried out, and
 - (b) the principal activity to be carried out in the liquor sales area will be the sale of liquor.
- (2) A packaged liquor licence may not be granted to authorise the sale of liquor on premises that comprise a general store unless the Director 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.
- (3) A packaged liquor licence may not be granted in relation to a service station.

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(4) 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 for the purpose of selling, exposing or offering for sale by retail principally groceries or associated small items.

service station means a building or place used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

Division 6 **Producer/wholesaler licences**

29 Authority conferred by producer/wholesaler licence

(1) **Wholesalers (other than wine producers)**

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

- (a) to sell liquor by wholesale, at any time on the licensed premises, to persons who are authorised by a licence to sell liquor, or
- (b) to sell or supply liquor to the employees of the licensee at any time on the licensed premises.

(2) **Wine producers**

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

- (a) to sell the licensee's wine by wholesale, at any time on the licensed premises, to persons who are authorised by a licence to sell liquor, and
- (b) to sell the licensee's wine by retail on the licensed premises, for consumption away from the licensed premises only, during the standard trading period on any day of the week, and
- (c) to sell or supply the licensee's wine away from the licensed premises at a wine show:
 - (i) held by a recognised wine or vineyard association, and
 - (ii) approved by the Director,but only if the local police have, in accordance with the regulations, been notified about the wine show by the organiser of the show before it is held, and
- (d) to sell the licensee's wine in accordance with a drink on-premises authority, and

Note. See section 49 (2) for trading hours in relation to drink on-premises authorities.

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- (e) to sell or supply the licensee's wine to the employees of the licensee at any time on the licensed premises.
- (3) For the purposes of this section, wine is the *licensee's wine* if:
 - (a) it has been produced on the licensed or related premises, or
 - (b) 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:
 - (i) has been produced by or under the direction of the licensee (or a related corporation of the licensee) on the licensed or related premises, or
 - (ii) has been produced from fruit grown on the licensed or related premises by or under the direction of the licensee (or a related corporation of the licensee).
- (4) In subsection (3):
related premises of a licensee means a vineyard that is operated by the licensee (or a related corporation of the licensee) and that is contiguous with the licensed premises.

30 Producer/wholesaler licence—miscellaneous conditions

- (1) This section applies to the holder of a producer/wholesaler licence who carries on business as a wine producer.
- (2) Liquor may only be sold or supplied by the licensee at a wine show held in accordance with section 29 (2) (c):
 - (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.
- (3) Liquor must not be sold or supplied by the licensee at any such wine show to a person who is intoxicated.

Division 7 Limited licences

31 Authority conferred by limited licence

- (1) A limited licence authorises the licensee to sell or supply liquor on the licensed premises:
 - (a) in the case of a licence granted to a person on behalf of a non-proprietary association—for consumption on the licensed premises only, but only as part of, or in connection with, a function or series of functions that are held by the non-proprietary association (including those that are held on a regular basis), and

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- (b) in the case of a licence granted to a person in respect of a trade fair—for consumption on or away from the licensed premises.
- (2) The authority conferred by a limited licence does not apply unless the sale or supply of liquor at any function or trade fair is ancillary to the purpose for which the function or trade fair is held.

32 Limited licence—general provisions

- (1) A limited licence may only be granted:
 - (a) to a person on behalf of a non-proprietary association (other than a licensed club) for a function to be held by the association, or
 - (b) to a person in respect of a trade fair.
- (2) The Director may grant a limited licence authorising the sale or supply of liquor on the licensed premises only if the Director 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) Subject to subsection (4), the number of functions at which liquor may be sold or supplied under a limited licence is not to exceed:
 - (a) 52 functions per year, or
 - (b) such other number of functions per year as may be approved by the Director in any particular case.
- (4) In the case of a limited licence granted to a racing club, liquor may be sold or supplied by the club 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.
- (5) A limited licence is not to be granted if the Director is of the opinion that the sale or supply of liquor under the authority of the licence would more appropriately be provided under the authority of another kind of licence.

33 Limited licence—miscellaneous conditions

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

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(b) at such times as are specified by the Director when the licence is granted (or at such other times as the Director may, on application by the licensee, authorise).

Note. Section 56 applies to an authorisation referred to in subsection (1) (b).

(2) 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 authority of 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, because of exceptional circumstances, be present on those premises.

Division 8 Special facility licences

34 Authority conferred by special facility licence

A special facility licence authorises the licensee to sell or supply liquor on the licensed premises at the times specified in the licence.

35 Special facility licence—general provisions

(1) A special facility licence may only be granted:

(a) in respect of premises that are:

(i) vested in, or occupied by, the Crown or a public authority, or

(ii) occupied by a racing club,

but only if the sale or supply of liquor on the premises is ancillary to the business or activity carried out on the premises, or

(b) in respect of premises (referred to in this Act as a *community hotel*) that are located in a remote area of the State, but only if the Director is satisfied that:

(i) there is no hotel operating in, or in the vicinity of, the neighbourhood that will be served by the licence, due to a hotel ceasing to operate or the removal of a hotel licence to premises outside the neighbourhood, and

(ii) there is no venue in, or in the vicinity of, the neighbourhood that will be served by the licence that provides the facilities proposed to be provided under the licence, or

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- (c) in respect of premises that are of a class prescribed by the regulations, but only if the sale or supply of liquor on the premises is ancillary to the business or activity carried out on the premises and such requirements as are prescribed by the regulation are complied with in respect of the premises.
- (2) A special facility licence in respect of a community hotel:
 - (a) may be granted to a person on behalf of a non-proprietary association only (other than a licensed club), and
 - (b) authorises the licensee to sell or supply liquor on the licensed premises for consumption on or away from the licensed premises.
- (3) A special facility licence is to specify the type of business or activity that is carried out on the licensed premises.
- (4) A special facility licence is not to be granted if the Director is of the opinion that the sale or supply of liquor under the authority of the licence would more appropriately be provided under the authority of another kind of licence.

Division 9 Special event licences

36 Special event licence

- (1) The Minister may authorise the granting of a special event licence.
- (2) A special event licence authorises the sale or supply of liquor, on the premises specified in the licence on a day or days so specified during which a special event is held, subject to such conditions, and such exemptions from the provisions of this Act, as the Minister may specify (whether at the time the licence is granted or at a later time).
- (3) Despite any other provision of this Act, a condition cannot be imposed on a special event licence except by the Minister under this section.
- (4) The Minister may vary or revoke any condition imposed, or exemption granted, in respect of a special event licence.
- (5) Before authorising the granting of a special event licence, the Minister may, if the Minister thinks fit, obtain a report from the Director or from the Commissioner of Police, or both, on any proposal for such an authorisation. The Minister may require such other investigations to be carried out in relation to the proposal as the Minister thinks fit.
- (6) The Minister is not to authorise the granting of a special event licence unless the Minister is satisfied, on information supplied by the Director or otherwise, that practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that:

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- (a) liquor is sold, supplied and served responsibly on the premises,
and
 - (b) all reasonable steps are taken to prevent intoxication on the
premises,
and that those practices will remain in place while the licence is in force.
- (7) The Minister may, by order in writing and with the consent of the licensee, suspend, for the duration of a special event licence granted in respect of any premises, another licence in force in respect of the same premises.
- (8) In this section, *special event* means an event that the Minister considers to be of State or regional significance.

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Division 1 Licence applications and granting of licences

37 Licence applications

- (1) Licence applications are to be made to the Director.
- (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—by or on behalf of a club that meets the requirements specified in section 10 (1) of the *Clubs Management 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 a form approved by the Director, 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 Director or prescribed by the regulations.
- (5) Except as may be provided by the regulations, an application for a licence must be accompanied by the written statement referred to in subsection (6).
- (6) The written statement is to be made by a person having knowledge of the facts stating:
 - (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.

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- (7) For the purposes of subsection (6), 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.
- (8) If, before an application for a licence is determined by the Director, 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 Director of the particulars of the change.
- Maximum penalty: 20 penalty units.

38 Investigations by Director

- (1) On receiving an application for a licence, the Director may carry out such investigations and inquiries in relation to the application as are considered by the Director to be necessary for a proper consideration of the application.
- (2) 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.
- (3) The Commissioner of Police is to inquire into, and report to the Director on, such matters concerning the application as the Director may request.

39 Director may require further information

- (1) The Director may, by notice in writing, require a person who has applied to the Director 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 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 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),

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- (d) furnish to the Director such authorities 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 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 Director may refuse to determine an application if a requirement made under this section in relation to the application is not complied with.

40 Submissions in relation to licence applications

- (1) Any person may, subject to and in accordance with the regulations, make a submission to the Director in relation to an application for a licence.
- (2) If any such submission is made to the Director, the Director is to take the submission into consideration before deciding whether or not to grant the licence. However, the Director is only required to consider submissions that relate to issues or matters that have not been addressed by a social impact assessment under Division 2.

41 Granting of licences

- (1) The Director may, after considering an application for a licence and any submissions received by the Director in relation to the application, grant the licence or refuse to grant the licence.
- (2) A fee prescribed by, or determined in accordance with, the regulations is payable in respect of the granting of a licence.
- (3) A licence is to be in the form approved by the Director.
- (4) The Director must not grant a licence unless the Director is satisfied that:
 - (a) the applicant is a fit and proper person to carry on the business or activity to which the 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.
- (5) In addition to the matters specified in this Division in relation to the granting of licences, the regulations may provide mandatory or discretionary grounds for refusing the granting of a licence.

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42 Application of Division

This Division does not apply in relation to special event licences.

Division 2 Social impact assessment process for licence and other relevant applications

43 Application of Division

- (1) This Division applies to an application for any type of licence other than a special event licence.
- (2) This Division also applies to the following applications:
 - (a) an application for the endorsement of a drink on-premises authority on a producer/wholesaler licence that is held by a person who carries on business as a wine producer,
 - (b) an application for the endorsement of a dine-or-drink authority on:
 - (i) an on-premises licence relating to a restaurant, or
 - (ii) an on-premises licence relating to accommodation premises that include a restaurant,
 - (c) an application for an extended trading authority (or for any other extension of the trading hours of any licensed premises that will result in trading hours after midnight) unless the extension relates to a special event or occasion on a specified date,
 - (d) an application for the removal of a licence under Division 4,
 - (e) an application to change the boundaries of licensed premises under section 82.
- (3) Any such application to which this Division applies is referred to in this Division as a ***relevant application***.
- (4) A reference in this Division to the premises to which a relevant application relates is:
 - (a) in the case of the removal of a licence, a reference to the premises to which, if the application were granted, the licence would be removed, and
 - (b) in the case of a boundary change under section 82, a reference to the premises to which, if the application were granted, the licence would apply.
- (5) The regulations may provide exemptions from this Division.

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44 Social impact assessment required before relevant application may be granted

- (1) A relevant application may not be granted unless:
 - (a) a social impact assessment has been provided to the Director in connection with the application, and
 - (b) the Director has approved the social impact assessment.
- (2) A social impact assessment must comply with this Division and the regulations.
- (3) A social impact assessment provided to the Director must be accompanied by such fee as may be prescribed by the regulations.
- (4) A social impact assessment may be provided before the relevant application to which it relates is made.

45 Requirements in relation to social impact assessments

The regulations may make provision for or with respect to the following:

- (a) the requirements that must be satisfied in connection with a social impact assessment (including the advertising of social impact assessments),
- (b) the matters to be assessed or addressed by a social impact assessment,
- (c) the information to be provided by a social impact assessment.

46 Approval of social impact assessment

- (1) The Director may approve a social impact assessment that is provided in connection with a relevant application only if the Director is satisfied that:
 - (a) the social impact assessment complies with this Division and the regulations, and
 - (b) the overall social impact of the application being granted by the Director will not be detrimental to the local community or to the broader community.
- (2) The Director's approval of a social impact assessment is subject to such conditions as may be imposed by the Director. Any such conditions may be varied or revoked by the Director.
- (3) If, in determining a social impact assessment, the Director incurs any costs that are not covered by the fee referred to in section 44 (3), the applicant is liable to meet those costs. The Director may refuse to determine the social impact assessment until any such costs are paid or

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provision, to the Director's satisfaction, has been made for their payment.

- (4) The Minister may issue written guidelines (*SIA guidelines*) from time to time to the Director in relation to the following matters:
- (a) the factors that are to be taken into account by the Director in determining a social impact assessment,
 - (b) the criteria for determining the local community and the broader community for the purposes of subsection (1) (b),
 - (c) the manner in which the Director is to exercise the Director's functions in relation to a social impact assessment,
 - (d) the appropriate form for a social impact assessment,
 - (e) the time within which the Director is to determine a social impact assessment.
- (5) In exercising his or her functions under this Division, the Director is subject to the SIA guidelines.

Division 3 Additional authorisations

47 Extended trading authority

- (1) This section applies in relation to the following:
- (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 producer/wholesaler licence that is endorsed with a drink on-premises authority.
- (2) The Director may, on application by a licensee, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, beyond the standard trading period:
- (a) on a regular basis (until such time as the authority is varied or revoked by the Director), or
 - (b) on a special occasion on a specified date.
- (3) In granting an extended trading authority, the Director is to specify:
- (a) the extended trading period during which the licensee is authorised to sell or supply liquor, and
 - (b) the part or parts of the licensed premises to which the authority applies.

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- (4) An extended trading authority may not be granted to authorise the sale or supply of liquor on licensed premises between midnight and 5 am on any day immediately following a restricted trading day.
- (5) The Director must not grant an extended trading authority in respect of licensed premises unless the Director 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.
- (6) For the purposes of subsection (2) (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.

48 Dine-or-drink authority for licensed restaurants

- (1) The Director may, on application:
 - (a) by the holder of an on-premises licence relating to a restaurant, or
 - (b) by the holder of an on-premises licence relating to accommodation premises that include a restaurant authorised by the Director,endorse the licence with an authority (referred to as a *dine-or-drink authority*) relating to the sale, supply and consumption of liquor on the licensed premises.
- (2) A dine-or-drink authority:
 - (a) authorises liquor to be sold or supplied on the licensed premises for consumption, otherwise than with or as ancillary to a meal consumed at a table in the licensed premises, at no more than 30% of the seated dining positions available in the premises at any time, and
 - (b) does not affect the sale, supply or consumption of liquor in the reception area (if any) of the premises.
- (3) The conditions applying to a dine-or-drink authority may (without limitation) do any or all of the following:
 - (a) reduce the percentage referred to in subsection (2),

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- (b) specify the maximum number of seated dining positions that are to be available for the consumption of liquor as referred to in that subsection,
 - (c) prohibit advertising of the restaurant that is inconsistent with the primary purpose of the licensed premises,
 - (d) prohibit entertainment on the licensed premises that is inconsistent with that primary purpose (including for example entertainment in the nature of pool tables or amusement devices such as pinball machines).
- (4) It is a condition of a dine-or-drink authority that the maximum number of patrons permitted on the licensed premises to which the authority relates is not to exceed the number of available seated dining positions together with the number of persons allowed by or under this Act in the reception area (if any) of the premises.
- (5) In this section:
- (a) a reference to licensed premises is, in the case of an on-premises licence relating to accommodation premises, a reference to that part only of the premises comprising a restaurant that is open to the public, and
 - (b) a reference to a seated dining position is a reference to a seated position at a table, being a position at which a meal can reasonably and comfortably be consumed.

49 Drink on-premises authority for licensed wine producers

- (1) The Director may, on application by the holder of a producer/wholesaler licence who carries on business as a wine producer, endorse the licence with an authority (referred to as a *drink on-premises authority*) relating to the sale, supply and consumption of liquor on the licensed premises.
- (2) A drink on-premises authority authorises the licensee to sell the licensee's wine (as referred to in section 29 (3)) by retail on the licensed premises, for consumption on the licensed premises only:
- (a) on any day of the week other than a restricted trading day—during the standard trading period or such other period as may be authorised by an extended trading authority, and
 - (b) on a day that is 31 December—from the start of the standard trading period on that day until 2 am on the next succeeding day, but only in a restaurant that is part of the licensed premises, and
 - (c) on a restricted trading day—from 10 am to midnight, but only in a restaurant that is part of the licensed premises.

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Division 4 Licence removals

50 Removal of licence to other premises

- (1) A licensee may apply to the Director for the removal of the licence to premises other than those specified in the licence.
- (2) An application for the removal of a licence to other premises must:
 - (a) be in the form and manner approved by the Director, and
 - (b) be accompanied by the fee prescribed by the regulations.
- (3) An application for the removal of a licence to premises is to be dealt with and determined by the Director 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.
- (4) Without limiting the grounds on which the Director may refuse an application for the removal of a licence, the Director may refuse such an application if the Director considers that the licence removal would adversely affect the interest of the owner or a lessee or mortgagee of the premises from which it is proposed to remove the licence, or a sublessee from a lessee or sublessee of those premises.
- (5) The Director must refuse an application for the removal of a licence unless the Director 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 the granting of an application for the removal of a licence.
- (7) The granting of an application for the removal of a licence to other premises takes effect:
 - (a) on payment to the Director of the fee prescribed by the regulations, and
 - (b) when the Director endorses the licence to the effect that those other premises are the premises to which the licence relates.
- (8) This section does not apply in relation to special event licences.

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Division 5 Licence transfers

51 Transfer of licence

- (1) The Director may, on application by a licensee, approve the transfer of the licence to another person who, in the opinion of the Director, would be entitled to apply for the same kind of licence in relation to the licensed premises.
- (2) An application for the transfer of a licence to another person must:
 - (a) be in the form and manner approved by the Director, 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 Director or prescribed by the regulations.
- (3) An application for the transfer of a licence to another person is to be dealt with and determined by the Director as if it were an application for the granting of a licence to that person. Accordingly, the provisions of Division 1, in particular, extend to an application for the transfer of a licence to another person.
- (4) 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 the transfer of 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—by the chief executive officer of the authority.
- (5) A club licence may be transferred to another club only if the Director is satisfied that the requirements of Division 1A of Part 2 (Provisions relating to club amalgamations) of the *Clubs Management Act 1976* have been complied with in relation to the transfer.
- (6) The Director may provisionally approve the transfer of a licence to another person if the Director is satisfied that:
 - (a) there is nothing that would preclude the Director from approving the transfer of a licence, and

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- (b) the circumstances of the case justify giving the approval on a provisional basis.
- (7) A provisional approval of the transfer of a licence is sufficient authority for the transfer of the licence. Any such provisional approval ceases to have effect, however, unless it is confirmed by the Director before the end of the period specified by the Director when provisionally approving the transfer.
- (8) The Director 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.
- (9) The transfer of a licence has effect as if the licence had been granted to the transferee.
- (10) This section does not apply in relation to special event licences.

52 Application for transfer of licence on dispossession of licensee

- (1) This section applies in relation to a licence (other than a club licence or a special event licence) if:
 - (a) the licensee is evicted from the licensed premises, or
 - (b) to the exclusion of the licensee, the owner of the licensed premises comes into, or becomes entitled to, possession of the licensed premises.
- (2) An application for a transfer of the licence may be made by the owner of the licensed premises or by a person who is interested in the exercise of the licence.
- (3) If the owner of the licensed premises or a person who is interested in the exercise of the licence comes into possession of the premises, the owner or person 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 Director, taken to be the licensee under the licence to which the application relates.

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- (5) The Director is not to determine an application for the transfer of a licence under this section unless:
- (a) the Director is satisfied:
 - (i) that notice of the application was given to the dispossessed licensee at least 3 clear days before the Director determines the application, or
 - (ii) that all reasonable steps necessary for giving notice in accordance with subparagraph (i) were taken by or on behalf of the applicant and that failure to give the notice was not due to any neglect or default of the applicant or of any person employed by the applicant for the purpose of giving notice, and
 - (b) all financially interested parties have 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 Director has taken any such submissions into consideration.
- (6) Section 51 (2), (6), (7) and (9) apply in relation to an application for the transfer of a licence under this section.

53 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 Director 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 Director 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),

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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 Director is notified immediately that the business is being so carried on, and
 - (b) an application is made to the Director 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 Director is notified immediately that the business of the licensee is being so carried on, and
 - (b) an application is made to the Director 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.

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

- (1) The Director may grant an application under section 53 if the Director 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) If, following the death of a licensee, the Director is so satisfied in relation to more than one such person, the Director may grant the application of such one of them as the Director thinks fit.
- (3) The granting of an application under section 53 takes effect with respect to a licence when the Director endorses the licence accordingly.
- (4) A person whose name is endorsed on a licence under subsection (3) is, while the endorsement has effect, taken to be the licensee.

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- (5) An endorsement of a licence under subsection (3) does not have effect for a period of more than one year unless the Director allows an additional period, or additional periods, on application made before expiration of the period sought to be extended.

55 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 immediately apply to the Director for the transfer of the licence to the executor or administrator, or to a person nominated by the executor or administrator, as transferee.
- (2) A trustee referred to in section 53 (4) who holds office in relation to the business of a licensee may apply under section 51 as transferor for the transfer of the licence to a person nominated by the trustee.
- (3) If section 53 (5) applies in relation to a licensee, the Protective Commissioner may apply under section 51 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 54 ceases to have effect.

Division 6 Miscellaneous provisions

56 General provisions applying to authorisations granted by Director

- (1) This section applies to the following (referred to as an *authorisation* in this section):
- (a) a dine-or-drink authority,
 - (b) an extended trading authority,
 - (c) a drink on-premises authority,
 - (d) any other authorisation that may be granted by the Director under Part 3,
 - (e) a minors area authority,
 - (f) a minors functions authority.
- (2) An application for an authorisation must:
- (a) be in the form and manner approved by the Director, and
 - (b) be accompanied by the fee 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 Director or prescribed by the regulations.

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- (3) In determining an application for an authorisation, the Director has the same powers in relation to the application as the Director has in relation to an application for a licence.
- (4) If, before an application for an authorisation is determined by the Director, 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 Director 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 Director in relation to an application for an authorisation.
- (6) If any such submission is made to the Director, the Director is to take the submission into consideration before deciding whether or not to grant the authorisation. However, the Director is only required to consider submissions that relate to issues or matters that have not been addressed by a social impact assessment under Division 2.
- (7) A fee prescribed by, or determined in accordance with, the regulations is payable in respect of the granting of an authorisation.
- (8) An authorisation:
 - (a) is subject to such conditions:
 - (i) as are imposed by the Director (whether at the time the authorisation is granted or at a later time), or
 - (ii) as are imposed by this Act or as are prescribed by the regulations, and
 - (b) may be varied or revoked by the Director on the Director's own motion or on application by the licensee or the Commissioner of Police.
- (9) 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 Director) must be accompanied by the fee prescribed by the regulations.
- (10) An authorisation has effect only while all the conditions to which it is subject are being complied with.
- (11) The Director 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 Director has:
 - (a) given the licensee to whom the authorisation relates a reasonable opportunity to make submissions in relation to the proposed decision, and

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(b) taken those submissions into consideration before making the decision.

(12) Nothing in this section authorises 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.

57 Special licence conditions imposed by Director

- (1) The Director 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) The Director may impose conditions on a licence authorising or 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) The Director may impose conditions on a licence requiring the licensee to participate in, and to comply with, a local liquor accord.
- (4) The Director may vary or revoke a condition of a licence imposed by the Director (whether under this section or any other provision of this Act):
 - (a) at any time on the application of the licensee or the Commissioner of Police, or
 - (b) at any time on the Director's own motion.
- (5) Any such application by a licensee to vary or revoke a condition imposed by the Director must be accompanied by the fee prescribed by the regulations.
- (6) The Director must not impose a condition on a licence after it has been granted, or vary or revoke a condition that has been imposed by the Director, unless the Director has:
 - (a) given the licensee a reasonable opportunity to make submissions in relation to the proposed decision, and
 - (b) taken those submissions into consideration before making the decision.

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58 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 Director 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 Director under this section may be provided by the interested person.
- (4) This section does not apply in relation to limited licences.

59 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 a form approved by the Director.
- (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,

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- (c) any incident that results in a person being turned out of the licensed premises under section 72,
 - (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.

60 Director may establish administrative policies and procedures in relation to licensing matters

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

61 Courses of instruction

- (1) The Director may require an applicant or class of applicants for such kinds of licences as the Director determines to attend a course of training or instruction approved by the Director.
- (2) An application for a licence may not be granted unless the applicant has, if required to attend any such course of training or instruction, completed the course to the standard required by the Director.

62 Annual fee for licences

- (1) A fee prescribed by, or determined in accordance with, the regulations is payable in respect of a licence.
- (2) The fee must be paid within the period of 21 days after 31 July in each calendar year for which the licence is in force. The licence is automatically cancelled if the fee is not paid within that 21-day period.
- (3) The regulations may provide for exemptions with respect to the payment of fees under this section.
- (4) An application may be made to the Director for the reinstatement of a licence that has been cancelled by the operation of this section. An application for reinstatement of a licence may only be made within 2 months after the cancellation of the licence and must be accompanied by the fee prescribed by the regulations.
- (5) The Director may reinstate the licence if satisfied:
 - (a) that the unpaid fee that resulted in the cancellation of the licence has since been paid, and

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- (b) that there is a reasonable explanation for the failure to pay the fee that resulted in cancellation of the licence.

63 Duration of licences

- (1) Except during any period of suspension, a licence continues in force until such time as it is surrendered to the Director, 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 Director.

Division 7 Special provisions relating to corporate licensees

64 Application of Division

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

65 Appointment of managers

- (1) A licensee (other than a licensed club):
- (a) must appoint a manager approved by the Director 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 14 days except under the personal supervision and management of a person so approved.

Maximum penalty: 50 penalty units.

- (2) A licensed club that has more than one set of premises:
- (a) must appoint a different manager, approved by the Director 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 14 days except under the management of a person so approved.

Maximum penalty: 50 penalty units.

- (3) Subsection (2) does not apply to a licensed 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 the

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- 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 licensed 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 Director, but only if an application for the approval of the person to manage licensed premises has been made under section 67.
- (5) A person's authorisation to be appointed under subsection (4) to act as manager of club premises expires on the determination by the Director 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).

66 Restrictions on who may be appointed as manager

- (1) The following provisions apply to the appointment 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 Director 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 licensed club referred to in section 65 (3).
- (3) Subject to section 65 (4), an appointment in contravention of this section is void for the purposes of this Act.

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67 Approval of persons to manage licensed premises

- (1) An application for the Director's approval of a person to manage licensed premises must be in the form approved by the Director and be accompanied by the fee prescribed by the regulations.
- (2) The Director may grant any such application or may refuse to grant the application.
- (3) In determining an application for approval of a person to manage licensed premises, the Director has the same powers in relation to the application as the Director has in relation to an application for a licence.
- (4) The Director's approval may not be given unless the Director 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 liquor and the prevention of intoxication, and
 - (c) if the Director has required the person to attend a course of training or instruction approved by the Director—has completed the course to the standard required by the Director.
- (5) If the Director is satisfied that there is nothing that might preclude the Director from approving of the person to manage licensed premises, but requires more information before making a final decision, the Director 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 68, as manager of the licensed premises until such time as the Director 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 Director thinks fit.

68 Notice of appointments

- (1) A licensee must give the Director 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 Director notice of the appointment as required by this section, accompanied by the declaration referred to in subsection (5) (b).

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- (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 Director notice of the manager's ceasing to act as manager.
- (4) A notice of appointment of or of ceasing to act as manager 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 Director, and
 - (b) must be accompanied by a declaration in writing, in a form approved by the Director, 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 liquor, and the prevention of intoxication, on the premises).
- (6) In any proceedings in which the question of whether notice was given to the Director 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.

69 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 80 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.

70 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.

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- (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.

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Division 1 Conduct on or in relation to licensed premises

71 Measures to prevent excessive consumption of alcohol on licensed premises

- (1) A licensee must not permit intoxication, or any indecent, violent or quarrelsome conduct, on the licensed premises.
Maximum penalty: 50 penalty units or, if an increased maximum penalty applies in relation to the offence, 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 any person who is at the time in a state of intoxication.
Maximum penalty: 50 penalty units or, if an increased maximum penalty applies in relation to the offence, 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 any person who is at the time in a state of intoxication.
Maximum penalty: 10 penalty units.
- (4) If a person is intoxicated 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) This section does not apply in relation to private domestic premises except for the purposes of subsection (2).

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72 Exclusion of persons from licensed premises

- (1) A licensee or an employee or agent of a licensee may refuse to admit to the licensed premises and may turn out, or cause to be turned out, of the 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 licensee or employee suspects of being a prohibited plant or a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*, or
 - (e) whom the licensee, under the conditions of the licence or according to a term (of the kind referred to in section 118) of a local liquor accord, is authorised or required to refuse access to the licensed premises.
- (2) If, under subsection (1), a person has been refused admission to, or has been turned out of, licensed premises, the licensee or employee or agent of the licensee may, at any subsequent time or from time to time, refuse to admit that person into the licensed premises or may turn the person out, or cause the person to be turned out, of the licensed premises.
- (3) If a person to whom a licensee is, under subsection (1) or (2), entitled to refuse admission to the licensed premises is on the premises, the person must, on being required so to do by the licensee, an employee or agent of the licensee or a police officer, leave the premises.

Maximum penalty: 50 penalty units.
- (4) For the purposes of subsection (1) or (2), such reasonable degree of force as may be necessary may be used to turn a person out of licensed premises.
- (5) If a police officer is requested by a licensee or an employee or agent of the licensee to turn out, or to assist in turning out, of the licensed premises a person whom the licensee is entitled under subsection (1) or (2) to turn out of the premises, it is the duty of the police officer to comply with the request and the officer may, for that purpose, use such reasonable degree of force as may be necessary.
- (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

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attempt to re-enter the premises within 12 hours of being refused admission or being turned out.

Maximum penalty: 50 penalty units.

(7) After the 12-hour period ends in relation to any such person, the licensee or employee or agent of the licensee is not prevented from exercising the powers under subsection (2) 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 this section:

employee includes, in the case of a licensed 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.

73 Quiet and good order of neighbourhood

(1) If a written complaint is made to the Director of undue disturbance of the quiet and good order of the neighbourhood of licensed premises caused by:

- (a) the manner in which the business of the licensed premises is conducted, or
- (b) the behaviour of persons after they have left the licensed premises, or
- (c) the manner in which the business of the licensed premises is conducted and the behaviour of persons after they have left the licensed premises,

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the Director may convene a conference to hear submissions relating to the complaint.

- (2) A complaint under this section must be made or verified by statutory declaration.
- (3) A complaint under this section can be made only by:
 - (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, or
 - (b) the Commissioner of Police, or
 - (c) a person authorised by the local consent authority in relation to the licensed premises, or
 - (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) A conference may relate to more than one complaint.
- (6) 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.
- (7) Any licensed premises to which a conference is extended as referred to in subsection (6) is, for the purposes of this section, taken to be the subject of a complaint made under subsection (1).
- (8) Notice of the time and place for the conference is to be given to all complainants and the licensee or licensees as specified by the Director.
- (9) The conference is to be presided over by the Director and the procedure at the conference is to be determined by the Director.
- (10) The Director may, after giving each complainant present and the licensee (if present) a reasonable opportunity to be heard in relation to the complaint:
 - (a) impose, vary or revoke conditions of the licence, or

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- (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.
- (11) 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.
- (12) The Director is to take the following matters into consideration before making a decision under subsection (10):
- (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,
 - (c) any changes in the activities conducted on the licensed premises over a period of time.
- (13) For the purposes of subsection (12), **complainant** does not include a person referred to in subsection (3) (b) or (c).
- (14) Procedure at the conference is to be determined by the Director.
- (15) In the application of this section 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.

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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 within the meaning of the *Drug Misuse and Trafficking Act 1985*.

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 within the meaning of the *Drug Misuse and Trafficking Act 1985*.

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 or person suspects of being stolen, or
- (b) any substance that the employee or person suspects of being a prohibited plant or a prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*.

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 within the meaning of the *Drug Misuse and Trafficking Act 1985*.

Maximum penalty: 50 penalty units.

Division 2 Closure orders

75 Order by authorised officer for short-term closure of licensed premises

- (1) An authorised officer 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 may only make an order under this section:
- (a) on the application of the Commissioner of Police, and

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- (b) only if the authorised officer 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.

76 Urgent application for short-term closure order

- (1) An application under section 75 may be made by telephone.
- (2) An authorised officer must not issue an order under section 75 on an application made by telephone unless the officer 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 who issues an order under section 75 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.

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- (5) If an order under section 75 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 under subsection (4), and
 - (b) write on the form the name of the authorised officer 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 75.
- (7) An order under section 75 issued on an application made by telephone is to be furnished by an authorised officer 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.

77 Order by Liquor and Gaming Court for closure of licensed premises

- (1) The Liquor and Gaming Court 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 Liquor and Gaming Court may not make an order under this section unless:
- (a) the licensee or manager of the premises is the subject of an investigation by the Director under section 121 or an investigation by the police, or the licensed premises are the subject of a complaint under section 73, or disciplinary action under Part 8 has been (or is proposed to be) taken 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 an opportunity to appear before the Court and be heard in relation to the application, and
 - (c) the Court 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.

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- (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 (subsection (7)): 50 penalty units or imprisonment for 6 months, or both.

78 Further closure orders

- (1) The Liquor and Gaming Court may grant 2 or more orders in respect of premises under section 77.
- (2) An application for another order may be made, and determined, before the end of a current order.

79 Breach of the peace

- (1) A Local Court or the Liquor and Gaming 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.

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Division 3 General provisions relating to licensed premises

80 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.

81 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 consent of the Director, 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 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 consent of the Director.
- (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, 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 consent of the Director, 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.

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82 Boundaries of licensed premises

- (1) The boundaries of licensed premises are to be specified by the Director when the licence is granted.
- (2) The specified boundaries of any licensed premises may be changed by the Director on the Director's own motion or on the application of:
 - (a) the owner of the premises, or
 - (b) the licensee,so long as each part of the licensed premises, as so changed, is contiguous with the other parts of the premises.
- (3) Any change in the specified boundaries of licensed premises under this section does not take effect until the fee prescribed by the regulations has been paid.
- (4) The Director must not specify or change the boundaries of any licensed premises unless the Director is of the opinion that any primary purpose requirement under this Act in relation to the licensed premises is or will be complied with.

83 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:
 - (a) the Director has approved in writing of the proposed new name, and
 - (b) the Director has endorsed the change of name on the licence.Maximum penalty: 5 penalty units.
- (3) The Director 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

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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 forms part, or
 - (b) it is a name that the Director 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.
- (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, an on-premises licence that relates to a catering service or a special event licence.

84 Temporary premises

- (1) If any licensed premises are, for any reason, rendered unfit for the carrying on of business on the premises, the Director 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 Director or on some neighbouring premises approved by the Director.
- (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 Director on application by the licensee before the expiration of the period sought to be extended).

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- (3) An application under this section must be accompanied by the fee prescribed by the regulations.

85 Breath analysis equipment

- (1) Evidence of the results of a test indicating the presence or concentration of alcohol in the 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) 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 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.

86 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 authority relates, enter

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and remain on the licensed premises at such times as are reasonably necessary for that purpose.

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Part 6 Miscellaneous offences and regulatory controls

Part 6 Miscellaneous offences and regulatory controls

Division 1 General

87 Responsible service of alcohol

- (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 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.
- (3) Without limiting subsection (2) (b), 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.
- (4) The regulations under this section can create offences punishable by a penalty not exceeding 50 penalty units.

88 Sale of 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.
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 designs, names, motifs or characters on the packaging of the liquor products are indecent or offensive, or

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- (b) the designs, names, motifs or characters on the packaging of the liquor products are of such a kind that the products are, or are likely to be, attractive to minors, or
 - (c) the products are likely, for any reason, to be confused with soft drinks or confectionery, or
 - (d) the products, for any other reason, have or are likely to have a special appeal to minors.
- (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).

89 Director may prohibit undesirable promotion of liquor

- (1) The Director may, by order in writing served on a licensee, prohibit the licensee from carrying on or being involved in an activity involving the promotion of liquor described in the order if the Director considers:
- (a) that the promotion:
 - (i) 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
 - (ii) is indecent or offensive, and
 - (b) that it is desirable in the public interest to prohibit the carrying on of or involvement in the activity.
- (2) Before making an order under this section, the Director must have regard to any relevant guidelines concerning the making of orders or the promotion of liquor approved by the Minister for the purposes of this section.
- (3) A licensee who, without reasonable excuse, fails to comply with an order under this section is guilty of an offence.
Maximum penalty: 50 penalty units.

90 Closing of restricted areas and certain other 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 on a specified part of the hotel,

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close and keep closed to the public every restricted area of the hotel, and every other part of the hotel in which liquor is ordinarily sold or supplied to the public, except a restricted 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 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.

91 Person in restricted area or certain other areas of hotel outside trading hours

- (1) A person must not be in a restricted 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:

- (a) later than 30 minutes after the commencement of any period on that day when the restricted 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 restricted area or other part of the hotel for a lawful purpose.

- (3) A police officer:

- (a) may require a person who is in a restricted 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 restricted area of a hotel or other part of a hotel in contravention of subsection (1), the hotelier is guilty of an offence unless:

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- (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.

92 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) Despite subsection (1):

- (a) a licensee or an employee of a licensee, or
- (b) a resident of any licensed premises on which liquor may be sold or supplied for consumption away from the premises,

may, at any time, carry away from the licensed premises liquor that is reasonably required for consumption by the licensee, employee or resident on the day on which the liquor is carried away.

- (3) Subsection (1) does not apply in relation to a minor.

Note. Section 102 (1) (d) makes it an offence for a minor to carry liquor away from licensed premises.

93 Delivery of liquor from unlicensed premises

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, on or from premises that are not licensed premises.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

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94 Production of licence on licensed premises

- (1) A responsible person for licensed premises must, if requested to do so by a police officer or special 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).

95 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 16 (1) or 19 (b).

96 Misrepresentation or misdescription of credit transactions

A responsible person for licensed premises must not, in any transaction involving a payment to the licensed premises by means of a credit facility provided by a financial institution, 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.

97 Falsely indicating that premises are licensed

A person must not, by means of a notice, sign or otherwise, indicate:

- (a) that premises are licensed premises, or are licensed premises under a particular kind of licence, if the premises are not such licensed premises, or
- (b) that a person is authorised under a licence to sell or supply liquor if the person is not so authorised.

Maximum penalty: 50 penalty units.

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98 Carrying away of liquor 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 the liquor was in the person's possession when the person entered the 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 any licensed accommodation premises):
 - (a) the liquor is wine, and
 - (b) the wine was purchased in a bottle or other container at the restaurant and was partly consumed at the restaurant, and
 - (c) the bottle or container is re-corked or otherwise resealed before being carried away.
- (4) A person does not commit an offence under subsection (1) if, in the case of a licensed bed and breakfast establishment:
 - (a) the liquor has been supplied as part of a meal for consumption away from the bed and breakfast establishment, and
 - (b) the volume of liquor so supplied to any one person on any one day does not exceed 2 litres.

99 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
- (b) is a guest of a resident of the premises, or
- (c) is intending to eat, or has eaten, a meal on the premises, or
- (d) is attending a function on the premises, or
- (e) is an employee or agent of the licensee, or
- (f) in the case of licensed premises within a university—is a member, or the invited guest of a member, of the union, association, club or organisation that occupies the premises.

Maximum penalty: 5 penalty units.

100 Carrying liquor for sale

- (1) A person must not:
 - (a) carry liquor about for the purpose of sale, or

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(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.

Division 2 Underage drinking

101 Sale or supply of liquor to minors

(1) A person must not sell or supply liquor to a minor unless:

(a) the person is the parent or guardian of the minor or is authorised by the parent or guardian to sell or supply liquor to the minor, and

(b) the sale or supply takes place other than on licensed premises.

Maximum penalty: 50 penalty units or, if an increased maximum penalty applies in relation to the offence, 100 penalty units or 12 months imprisonment (or both).

(2) A licensee must not allow:

(a) liquor to be sold to a minor on the licensed premises, or

(b) liquor to be supplied to a minor on the licensed premises unless the liquor is supplied by the parent or guardian of the minor.

Maximum penalty: 50 penalty units or, if an increased maximum penalty applies in relation to the offence, 100 penalty units or 12 months imprisonment (or both).

(3) A person must not obtain liquor from licensed premises for or on behalf of a minor unless the person:

(a) is the parent or guardian of the minor, or

(b) is authorised by the parent or guardian of the minor to obtain liquor for or on behalf of the minor.

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Maximum penalty: 50 penalty units or, if an increased maximum penalty applies in relation to the offence, 100 penalty units or 12 months imprisonment (or both).

- (4) A person (*the supplier*) does not commit an offence under subsection (1) or (3) if:
- (a) the person to whom the liquor is sold or supplied, or on whose behalf it is obtained, is of or above the age of 14 years, and
 - (b) the supplier is, before the liquor is sold, supplied or obtained, provided with an evidence of age document that may reasonably be accepted as applying to the person and as proving that the person is of or above the age of 18 years.
- (5) In the prosecution for an offence under this section, the burden of proving that a person was the parent or guardian of the minor concerned, or was authorised by the parent or guardian of the minor concerned, is on the person charged.
- (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 any private domestic premises.
- (7) For the purposes of this section, *supply* of liquor includes serving liquor to a person.

102 Consumption etc of liquor by minor on licensed and certain other premises

- (1) 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 authority 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) A person must not:
- (a) send a minor onto licensed premises, or
 - (b) order or request a minor to go onto 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.

103 Sale or supply of liquor by minor on licensed premises

A licensee must not cause or permit a minor to sell, supply or serve liquor on the licensed premises except with the consent of the Director.
Maximum penalty: 50 penalty units.

104 Permitting minor to consume liquor on licensed premises

If a minor is, under this Act, required to be accompanied by a responsible adult while in a hotel or community hotel or on club premises, the responsible adult who is accompanying the minor must not permit the minor to consume liquor on the licensed premises.
Maximum penalty: 30 penalty units.

105 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 and residential address, 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 and residential address, or
 - (b) without reasonable cause, 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 or a police officer.

106 Minor using 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.

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Maximum penalty: 20 penalty units.

107 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, otherwise 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 101 (1) 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 101 (1).

- (5) A licensee who, in accordance with subsection (4), is prosecuted for an offence under section 101 (1) has a defence under this subsection if it is proved that the licensee:

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- (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 101 (1) 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 a person who is authorised to sell liquor.

Division 3 Minors on licensed premises

108 Minors in hotels in company of responsible adult

- (1) The Director may, on the application by a hotelier, grant an authority (a ***minors area authority***) to enable the use by a minor of a specified part of the hotel while in the company of a responsible adult.
Note. Section 56 applies to minors area authorities.
- (2) The specified part of the hotel to which a minors area authority applies may, if the authority so provides, comprise the whole of the hotel.

109 Functions for minors in hotels

- (1) The Director may, on application by a hotelier, grant an authority (a ***minors functions authority***) to enable minors to attend a function or functions in a specified part of the hotel.

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Note. Section 56 applies to minors functions authorities.

- (2) A minors functions authority is to designate function areas (that is, each part of the hotel on which the functions concerned are permitted to be held) and access areas (that is, each part of the hotel 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).
- (3) Without limiting section 56, a minors functions authority 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 hotelier and person conducting the function must comply with any directions given by the local police or the Director 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 any function is held,
 - (e) gaming machines must not be located in the area in which any function is held and any area of the hotel in which gaming machines are located must not be accessible to any minor attending the function,
 - (f) such other conditions as may be prescribed by the regulations.
- (4) A hotelier is guilty of an offence if any conditions of a minors functions authority held by the hotelier are contravened.
Maximum penalty: 20 penalty units.
- (5) Nothing in this section prevents a minors functions authority from applying to the whole of a hotel.
- (6) For the purposes of this section, **function** includes, but is not limited to, a function as defined in section 4 (1).

110 Offences by minors being on certain licensed premises

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

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(d) enter or remain in a community hotel while the hotel is open for the sale or supply of liquor unless the minor is in the company of a responsible adult.

Maximum penalty: 20 penalty units.

(2) A minor does not commit an offence under subsection (1) if 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.

(3) A minor does not commit an offence under subsection (1) (a) or (b) if the minor:

(a) is present in the restricted 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 restricted area.

(4) A minor does not commit an offence under subsection (1) (b) if:

(a) a reception is being held in the restricted 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) if it is proved that the defendant believed on reasonable grounds that a minors functions authority was in force at the relevant time to enable minors to attend a function in a restricted area of the hotel.

111 Offences by licensees in relation to minors being on certain licensed premises

(1) If a minor:

(a) enters a restricted area of a hotel or club premises, or

(b) enters a part of a hotel to which a minors area authority is in force, but is not in the company of a responsible adult, or

(c) enters a community hotel while the hotel is open for the sale or supply of liquor, but is not in the company of a responsible adult, the licensee is guilty of an offence.

Maximum penalty: 50 penalty units.

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- (2) If a minor:
- (a) is in a restricted area of a hotel or club premises, or
 - (b) is in a part of a hotel to which a minors area authority is in force, but is not in the company of a responsible adult, or
 - (c) is in a community hotel while the hotel is open for the sale or supply of liquor, 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 restricted area, part of the hotel or club premises or the community hotel.
- 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.
- (4) A licensee does not commit an offence under this section in relation to a minor entering, or being or remaining in, a restricted area of a hotel or club premises if the minor:
- (a) is present in the restricted 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 restricted area.
- (5) A licensee does not commit an offence under this section in relation to a minor being in the restricted 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.

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Part 6 Miscellaneous offences and regulatory controls

112 Offence of leaving minor unaccompanied on licensed premises

If a minor is, under this Act, required to be accompanied by a responsible adult while in a hotel or community hotel, 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.

113 Minors must be refused entry on to licensed premises

If:

- (a) a responsible person for a hotel, community hotel or club premises 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.

114 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.

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Local liquor accords

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Part 7 Local liquor accords

115 Definitions

In this Part:

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

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

- (a) that 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) that 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.

116 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-General of the Department or the Director-General's nominee,
- (c) NSW Police (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 locality,
- (f) a community or residents' group with an interest in alcohol-related harm or the amenity of the local area,
- (g) any other person or body (or person or body belonging to a class of persons or bodies) prescribed by the regulations.

117 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 is to include the names of the parties to the accord, the name and address of the coordinator of the accord (being a party to the accord or the representative of a party), the proposed area to

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Part 7 Local liquor accords

which the accord is to apply and 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 formulated for, and apply to, all areas of the State.

118 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,
 - (ii) to maintain an incident register,
 - (iii) to install and operate closed-circuit television or any other security device,
 - (iv) to provide security staff,
 - (v) to do any other thing in order to minimise alcohol-related harm that may be prescribed by the regulations.
- (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*.

119 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.

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Local liquor accords

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- (2) The Commissioner of Police and the Director in approving a local liquor accord 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 motion 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.

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Part 8 Disciplinary action

Part 8 Disciplinary action

Division 1 Preliminary

120 Interpretation

In this Part:

- (a) a reference to a licensee includes a reference to a former licensee, and
- (b) a reference to a manager includes a reference to a former manager, and
- (c) a reference 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.

121 Director may carry out inquiries and investigations

- (1) The Director may carry out such investigations and inquiries as the Director considers to be necessary for the purposes of deciding whether or not:
 - (a) to take disciplinary action against or in relation to a licensee, manager or non-proprietary association under Division 2, or
 - (b) to refer a disciplinary matter to the Liquor and Gaming Court under Division 3.
- (2) The Commissioner of Police is to inquire into, and report to the Director on, such matters as the Director may request concerning the licensee, manager, close associate, non-proprietary association or other person to whom or to which the disciplinary action or referral relates.
- (3) The Director may, by notice in writing, require a licensee, manager, close associate, non-proprietary association or other person who or which 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 is relevant to the investigation and is specified in the notice,
 - (b) produce, in accordance with directions in the notice, such records as 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),

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- (d) furnish to the Director such authorities 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.

Division 2 Disciplinary action taken by Director

122 Disciplinary action by Director (licensees and managers)

(1) Grounds for taking action

Disciplinary action may be taken by the Director against a licensee or manager on any one or more of the following grounds:

- (a) 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 of an offence prescribed by the regulations,
- (b) the licensee or manager has failed to comply with any of the conditions to which the licence is subject,
- (c) 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) the licensee or manager has failed to comply with any other requirement under this Act or the regulations relating to the licence or the licensed premises,
- (e) the licensee or manager has failed to comply with a direction or other requirement of the Director or the Commissioner or Police under this Act,
- (f) the continuation of the licence is not in the public interest,
- (g) 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),
- (h) intoxicated persons have frequently been on the licensed premises or have frequently been seen to leave those premises,
- (i) 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,
- (j) 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,

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- (k) a close associate of the licensee is not a fit and proper person to be a close associate of a licensee,
 - (l) 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 or proper person to be so interested,
 - (m) in the case of a licence held by a corporation—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,
 - (n) public entertainment has been conducted on the licensed premises otherwise than in accordance with the conditions of an approval under Part 1 of Chapter 7 of the *Local Government Act 1993* or the provisions of any regulation made under that Act,
 - (o) the licence has not been exercised in the public interest.
- (2) **Action that may be taken**
- If the Director is satisfied that any of the grounds referred to in subsection (1) apply in relation to a licensee or manager, the Director may decide not to take any action or may decide to do any one or more of the following:
- (a) suspend the licence for such period as the Director thinks fit,
 - (b) cancel the licence,
 - (c) impose a monetary penalty on the licensee or manager not exceeding 500 penalty units in the case of a corporation or 200 penalty units in the case of an individual,
 - (d) suspend or cancel any authorisation or other approval 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 Director thinks fit,
 - (g) withdraw the manager's approval to manage licensed premises,
 - (h) disqualify the manager from being the manager of licensed premises,
 - (i) give such directions as to the exercise of the licence as the Director thinks fit,
 - (j) reprimand the licensee or manager.

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123 Disciplinary action by Director (non-proprietary associations)

(1) Grounds for taking action

Disciplinary action may be taken by the Director against or in relation to a non-proprietary association on whose behalf a limited licence is held on any one or more of the following grounds:

- (a) the non-proprietary association has not exercised proper control and supervision over a function held under the authority of the limited licence,
- (b) 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.

(2) Action that may be taken

If the Director is satisfied that any of the grounds referred to in subsection (1) apply in relation to a non-proprietary association on whose behalf a limited licence is held, the Director may decide not to take any action or may decide to do any one or more of the following:

- (a) suspend or cancel the licence,
- (b) decide that a limited licence is not, for a period of not more than 3 years from the date of the order, to be granted to any person on behalf of the non-proprietary association,
- (c) reprimand the non-proprietary association,
- (d) give directions as to the conduct of functions to which the limited licence held on behalf of the non-proprietary association relates.

124 Procedure for taking disciplinary action

- (1) The Director must, before taking any disciplinary action against or in relation to a licensee, manager or non-proprietary association under this Division, notify the licensee, manager or non-proprietary association in writing of the disciplinary grounds on which the Director is proposing to take disciplinary action.
- (2) Any such notice is to invite the licensee, manager or non-proprietary association to show cause, by way of a written submission, as to why the Director should not take disciplinary action against or in relation to the licensee, manager or non-proprietary association.
- (3) The Director 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 37 (6) that accompanied the application for the licence,

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- (c) each person referred to in section 58 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,
 - (e) if the proposed disciplinary action relates to a licensee who holds a licence on behalf of a non-proprietary association (other than a licensed club)—the non-proprietary association.
- (4) The Director must also, before taking disciplinary action against or in relation to a non-proprietary association on whose behalf a limited licence is held, invite written submissions from the licensee concerned.
- (5) The Director 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.
- (6) If any written submission is made in accordance with this section, the Director must take the submission into consideration in deciding whether or not to take disciplinary action against or in relation to the licensee, manager or non-proprietary association concerned.

125 Procedure for implementing disciplinary action

- (1) If the Director decides to take disciplinary action against or in relation to a licensee, manager or non-proprietary association under this Division, the Director is required to serve on the licensee, manager or non-proprietary association a notice informing the person of the Director's decision.
- (2) The notice must include the reasons for the Director's decision.
- (3) Disciplinary action under this Division takes effect when notice of the action is given or on a later date specified in the notice.
- (4) The Director may, by serving a further notice on a licensee, manager or non-proprietary association, cancel a notice under this section before the notice takes effect.
- (5) A monetary penalty imposed by the Director under this Division may be recovered as a debt due to the Crown in a court of competent jurisdiction.
- (6) The Director is not prevented from taking disciplinary action under this Division merely because the licensee, manager or non-proprietary association concerned is subject to criminal or civil proceedings that

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relate to the same matters or incident to which the disciplinary action relates.

- (7) If a licensee is disqualified from holding a licence under this Division or Division 3, the Director, may, on application by the spouse of the licensee, a member of the family of the licensee who is of or above the age of 18 years, the owner of the licensed premises or 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 or member of the family or to some other person approved by the Director.

Division 3 Disciplinary action taken by Liquor and Gaming Court

126 Director may refer disciplinary matters to Liquor and Gaming Court

- (1) **Referral of matters relating to licensees, managers and non-proprietary associations**

If the Director is satisfied that:

- (a) any of the grounds referred to in section 122 (1) apply in relation to a licensee or manager, or
- (b) any of the grounds referred to in section 123 (1) apply in relation to a non-proprietary association,

the Director may, instead of taking disciplinary action against or in relation to the licensee, manager or non-proprietary association under Division 2, refer the matter to the Liquor and Gaming Court to be dealt with by the Court.

- (2) **Referral of matters relating to close associates of licensees**

If the Director is satisfied that any of the following grounds apply in relation to a person who is a close associate of a licensee, the Director may refer the matter to the Liquor and Gaming Court to be dealt with by the Court:

- (a) the close associate is not a fit and proper person to be a close associate of a licensee,
- (b) the Director is satisfied that any of the grounds referred to in section 122 (1) apply in relation to the licensee concerned and:
 - (i) the close associate knew, or ought reasonably to have known, that conduct of the kind to which those grounds relate was occurring or was likely to occur on the licensed premises, and

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- (ii) the close associate failed to take all reasonable steps to prevent conduct of that kind occurring on the licensed premises,
- (c) a requirement of the Director made under this Act in relation to the investigation of the close associate has not been complied with.

(3) **Referral of matters relating to other interested persons**

In deciding whether or not to take disciplinary action under Division 2 against or in relation to a licensee or a non-proprietary association on whose behalf a limited licence is held, the Director may, if satisfied that disciplinary action should be taken against a person who is interested in the business of the licensee, refer the taking of the disciplinary action against the person to the Liquor and Gaming Court. The Director may refer the matter to the Court regardless of whether the Director takes any disciplinary action under Division 2 against or in relation to the licensee or non-proprietary association.

(4) For the purposes of this Division, a person is *interested* in the business of a licensee if the person:

- (a) is named in the written statement referred to in section 37 (6) that accompanied the application for the licence, or
- (b) is a person referred to in section 58 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—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.

127 Commissioner of Police may request Liquor and Gaming Court to take disciplinary action

If the Director decides:

- (a) not to take disciplinary action against or in relation to a licensee, manager or non-proprietary association under Division 2, or
- (b) not to refer a matter to the Liquor and Gaming Court under section 126,

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the Commissioner of Police may, if satisfied that disciplinary action should be taken against or in relation to the licensee, manager, non-proprietary association, close associate or other person concerned, request the Liquor and Gaming Court to deal with the matter.

128 Disciplinary action may be taken by Liquor and Gaming Court

- (1) The Liquor and Gaming Court may deal with any matter that is referred to it under section 126 or that is the subject of a request by the Commissioner of Police under section 127 by deciding:
 - (a) to take, in accordance with this section, disciplinary action against or in relation to the licensee, manager, non-proprietary association, close associate or other person concerned, or
 - (b) to take no such action.
- (2) **Action against licensees or managers**

In the case of a disciplinary matter relating to a licensee or manager, the Liquor and Gaming Court may take any one or more of the kinds of disciplinary action that the Director may take under section 122 (2) against a licensee or manager.
- (3) Without limiting the disciplinary action that may be taken by the Liquor and Gaming Court against a licensee or manager, the Court may, if circumstances of aggravation exist in relation to the matter, order the licensee or manager to pay to the Crown 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.
- (4) **Action against non-proprietary associations**

In the case of a disciplinary matter relating to a non-proprietary association, the Liquor and Gaming Court may take any one or more of the kinds of disciplinary action that the Director may take under section 123 (2) against or in relation to a non-proprietary association.
- (5) **Action against close associates of licensees**

In the case of a disciplinary matter relating to a person who is a close associate of a licensee, the Liquor and Gaming Court may do any one or more of the following:

 - (a) reprimand the person,
 - (b) disqualify the person from being a close associate of a licensee for such period as the Court thinks fit,
 - (c) disqualify the person from holding a licence for such period as the Court thinks fit,

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- (d) order the person to pay to the Crown a monetary penalty not exceeding 500 penalty units in the case of a corporation or 200 penalty units in any other case.
- (6) While a person is disqualified by the Liquor and Gaming Court 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.
- (7) **Action against other interested persons**

In the case of a disciplinary matter relating to a person who is interested in the business of a licensee, the Liquor and Gaming Court may do any one or more of the following:

- (a) reprimand the person,
- (b) order the person to pay to the Crown a monetary penalty not exceeding 500 penalty units in the case of a corporation or 200 penalty units in any other case or, if circumstances of aggravation exist in relation to the matter, not exceeding 1,000 penalty units in the case of a corporation or 400 penalty units in the case of an individual,
- (c) disqualify, for a period commencing on a specified day, the person from being:
 - (i) a person interested in the business, or the conduct of the business, carried out on the licensed premises concerned or a person who occupies a position of authority in a corporation that holds a licence, or
 - (ii) a director of, or shareholder in, a proprietary company so interested or a corporation that, within the meaning of the *Corporations Act 2001* of the Commonwealth, is a related body corporate of such a proprietary company,

unless it is proved that the person had no knowledge of the grounds on which the disciplinary matter has been referred to the Court and used all due diligence to prevent those grounds from occurring.

- (8) **Circumstances of aggravation**

For the purposes of this section, circumstances of aggravation exist in relation to a disciplinary matter before the Liquor and Gaming Court if (and only if) each of the following paragraphs applies:

- (a) the grounds on which the disciplinary matter is based involve a contravention (or alleged contravention) of section 71 (1) or (2) or section 74,
- (b) the Director, in referring the matter to the Court, or the Commissioner, in requesting the Court to deal with the matter, alleges that for reasons specified in the referral or request the

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grounds on which the matter relates are so serious as to warrant the taking of action that is available to the Court when circumstances of aggravation exist,

- (c) the Court, in finding that the taking of disciplinary action is justified, 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 is so serious as to warrant the taking of action that is available to the Court when circumstances of aggravation exist.

129 Miscellaneous provisions relating to disciplinary matters dealt with by Liquor and Gaming Court

- (1) If the Liquor and Gaming Court deals with any disciplinary matter that is referred to it under section 126 or that is the subject of a request by the Commissioner of Police under section 127, the Director and the Commissioner of Police are entitled:
- (a) to be heard and represented in any proceedings in which the Court deals with the matter, and
 - (b) to make submissions in relation to the matter.
- (2) In dealing with any disciplinary matter that is referred to it under section 126 or that is the subject of a request by the Commissioner of Police under section 127, the Liquor and Gaming Court has, despite any other law, the following powers and discretions:
- (a) the Court may, in taking disciplinary action, take into account the deterrent effect, or punitive effect, or both, of the action,
 - (b) the Court is not required, in taking disciplinary action, to take into account any action taken by any person or body to rectify or mitigate the grounds for which the disciplinary action is taken.
- (3) If the Liquor and Gaming Court is dealing with a disciplinary matter relating to a close associate on the ground specified in section 126 (2) (b), the onus is on the close associate to satisfy the Court that the close associate took all reasonable steps to prevent conduct of the kind concerned occurring on the licensed premises.
- (4) In dealing with any disciplinary matter that is referred to it under section 126 or that is the subject of a request by the Commissioner of Police under section 127, the Liquor and Gaming Court must admit into evidence and consider any relevant findings of a court, a tribunal or a Royal Commission, the Independent Commission Against Corruption or other commission of inquiry or a coroner in any investigation, inquiry

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or other proceeding if those findings have been publicly released and are brought to the attention of the Liquor and Gaming Court.

- (5) Any monetary penalty imposed by the Liquor and Gaming Court under this Division may be registered as a judgment debt in a court of competent jurisdiction and is enforceable accordingly.

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Part 9 Enforcement powers

130 Powers of entry, inspection and seizure in relation to licensed premises

- (1) If a police officer believes on reasonable grounds:
 - (a) that unlawful or disorderly conduct is taking place on licensed premises, or
 - (b) that a contravention of this Act or the regulations has been, or is being, committed on licensed premises,the officer may, at any time of the day or night, enter the licensed premises.
- (2) If a special inspector believes on reasonable grounds that a contravention of this Act or the regulations has been, or is being, committed on licensed premises, the special inspector may, at any time of the day or night, enter the licensed premises with or without a police officer.
- (3) In exercising the power conferred by subsection (1), a police officer may, with or without assistance, break into the premises if entry is refused or unreasonably delayed (whether or not by the absence of a person able to permit entry to the premises).
- (4) A police officer or a special inspector may, at any reasonable time:
 - (a) enter and examine any part of licensed premises, and
 - (b) take an account of all liquor on the premises, and
 - (c) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act and the regulations have been, or are being, complied with, and
 - (d) having required the licensee (or any other person having them in his or her custody) to produce any registers, books, records or documents relating to the business carried on under the authority of the licence, make copies of, or take extracts from, entries in the registers, books, records or other documents.
- (5) In the exercise of a power conferred under this section, a police officer or a special inspector may:
 - (a) if the police officer or special inspector considers it necessary to do so for the purposes of obtaining evidence of the commission of an offence, seize any registers, books, records or other documents relating to the business conducted on the licensed premises, and
 - (b) require any person to answer any question relating to any such registers, books, records or other documents or any other relevant matter.

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- (6) In the application of this section to an on-premises licence, a reference to licensed premises does not include private domestic premises.
- (7) The licensee or person in charge of licensed premises must not refuse or fail to admit to the licensed premises a person requiring entrance under this section or obstruct or delay the person in the exercise of his or her powers.
Maximum penalty: 50 penalty units.
- (8) If, for the purpose of gaining access from a public place to licensed premises, it is necessary to enter any land or a building that forms part of the licensed premises, a person authorised by this section to enter the licensed premises may enter that land or building for the purposes of gaining access to the licensed premises or access from the licensed premises.

131 Search warrants in relation to unlicensed premises

- (1) A police officer or special inspector may apply to an authorised officer for a search warrant if the officer or inspector has reasonable grounds for believing that liquor has been sold, or is held for sale, on unlicensed premises.
- (2) An authorised officer to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any police officer or special inspector to enter and search the premises.
- (3) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.
- (4) A police officer or special inspector who enters any premises pursuant to a search warrant issued under this section may:
 - (a) search the premises, and
 - (b) seize any liquor that the officer or inspector finds on those premises (including the containers), and
 - (c) seize any documents that may reasonably be suspected to relate to the sale or supply of liquor.
- (5) If any liquor is seized under subsection (4), the owner of the liquor or the occupier of the premises on which it was seized may be called on to appear before a Local Court to show how and for what purpose the owner or occupier came into possession of the liquor.
- (6) The Local Court may inquire into the matter and may:

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- (a) if satisfied that the liquor was on the premises on which it was seized for the purpose of being illegally sold—order the forfeiture of the liquor (including the containers) to the Crown, or
 - (b) if not so satisfied—order the return of the liquor and the containers to the person concerned.
- (7) A Local Court may, for the purposes of this section, be constituted by a Liquor and Gaming Magistrate.

132 Dealing with seized documents

- (1) If a police officer or a special inspector seizes any document under section 130 on licensed premises, the police officer or inspector must issue the person apparently in charge of the premises with a written receipt for the document.
- (2) A police officer or special inspector may retain any document seized under section 130 until the completion of any proceedings (including proceedings on appeal) in which it may be evidence.
- (3) A document may only be retained under subsection (2) if the person from whom the document was seized is provided, within a reasonable time after the seizure, with a copy of the document certified by the police officer or special inspector as a true copy.
- (4) The copy is, as evidence, of equal validity to the document of which it is certified to be a copy.

133 Power to require information and documents

- (1) A special inspector may, by notice in writing, require a licensee or the manager of licensed premises to provide the inspector, in accordance with directions in the notice, with such information and documents as are specified in the notice and that relate to the business of the licensee.
- (2) A licensee or manager who fails to comply with a requirement of notice under this section is guilty of an offence.
Maximum penalty: 50 penalty units.
Note. The provision of false or misleading information or documents is an offence under Division 3 of Part 5 of the *Crimes Act 1900*.
- (3) If any document is provided under this section, the special inspector to whom the document is provided may retain possession of it for such period as may reasonably be necessary to permit examination of the document, the taking of extracts from the document and the making of copies of the document.
- (4) A special inspector must permit inspection of any such document, at any reasonable time during which it is retained under this section, by a

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person who would be entitled to inspect the document were it not in the possession of a special inspector.

- (5) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

134 Obstruction

A person must not hinder or obstruct a police officer or special inspector in the exercise by the officer or inspector of a function conferred on the officer or inspector by or under this Act.

Maximum penalty: 50 penalty units.

135 Forfeiture and seizure of liquor

- (1) If a person is found guilty of selling or supplying liquor in contravention of this Act, 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, along with the containers, is forfeited to the Crown.
- (2) If a person is found guilty of an offence under section 100:
- (a) any liquor to which the offence relates, along with the containers, and
 - (b) any vehicle, boat or other thing in which the liquor was being carried, offered or exposed,
- is forfeited to the Crown.
- (3) 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, along with the containers, is forfeited to the Crown.
- (4) A police officer or special inspector may seize and carry away anything that the officer or inspector reasonably suspects may be liable to forfeiture under this section.

Part 10 Legal proceedings and related matters

Division 1 Appeals

136 Appeals to Liquor and Gaming Court against certain decisions

(1) **Refusal to grant licence**

A person may appeal to the Liquor and Gaming Court against the decision of the Director to refuse to grant a licence to the person.

(2) **Appeals by licensees**

A licensee may appeal to the Liquor and Gaming Court against any of the following decisions of the Director:

- (a) to impose a condition on the licence,
- (b) to refuse to grant an authorisation under Part 3 or 4 in relation to the licence,
- (c) to refuse an application for the removal of the licence under section 50,
- (d) to refuse an application for the transfer of the licence under section 51,
- (e) to take any action against the licensee under section 73 (10),
- (f) to refuse an application to change the boundaries of the licensed premises under section 82,
- (g) to refuse to grant an application by the licensee for a minors area authority or minors functions authority.

(3) **Appeal against refusal to approve person as manager**

A person may appeal to the Liquor and Gaming Court against the decision of the Director to refuse an application for approval of the person to manage licensed premises.

(4) **Appeals against disciplinary action taken by Director**

A licensee, manager or non-proprietary association on whose behalf a limited licence is held may appeal to the Liquor and Gaming Court against the decision of the Director to take any disciplinary action under Division 2 of Part 8 against or in relation to the licensee, manager or non-proprietary association.

(5) **Appeals by Commissioner of Police**

The Commissioner of Police may appeal to the Liquor and Gaming Court against any of the following decisions of the Director:

- (a) to grant a licence to a person,

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- (b) to grant an authorisation under Part 3 or 4 in relation to a licence,
- (c) to refuse to vary or revoke a condition of a licence on application by the Commissioner under section 57 (4) (a),
- (d) to grant an application for the removal of a licence under section 50,
- (e) to transfer a licence under section 51 or 52,
- (f) to grant an application for endorsement of a licence under section 54,
- (g) a decision under section 73 (10) in relation to a complaint made by any person under that section,
- (h) to approve of a person to manage licensed premises,
- (i) to change the boundaries of licensed premises under section 82,
- (j) to take disciplinary action, or to fail to take disciplinary action, under Division 2 of Part 8 against or in relation to a licensee, manager or non-proprietary association on whose behalf a limited licence is held.

(6) Appeals by complainants in relation to noise complaints

A person (other than the Commissioner of Police) who has made a complaint under section 73 may appeal to the Liquor and Gaming Court against a decision of the Director under section 73 (10) in relation to the complaint.

(7) Appeals in relation to applications for licence transfers following dispossession of licensee

A person may appeal to the Liquor and Gaming Court against the decision of the Director to refuse to grant an application for the transfer of a licence to the person under section 52.

(8) Appeals in relation to applications for endorsement of licence following death, bankruptcy etc of licensee

A person who has made an application under section 53 for endorsement of a licence may appeal to the Liquor and Gaming Court against the decision of the Director to refuse to grant the application.

137 Determination of appeal

The Liquor and Gaming Court may do any of the following in respect of an appeal under section 136:

- (a) dismiss the appeal,
- (b) confirm the decision appealed against or vary the decision by substituting any decision that could have been made by the Director,

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- (c) refer any matter relating to the decision appealed against to the Director (in accordance with directions given by the Court),
- (d) make such other orders in relation to the disposal of the appeal as the Court thinks fit.

138 Provisions relating to appeals to Liquor and Gaming Court

- (1) Appeals under section 136 are to be made in accordance with the regulations.
- (2) The regulations may make provision for or with respect to appeals under section 136 and, in particular, for or with respect to:
 - (a) the procedures to be followed at or in connection with appeals, and
 - (b) the suspension of a decision appealed against pending the determination of the appeal, and
 - (c) the payment of fees in respect of appeals, and
 - (d) any matters incidental to or connected with appeals.

139 Appeal to Supreme Court on question of law against decision of Liquor and Gaming Court

- (1) A person who is aggrieved by any decision of the Liquor and Gaming Court under this Act may, in accordance with the rules of court of the Supreme Court, appeal against the decision to the Supreme Court on a question of law.
- (2) On the determination of an appeal under subsection (1), the Supreme Court may:
 - (a) remit the matter to the Liquor and Gaming Court for determination in accordance with the decision of the Supreme Court, or
 - (b) make such other order in relation to the appeal as it thinks fit.

140 Review of disqualification of more than 3 years

- (1) A person may, in accordance with the regulations, apply to the Liquor and Gaming Court for removal of a disqualification of more than 3 years imposed under Part 8 or section 144.
- (2) On application being made for the removal of a disqualification, the Liquor and Gaming Court 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.

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- (3) This section does not affect any right of appeal that a person might have under section 136 against the original decision to disqualify the person.

Division 2 General provisions

141 Proceedings for offences

- (1) Proceedings for an offence under this Act or the regulations are to be dealt with summarily by a Local Court.
- (2) Without limiting subsection (1), a Local Court may, for the purposes of dealing with an offence under this Act or the regulations, be constituted by a Liquor and Gaming Magistrate.

142 Time for instituting proceedings for offences

- (1) Except as provided by subsection (2), proceedings for an offence under this Act or the regulations may be instituted within 12 months after the act or omission giving rise to the offence.
- (2) Proceedings for an offence referred to in the following Table may be instituted within the period of 3 years after the act or omission giving rise to the offence.

Table (Offences to which 3 year time limit applies)

An offence under section 9, 10, 11, 65, 68, 81, 153, 154 or 155 of this Act.

143 Increased maximum penalties

- (1) An increased maximum penalty is to apply in relation to an offence under a provision of this Act if (and only if) either or both of the following apply:
- (a) the person convicted of the offence has been convicted of the same kind of offence within 3 years before the day on which the proceedings for the offence are instituted,
- (b) the court attendance notice by which the proceedings for the offence are instituted alleges that the offence is (for the reasons specified in the notice) so serious as to warrant the imposition of a penalty in excess of 50 penalty units, and the court that convicts the person of the offence is of the opinion (having regard to the quantity or nature of the liquor involved or the young age of the person involved, or other relevant considerations) that the offence is so serious as to warrant the imposition of a penalty in excess of 50 penalty units.
- (2) If a court convicts a person of an offence under a provision of this Act and an increased maximum penalty applies in relation to the offence

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because of subsection (1) (a), the court must provide reasons if it imposes a penalty of less than 50 penalty units for the offence.

144 Additional penalties

- (1) This section applies in relation to a Local Court only if it is constituted by a Liquor and Gaming Magistrate.
- (2) In addition to any other penalty that a Local 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,
 - (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,
 - (h) give such directions as to the exercise of the licence as the Court thinks fit.

145 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.

146 Penalty notices

- (1) In this section:
authorised officer means a police officer, the Director or a special inspector.

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- (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 8.
- (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 8, 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 relating to proceedings that may be taken in respect of offences.

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147 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 liquid or other substance is liquor,
 - (b) that a specified person is the holder of a licence or a specified kind of licence,
 - (c) that a specified person is not the holder of a licence or a specified kind of licence,
 - (d) that a specified endorsement is an endorsement on a specified licence,
 - (e) that a specified person is or was 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 on-premises licence is or was 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 licence has been suspended,
 - (h) that specified premises are licensed premises,
 - (i) that a specified part of premises is a restricted area,
 - (j) that specified hours are the trading hours of specified licensed premises,
 - (k) that specified premises are subject to a closure order under this Act,
 - (l) that a minors area authority or minors functions authority is in force in respect of a specified part of any premises,
 - (m) that a specified area is a reception area,
 - (n) that a specified condition has been, and remains, imposed on a specified licence,
 - (o) that a specified person has been approved by the Director as the manager of specified licensed premises,
 - (p) that a specified person is the Director,
 - (q) that a specified person is a delegate of the Minister, or of the Commissioner of Police, or of the Director, to whom a specified function has been delegated under section 152,
 - (r) that a specified person is a special inspector.
- (2) In any proceedings for an offence under this Act or the regulations, an allegation in an information that, at a specified time, a person was under

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Part 10 Legal proceedings and related matters

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 11 (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 employed or allowed another person to take or carry, the liquor out of the licensed premises for the purpose of being sold or consumed at a place occupied by the licensee or in a public place.

148 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 8) that may be dealt with or decided by the Director under this Act.
- (2) Subsection (1) does not apply in relation to any proceedings before the Liquor and Gaming Court under this Act.

149 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.

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Part 11 Administrative provisions

150 Director of Liquor and Gaming

- (1) A Director of Liquor and Gaming is to be appointed under Chapter 2 of the *Public Sector Employment and Management Act 2002* and hold office subject to that Act.
- (2) The Director has such functions as are conferred or imposed on the Director by or under this or any other Act.

151 Appointment of special inspectors

- (1) The Director may appoint any person as a special inspector for the purposes of this Act, the *Gaming Machines Act 2001* and the *Clubs Management Act 1976*.
- (2) The Director is to cause each special inspector to be issued with a means of identification in the form approved by the Director.
- (3) In the course of exercising the functions of a special inspector under this Act, the *Gaming Machines Act 2001* or the *Clubs Management Act 1976*, the inspector must, if requested to do so by any person affected by the exercise of any such function, produce the inspector's identification for inspection to the person.

152 Delegations

- (1) The Minister may delegate to a person any function conferred or imposed on the Minister by this Act, other than this power of delegation.
- (2) The Director may delegate to a person any function conferred or imposed on the Director by this Act, other than this power of delegation.
- (3) The Commissioner of Police may delegate to a person any function conferred or imposed on the Commissioner by this Act, other than this power of delegation.
- (4) The 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.

153 Restrictions relating to key officials

- (1) In this section and section 154:
key official means:
 - (a) the Director-General of the Department, or

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- (b) a member of staff of the Department who is a senior executive officer within the meaning of the *Public Sector Employment and Management Act 2002*, or
 - (c) a member of staff of the Department who is not referred to in paragraph (a) or (b) but is the subject of a current written order by the Director-General of the Department that has been served on the member and is to the effect that the member is a key official for the purposes of this Act, or
 - (d) the Director of Liquor and Gaming, or
 - (e) the Commissioner of Police, or
 - (f) a member of NSW Police Senior Executive Service, or
 - (g) a police officer who holds the position of Patrol Commander or a higher position but is not referred to in paragraph (e) or (f), or
 - (h) a member of NSW Police who is not referred to in paragraph (e), (f) or (g) but is the subject of a current written order by the Commissioner of Police that has been served on the member and is to the effect that the member is a key official for the purposes of this Act.
- (2) A reference in this section and in section 154:
- (a) to a licence does not include a reference to a club licence, and
 - (b) to a licensee does not include a reference to the holder of a club licence.
- Note.** Restrictions on key officials and former key officials being involved in the management of, or being employed by, licensed clubs are contained in Part 7A of the *Clubs Management Act 1976*.
- (3) A key official must not:
- (a) hold any type of licence under this Act, or
 - (b) solicit employment, in any capacity, from a licensee or a person known by the key official to be a close associate of a licensee, or
 - (c) be an employee, in any capacity, or agent of a licensee or a person known by the key official to be a close associate of a licensee.
- (4) A person holding the office of Director-General of the Department, or the office of Director, or the office of Commissioner of Police, must not knowingly have, directly or indirectly, any business or financial association with, or any business or financial interest in any matter in conjunction with, a licensee or a person known by the holder of the office to be a close associate of a licensee.
- (5) A key official (other than a key official who is the Director-General of the Department, or is the Director, or is the Commissioner of Police) must not without the approval of the appropriate authority knowingly

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have, directly or indirectly, any business or financial association with, or any business or financial interest in any matter in conjunction with, a licensee or a person known by the key official to be a close associate of a licensee.

- (6) A licensee or a close associate of a licensee must not:
- (a) employ, in any capacity, a person known by the licensee or close associate to be a key official, or
 - (b) knowingly have, directly or indirectly, any business or financial association with, or any business or financial interest in any matter in conjunction with, a person known by the licensee or close associate to be the Director-General of the Department, or the Director, or the Commissioner of Police, or
 - (c) without the approval of the appropriate authority knowingly have, directly or indirectly, any business or financial association with, or any business or financial interest in any matter in conjunction with, a person known by the licensee or close associate to be a key official (other than a key official who is the Director-General of the Department, or is the Director, or is the Commissioner of Police).
- (7) A person who contravenes a provision of this section applicable to the person is guilty of an offence.
Maximum penalty: 50 penalty units.
- (8) In this section:
appropriate authority, in relation to a key official, means:
- (a) the Director-General of the Department, unless the key official is a member of NSW Police, or
 - (b) the Commissioner of Police, if the key official is a member of NSW Police.

154 Restrictions relating to former key officials

- (1) A former key official must not:
- (a) hold any type of licence under this Act, or
 - (b) solicit employment, in any capacity, from a licensee or a person known by the former key official to be a close associate of a licensee, or
 - (c) be an employee, in any capacity, or agent of a licensee or a person known by the former key official to be a close associate of a licensee, or
 - (d) knowingly have, directly or indirectly, any business or financial association with, or any business or financial interest in any

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matter in conjunction with, a licensee or a person known by the former key official to be a close associate of a licensee.

Maximum penalty: 50 penalty units.

- (2) While knowing that another person is a former key official, a person who is a licensee, or a close associate of a licensee, must not:
- (a) employ the former key official in any capacity, or
 - (b) have, directly or indirectly, any business or financial association with, or any business or financial interest in any matter in conjunction with, the former key official.

Maximum penalty: 50 penalty units.

- (3) An exemption from the application of this section in relation to a former key official (other than a person who is a former Director-General of the Department, is a former Director, or is a former Commissioner of Police) in a particular case or class of cases may be granted:
- (a) by the Director-General of the Department, unless the former key official was a member of NSW Police, or
 - (b) by the Commissioner of Police, if the former key official was a member of NSW Police.
- (4) The Director-General of the Department and the Commissioner of Police are each to keep a register of exemptions granted by the office holder concerned under this section. The register is to contain details of each such exemption and is to be open for inspection by any person free of charge during ordinary business hours.
- (5) In this section:
former key official means a person who was a key official at any time during the previous 3 years, but is no longer a key official.
- (6) If a reference (*the original reference*) in this Act to a position, officer or Department is replaced with, or required to be read or construed as, a reference (*the replacement reference*) to another position, officer or Department, the replacement reference is for the purposes of the operation of this section to be read as including the original reference.

155 Secrecy

- (1) A person who:
- (a) acquires information in the exercise of a function of an office held by the person in the course of administering this Act, and
 - (b) directly or indirectly makes a record of the information or divulges it to another person,

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is guilty of an offence under this Act unless the information is recorded or divulged in the exercise of the functions of the office or in the course of administering this Act as a holder of that or any other office.

Maximum penalty: 50 penalty units.

- (2) Despite subsection (1), information may be divulged:
- (a) to a particular person or persons, if the Director certifies that it is necessary in the public interest that the information be divulged to the person or persons, or
 - (b) to a person who is expressly or impliedly authorised to obtain it by the person to whom the information relates, or
 - (c) to a person or authority prescribed by the regulations, or
 - (d) to the Minister, or to a person who is engaged in the administration of this Act and is authorised in writing by the Minister to receive information under this section.
- (3) It is not an offence under this section if, in legal proceedings, a person:
- (a) discloses information in answer to a question that the person is compellable to answer, or
 - (b) produces a document or other thing that the person is compellable to produce.
- (4) An authority or person to which or to whom information is divulged under this section, and a person or employee under the control of that authority or person, are, in respect of that information, subject to the same rights, privileges and duties under this section as the authority or person would be if that authority, person or employee were a person administering this Act and had acquired the information in the course of administering this Act.
- (5) This section does not apply to the divulging of information to, or to the production of any document or other thing to, any of the following:
- (a) the Independent Commission Against Corruption,
 - (b) the Australian Crime Commission,
 - (c) the New South Wales Crime Commission,
 - (d) the Ombudsman,
 - (e) any other person or body prescribed by the regulations for the purposes of this section.
- (6) This section does not prevent a person being given access to a document in accordance with the *Freedom of Information Act 1989*.

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Part 11 Administrative provisions

- (7) In this section, a reference to the production of a document or other thing includes a reference to provision of access to the document or other thing.

156 Protection from personal liability

Anything done or omitted to be done by a person who is:

- (a) the Director, or
- (b) a special inspector or a member of NSW Police, or
- (c) a member of staff of a Department within the meaning of the *Public Sector Employment and Management Act 2002*,

in exercising the functions conferred or imposed on the person by or under this Act, or in the course of the administration of this Act, does not, if it was done or omitted to be done in good faith, subject the person personally to any action, liability, claim or demand.

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Clause 157

Miscellaneous

Part 12

Part 12 Miscellaneous

157 Notices

Except to the extent to which this Act otherwise provides, a notice under this Act is to be in writing and may be served by post.

158 Service by post

Any notice or other instrument required or authorised by or under this Act to be served on a person by post is sufficiently addressed if it is addressed to the person to whom it is directed at any of the following addresses:

- (a) the address of any licensed premises of which the person is the licensee,
- (b) the address of the place at which the person resides, as last known to the Director,
- (c) the address of a place at which the person carries on business, as last known to the Director.

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 fees that are payable under this Act (including the waiver or refunding of fees),
 - (b) requiring the keeping of records relating to licences,
 - (c) requiring or authorising the placing of notices or signs in or on licensed premises and the form and content of those notices or signs,
 - (d) the endorsement of licences and their production for endorsement or for any other purpose,
 - (e) reception areas on licensed premises,
 - (f) requirements in relation to local liquor accords,
 - (g) certificates to be given by special inspectors and the effect of those certificates in relation to the production of records.
- (3) The regulations may create offences punishable by a penalty not exceeding 50 penalty units.

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Clause 160 Liquor Bill 2005

Part 12 Miscellaneous

- (4) The regulations may exempt specified persons or classes of persons, or specified premises or classes of premises, from any specified provision of this Act or the regulations.
- (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

- (1) The following Acts and regulations are repealed:
 - (a) *Liquor Act 1982*,
 - (b) *Liquor Amendment (Parliamentary Precincts) Act 2004*,
 - (c) *Liquor (Repeals and Savings) Act 1982*,
 - (d) *Liquor Regulation 1996*,
 - (e) *Liquor (Transitional Provisions) Regulation 1983*.
- (2) Different days may be appointed for the commencement of subsection (1) for the purpose of repealing, on different days, different provisions of any such Act or regulation.

162 Amendment of Registered Clubs Act 1976 No 31

The *Registered Clubs Act 1976* is amended as set out in Schedule 2.

163 Amendment of Gaming Machines Act 2001 No 127

The *Gaming Machines Act 2001* is amended as set out in Schedule 3.

164 Amendment of other Acts

Each Act specified in Schedule 4 is amended as set out in that Schedule.

165 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.

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Savings and transitional provisions

Schedule 1

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
Liquor and Gaming Court Act 2005
- (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 Definition

In this Part:

former Act means the *Liquor Act 1982*.

Division 2 Existing liquor licences

3 General provisions

- (1) A licence in force under a provision of the former Act immediately before its repeal by this Act (referred to in this Division as an *existing licence*) is taken to be a licence of the corresponding kind (as determined in accordance with this Division) under this Act.

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Schedule 1 Savings and transitional provisions

Note. Transitional arrangements dealing with existing certificates of registration for clubs, and the continuation of existing trading hours for clubs, are included in Part 19 of Schedule 2 to the *Clubs Management Act 1976*.

- (2) The corresponding licence:
 - (a) is taken to have been granted under this Act (subject to any conditions and restrictions to which it was subject under the former Act), and
 - (b) may be dealt with under, and is otherwise subject to, the provisions of this Act.
- (3) 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 a provision of the former Act immediately before its repeal by this Act.
- (4) Any condition or restriction imposed by the Licensing Court or the Liquor Administration Board in relation to any matter under the former Act is taken to be a condition imposed by the Director under this Act. The Director has such powers as are necessary to give effect to any such condition and may vary or revoke the condition.
- (5) Without limiting subclause (2) (b), the authority conferred on a licence that is a continuation of an existing licence, including provisions in relation to trading hours, is subject to this Act and the regulations.
- (6) A reference in any other Act, or in an instrument under any other Act or in any other document, to an existing 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).
- (7) In this clause, a reference to the former Act includes a reference to the *Liquor (Repeals and Savings) Act 1982*.

4 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 concerned on any day of the day of the week other than a restricted trading day. If trading past midnight on the licensed premises was authorised under the former Act, an extended trading authority under this Act is taken to be in force in relation to the licensed premises.
- (3) However, subclause (2) does not authorise trading on the licensed premises from 5 am to midnight on Sundays if an application to trade on Sundays before 10 am or after 10 pm (or both) in relation to the licensed premises was refused under the former Act or if any action was taken under the former Act that resulted in Sunday trading hours for the

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Schedule 1

premises being set at times other than 5 am to midnight. In any such case, the Sunday trading hours for the licensed premises under the former Act continue to apply.

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

5 Nightclub licence

- (1) The corresponding licence for an existing nightclub licence is a hotel licence.
- (2) The following provisions apply to a nightclub licence that is converted to a hotel licence under this clause:
- (a) the hotel primary purpose test referred to in section 15 does not apply in relation to the hotel licence,
 - (b) the trading hours authorised under the former Act for the licensed premises continue to apply,
 - (c) if trading past midnight on the licensed premises was authorised under the former Act, an extended trading authority under this Act is taken to be in force in relation to the licensed premises,
 - (d) if the licensed premises included a motel under the former Act, the authority to operate the motel continues to apply,
 - (e) any dine-or-drink authority applying to the licensed premises continues to apply,
 - (f) gaming machines must not be kept, used or operated on the licensed premises at any time,
 - (g) liquor must not be sold or supplied for consumption away from the licensed premises at any time,
 - (h) subject to any dine-or-drink authority applying to the licensed premises, liquor must not be sold or supplied on the licensed premises:
 - (i) before 8 pm except with or as ancillary to a meal consumed at a table on the premises, and
 - (ii) after 8 pm except with or as ancillary to entertainment and unless at least a light meal is available for patrons,
 - (i) 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,
 - (j) a minors area authority is taken to be in force in respect of the licensed premises,

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- (k) 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 authority under this Act.

6 Off-licences (retail)

- (1) The corresponding licence for an existing off-licence to sell liquor by retail is a packaged liquor licence.
- (2) The standard trading period applies to the licensed premises concerned on any day of the week other than a restricted trading day.
- (3) However, subclause (2) does not authorise trading on the licensed premises from 5 am to midnight on Sundays if an application to trade on Sundays before 10 am or after 10 pm (or both) in relation to the licensed premises was refused under the former Act or if any action was taken under the former Act that resulted in Sunday trading hours for the premises being set at times other than 5 am to midnight. In any such case, the Sunday trading hours for the licensed premises under the former Act continue to apply.

7 Restaurant licence

- (1) The corresponding licence for an existing on-licence that relates to a restaurant (except where the licensed premises included a motel) is an on-premises licence for a restaurant.
- (2) If the licensed premises to which an existing on-licence for a restaurant include a motel, the corresponding licence is an on-premises licence for accommodation premises.
- (3) Any dine-or-drink authority endorsed on the licence under the former Act continues to have effect under this Act.
- (4) The trading hours authorised under the former Act in respect of the licensed premises (including any period past 10 pm on Sundays and including any extended trading for a function room on the licensed premises) continue to apply. If trading past midnight on any part of the licensed premises was authorised under the former Act, an extended trading authority under this Act is taken to be in force in respect of the licensed premises (or that part of the licensed premises on which trading past midnight was authorised).
- (5) Subject to this Act, the licensed premises may open for trading at 5 am on any day of the week (other than a restricted trading day) unless any action was taken under the former Act that resulted in the opening hours for the premises being set at any time other than noon. In any such case, the opening time for the licensed premises under the former Act continues to apply.

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Schedule 1

- (6) Any reception area authorised under the former Act in respect of an existing licence that relates to a restaurant continues to have effect under this Act.

8 Motel and other miscellaneous on-licences

- (1) The corresponding licence for:
- (a) an existing on-licence granted in respect of a motel is an on-premises licence for accommodation premises, or
 - (b) an existing on-licence granted in respect of a vessel is an on-premises licence for a vessel, or
 - (c) an existing on-licence granted in respect of premises at an airport is an on-premises licence for an airport, or
 - (d) an existing on-licence granted in respect of a public hall is an on-premises licence for a public hall, or
 - (e) an existing on-licence granted in respect of a theatre is an on-premises licence for a theatre, or
 - (f) an existing on-licence granted in respect of a university is an on-premises licence for a university, or
 - (g) an existing on-premises licence referred to in section 18 (4) (g) of the former Act is a special facility licence (other than a special facility licence for a community hotel).
- (2) The trading hours authorised under the former Act for the licensed premises to which any such existing on-licence relates continue to apply.
- (3) In the case of an existing licence for a theatre or university, if trading past midnight on the licensed premises was authorised under the former Act, an extended trading authority under this Act is taken to be in force in respect of the licensed premises.
- (4) In the case of an existing on-licence for premises at an airport, liquor must not be sold or supplied on the licensed premises under this Act unless food of a nature and quantity consistent with the responsible sale, supply and service of liquor is made available when the liquor is being sold or supplied on the premises.

9 On-premises licence (functions)

- (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,

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continue to apply, but only in relation to functions that were approved under the former Act.

10 Caterer's licence

The corresponding licence for an existing caterer's licence is an on-premises licence for a catering service.

11 Vigneron, wholesaler and brewer licences

The corresponding licence for:

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

12 Community liquor licence

- (1) The corresponding licence for an existing community liquor licence is a special facility licence relating to a community hotel.
- (2) The trading hours applying to the licensed premises under the former Act continue to apply.

13 Governor's licence

- (1) The corresponding licence for an existing Governor's licence is a special facility licence (other than a special facility licence for a community hotel).
- (2) The trading hours authorised under the former Act for the licensed premises continue to apply.

14 Special event licence

- (1) The corresponding licence for an existing special event licence is a special event licence.
- (2) The trading hours authorised under the former Act for the licensed premises continue to apply.

15 Australian wine licences

- (1) This clause applies to a licence (referred to as *an 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.

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- (2) The corresponding licence for an 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 to an Australian wine licence that is converted to a packaged liquor licence under subclause (2):
 - (a) the standard trading period applies to the licensed premises concerned on any day of the week other than a restricted trading day,
 - (b) paragraph (a) does not authorise trading on the licensed premises from 5 am to midnight on Sundays if an application to trade on Sundays before 10 am or after 10 pm (or both) in relation to the licensed premises was refused under the former Act or if any action was taken under the former Act that resulted in Sunday trading hours for the premises being set at times other than 5 am to midnight (in which case the Sunday trading hours for the licensed premises under the former Act continue to apply),
 - (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 Australian wine licence referred to in clause 1 (2) (b) of Schedule 4 to the relevant Act is a special facility licence (other than a special facility licence for a community hotel).
- (5) The following provisions apply to an Australian wine licence that is converted to a special facility licence under subclause (4):
 - (a) the trading hours applying to the licensed premises under the former Act continue to apply,
 - (b) trading is authorised on the licensed premises from 5 am to midnight on Sundays unless an application to trade on Sundays between 5 am and 10 am or between 10 pm and midnight (or both) in relation to the licensed premises was refused under the former Act or if any action was taken under the former Act that resulted in Sunday trading hours for the premises being set at times other than 5 am to midnight (in which case the Sunday trading hours for the licensed premises under the former Act continue to apply),
 - (c) liquor may only be sold or supplied for consumption 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.

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- (6) The corresponding licence for an Australian wine licence referred to in clause 1 (2) (c) of Schedule 4 to the relevant Act is a hotel licence.
- (7) The following provisions apply to an Australian wine licence that is converted to a hotel licence under subclause (6):
 - (a) the trading hours applying to the licensed premises under the former Act continue to apply,
 - (b) trading is authorised on the licensed premises from 5 am to midnight on Sundays unless an application to trade on Sundays between 5 am and 10 am or between 10 pm and midnight (or both) in relation to the licensed premises was refused under the former Act or if any action was taken under the former Act that resulted in Sunday trading hours for the premises being set at times other than 5 am to midnight (in which case the Sunday trading hours for the licensed premises under the former Act continue to apply),
 - (c) gaming machines must not be kept, used or operated on the licensed premises at any time,
 - (d) only wine may be sold or supplied for consumption away from the licensed premises,
 - (e) 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.

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 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

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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.

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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 *Clubs Management 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 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 *Clubs Management 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 *Clubs Management 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.

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Division 4 Other provisions

22 Abolition of Liquor Administration Board

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

23 Pending proceedings and other matters under former Act

- (1) If, before the repeal of Part 2 of the former Act, proceedings in relation to a matter were instituted in the former Court but the former Court had not determined the matter:
 - (a) the persons or persons constituting the former Court for the purposes of hearing the matter are to continue the hearing, and are to determine the matter, sitting as the Liquor and Gaming Court, and
 - (b) the provisions of the former Act (other than Part 2) continue to apply in relation to the hearing and determination of the matter as if those provisions had not been repealed by this Act.
- (2) If, before the repeal of section 72 of the former Act, any matter was being dealt with by the former Board but had not been determined by the date of that repeal:
 - (a) the persons constituting the former Board are 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 as if those provisions had not been repealed by this Act.
- (3) If any such pending matter before the former Board is not determined within such period as may be prescribed by the regulations, the Director may deal with the matter instead under the corresponding provision of this Act.
- (4) Any licence, authorisation, approval or other matter granted or determined under a provision of the former Act pursuant to subclause (1) or (2) is taken to have been granted or determined under the corresponding provision of this Act.
- (5) In this clause:

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

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

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24 General savings provision

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

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Amendment of Registered Clubs Act 1976

Schedule 2

Schedule 2 Amendment of Registered Clubs Act 1976

(Section 162)

[1] **Long title**

Omit “the registration of clubs and their rules and management”.

Insert instead “the rules and management of licensed clubs”.

[2] **Section 1 Name of Act**

Omit “*Registered Clubs*”. Insert instead “*Clubs Management*”.

[3] **Sections 3, 4AA, 5, 5A, 6, 7, 9, 9A, 14, 16, 17, 17AAA, 17AA, 17AAB, 17AAC, 17AAD, 17AAE, 17A, 18, 19, 19A, 20, 21, 22, 23A, 23AA, 23B, 24, 34A–34E, 35, 43, 44, 44A, 44B, 46, 48, 50, 51, 51B, 52, 52AA, 52A, 52B, 52C, 53, 54, 54A, 54B, 54C, 54D, 55, 57, 57B, 57C, 57D, 61, 62, 63A, 64, 67A, 67B, 68, 69, 70A, 71A, 72A, 72B, 75, 76AA and 76A**

Omit the sections.

[4] **Section 4**

Omit the section. Insert instead:

4 Definitions

(1) In this Act:

amalgamated club means a licensed club that results from the amalgamation of 2 or more licensed clubs as referred to in Division 1A of Part 2.

approved gaming machine has the same meaning as in the *Gaming Machines Act 2001*.

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

close associate has the meaning given by section 4A.

Director means the Director of Liquor and Gaming appointed as provided by the *Liquor Act 2005*.

employ includes engage under a contract for services.

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

full member, in relation to a club, means a person who is an ordinary member or a life member of that club.

guest.

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- (a) of a full member, provisional member or honorary member of a licensed club, means a person:
 - (i) whose name and address (unless the person is a minor), countersigned by the member, are entered in a register kept for the purpose by the club, and
 - (ii) who, at all times while on the club premises, remains in the reasonable company of the member, and
 - (iii) who does not remain on the club premises any longer than the member, and
- (b) of a temporary member of a licensed club, means a minor:
 - (i) who, at all times while on the club premises, remains in the company and immediate presence of the member, and
 - (ii) who does not remain on the club premises any longer than the member, and
 - (iii) in relation to whom the member is a responsible adult.

honorary member, in relation to a club, means a person who, under the rules of that club, is an honorary member of that club.

hotel has the same meaning as in the *Liquor Act 2005*.

key official means:

- (a) the Director-General of the Department of Gaming and Racing, or
- (b) a member of staff of the Department of Gaming and Racing who is a senior executive officer within the meaning of the *Public Sector Employment and Management Act 2002*, or
- (c) a member of the Department of Gaming and Racing who is not referred to in paragraph (a) or (b) but is the subject of a current written order by the Director-General of the Department that has been served on the member and is to the effect that the officer is a key official for the purposes of this Act, or
- (d) the Director of Liquor and Gaming, or
- (e) the Commissioner of Police, or
- (f) a member of NSW Police Service Senior Executive Service, or
- (g) a police officer who holds the position of Patrol Commander or a higher position but is not referred to in paragraph (e) or (f), or

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- (h) a member of NSW Police who is not referred to in paragraph (e), (f) or (g) but is the subject of a current written order by the Commissioner of Police that has been served on the member and is to the effect that the member is a key official for the purposes of this Act.

licensed club means a club that holds a club licence under the *Liquor Act 2005*.

life member, in relation to a club, means a person who is elected to membership of that club for life.

liquor has the same meaning as it has in the *Liquor Act 2005*.

Liquor and Gaming Court means the Liquor and Gaming Court of New South Wales constituted by the *Liquor and Gaming Court Act 2005*.

Liquor and Gaming Magistrate means a Liquor and Gaming Magistrate appointed under the *Liquor and Gaming Court Act 2005*.

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

- (a) (unless paragraph (b) applies) the 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.

member of a club means a person who is a full member, a provisional member, an honorary member or a temporary member of the club.

ordinary member of a club means a person who is elected to membership of the club in accordance with the rule of that club referred to in section 30 (1) (g).

provisional member of a club means a person who has applied for admission as a full member of the club, has paid the subscription appropriate for the membership applied for, and is awaiting a decision on the application.

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

- (a) a parent, step-parent or guardian of the minor,
- (b) the minor's spouse or any person who, although not legally married to the minor, ordinarily lives with the minor as the minor's spouse on a permanent and domestic basis,

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- (c) a person who for the time being has parental responsibility for the minor.

secretary of a club means:

- (a) the person who, under section 33, holds an approval of the Director to act as the secretary of the club, or
- (b) if the person referred to in paragraph (a) has ceased to hold office or is absent from office—the person, if any, referred to in section 34 (3) who is appointed by the club to act as its secretary, or
- (c) if:
- (i) the person referred to in paragraph (a) has ceased to hold office or is absent from office, and
 - (ii) no person has been appointed as referred to in paragraph (b) to act as secretary of the club,
- any person who is acting for the time being as the secretary of the club.

special inspector means a person holding office under section 151 of the *Liquor Act 2005* as a special inspector.

temporary member, in relation to a club, means a person who, under the rules of the club, is a temporary member of that club.

- (2) Notes included in this Act are explanatory and do not form part of this Act.

[5] Sections 4A, 17AE (2), 17AF (4) and (5), 17AG (2) and (3), 30 (1), (2), (3A), (3B), (5A), (6) (b), (8), (10), (11) and (12), 31 (3), 32, 34, 35A (3), 36 (2), (5), (7A), (7B), (7C), (13) and (15), 37 (2) and (3), 37A, 38 (1) and (4) (b), 40, 41 (1), 41A (1), 41B (1) (definitions of “land” and “top executive”) and (2), 41C (1), 41D (1)–(3), 41E, 41F (1) and (3), 41G, 41H, 41I, 41J, 41K, 41L (1), (4) and (5), 41M, 41N, 41O (1) (b) and (3), 41P (1), 41Q (1) and (2), 41R (1), (7) and (9), 41U, 41V, 41X (1) and (3), 41Z (2) (b), 41ZA, 43A, 45 (2) and (2A), 47, 49, 50B (2) and (3), 56 (1), 58, 59, 59A, 59B, 63 (1) (b) and (e), 66 (1), 67 (2)–(4), 73 (1) (l) and (n) and 73A

Omit “registered club” wherever occurring. Insert instead “licensed club”.

[6] Section 4A Meaning of “close associate”

Omit “the Licensing Court or” from section 4A (1) (a).

[7] Part 2, heading

Omit “Registration of clubs”.

Insert instead “Club requirements, amalgamations and other matters”.

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[8] Part 2, Division 1, heading

Omit “Applications for certificates of registration”.

Insert instead “General requirements”.

[9] Section 10 Requirements to be met by clubs

Omit “For the purposes of sections 9 and 17 (1AA) (a), the requirements in relation to a club are as follows:” from section 10 (1).

Insert instead “The following requirements apply in relation to a club:”.

[10] Section 10 (1) (j)

Omit the paragraph. Insert instead:

(j) Only the club and its members are to be entitled under the rules of the club or otherwise to derive, directly or indirectly, any profit, benefit or advantage from:

(i) the fact that the club has applied for a licence under the *Liquor Act 2005*, or

(ii) the club is licensed under that Act, or

(iii) any added value that may accrue to the premises of the club because the club has applied for, or is granted, a licence under that Act,

unless it is a profit, benefit or advantage derived from dealings reasonably carried out, or contracts reasonably made, with the club in the ordinary course of its lawful business.

[11] Sections 10 (6) (a) and (7), 11 (3) and (4), 12, 36 (2), (4), (5) and (7), 41 (1) (b), 41A and 49

Omit “Licensing Court” wherever occurring. Insert instead “Director”.

[12] Section 11 Calculation of maximum number of full members

Omit “it” from section 11 (3). Insert instead “the Director”.

[13] Section 11 (4)

Omit “On the hearing of”. Insert instead “In determining”.

[14] Section 11 (4)

Omit “to it”.

[15] Section 11 (5)

Omit the subsection. Insert instead:

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- (5) An application may be made under subsection (3) in respect of a proposed amalgamated club.

[16] Section 17AB

Omit the section. Insert instead:

17AB Amalgamation of clubs effected by way of licence transfer under Liquor Act 2005

In this Division, a reference to the amalgamation of 2 or more licensed clubs is a reference to an amalgamation resulting from the transfer, under section 51 of the *Liquor Act 2005*, of the club licence of one of those clubs to another one of those clubs.

[17] Section 17AC Definitions

Omit the definitions of *dissolved club* and *parent club* from section 17AC (1).

Insert instead:

dissolved club, in relation to the amalgamation or proposed amalgamation of 2 or more licensed clubs, means the club whose club licence is, or is to be, transferred under section 51 of the *Liquor Act 2005* to another licensed club.

parent club, in relation to the amalgamation or proposed amalgamation of 2 or more licensed clubs, means the licensed club to which the club licence of another club is, or is to be, transferred under section 51 of the *Liquor Act 2005*.

[18] Section 17AC (1), definition of “main premises”

Omit “Board”. Insert instead “Director”.

[19] Section 17AC (1), definition of “same area”

Omit “registered clubs”. Insert instead “licensed clubs”.

[20] Section 17AC (2)

Omit “Before the Licensing Court approves the amalgamation of 2 or more registered clubs”.

Insert instead “Before any 2 or more licensed clubs amalgamate”.

[21] Section 17AD Deed of amalgamation

Omit section 17AD (1). Insert instead:

- (1) Before any 2 or more licensed clubs amalgamate, the clubs must enter into a deed of amalgamation.

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[22] Section 17AD (2) (c)

Omit the paragraph.

[23] Section 17AD (3)

Omit the subsection. Insert instead:

- (3) A copy of the deed of amalgamation must be publicly exhibited at the premises of each club that is a party to the proposed amalgamation for at least 14 days before the application for the transfer of the licence of the dissolved club is made under section 51 of the *Liquor Act 2005*.

[24] Section 17AE Club members to be notified of proposed amalgamation

Omit section 17AE (1).

[25] Section 17AE (4) (a)

Omit “registered clubs”. Insert instead “licensed clubs”.

[26] Section 17AE (4) (b)

Omit the paragraph. Insert instead:

- (b) a statement to the effect that written submissions may be made to the Director in relation to the proposed amalgamation,

[27] Sections 17AEA and 17AEB

Insert after section 17AE:

17AEA Submissions in relation to club amalgamations

- (1) Any person may, subject to and in accordance with the regulations, make a written submission to the Director in relation to a proposed amalgamation under this Division.
- (2) If any such submission is made to the Director, the Director is to take the submission into consideration before deciding whether or not to approve the transfer of the licence of the dissolved club under section 51 of the *Liquor Act 2005*.

17AEB Other matters to be considered in relation to club amalgamations

Without limiting section 51 of the *Liquor Act 2005*, the Director may not approve of the transfer of the licence of a dissolved club under that Act unless the Director is satisfied that:

- (a) the parent club will meet the requirements set out in section 10 (1), and

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- (b) the parent club will be financially viable, and
- (c) the proposed amalgamation is in the interests of the members of each of the clubs that are amalgamating, and
- (d) the proposed amalgamation has been approved in principle at separate extraordinary general meetings of the ordinary members of each of the clubs proposing to amalgamate (being in each case an approval supported by a majority of the votes cast at the meeting).

[28] Section 17AF General limit of 4 amalgamations per club

Omit section 17AF (1)–(3). Insert instead:

- (1) A licensed club (including a club that has already been formed by, or continued as a result of, an amalgamation) may amalgamate with a total of no more than 4 other licensed clubs over any period of time.
- (2) However, the Director may approve the transfer of a club licence under section 51 of the *Liquor Act 2005* that would result in a licensed club amalgamating with a total of more than 4 other licensed clubs if the Director is satisfied that a commitment to the amalgamation was made before 26 July 2001.
- (3) Such a commitment is established if:
 - (a) an application under this Act in relation to the proposed amalgamation was made before 26 July 2001, or
 - (b) the Director is satisfied that the members of the clubs proposing to amalgamate had voted, before that date, in support of the proposed amalgamation, or
 - (c) the Director is satisfied that there is documentary evidence, made or prepared before that date, of an intention to amalgamate (such as a memorandum of understanding between the clubs proposing to amalgamate).

[29] Section 17AG Clubs that have already amalgamated with more than 4 other clubs

Omit the definition of *special category club* in section 17AG (1).

Insert instead:

special category club means a licensed club that has, before the commencement of this Division, amalgamated with a total of more than 4 other licensed clubs.

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[30] Section 17AG (4) and (5)

Omit the subsections. Insert instead:

- (4) However, the Director may approve the transfer of a club licence under section 51 of the *Liquor Act 2005* that would result in a special category club amalgamating with another club if the Director is satisfied that a commitment to the amalgamation was made before 26 July 2001.
- (5) Such a commitment is established if:
 - (a) an application under this Act in relation to the proposed amalgamation was made before 26 July 2001, or
 - (b) the Director is satisfied that the members of the clubs proposing to amalgamate had voted, before that date, in support of the proposed amalgamation, or
 - (c) the Director is satisfied that there is documentary evidence, made or prepared before that date, of an intention to amalgamate (such as a memorandum of understanding between the clubs proposing to amalgamate).

[31] Section 17AH Clubs allowed to amalgamate if situated in same area only

Omit “registered clubs” from section 17AH (1).

Insert instead “licensed clubs”.

[32] Section 17AH (2)

Omit the subsection. Insert instead:

- (2) However, if the Director is satisfied that the dissolved club is not able:
 - (a) to amalgamate with another club in the same area, the dissolved club may, subject to this Division, amalgamate with another club that is not situated in the same area but which has similar objects and activities as the dissolved club, or
 - (b) to amalgamate with another club in the same area or with another club with similar objects and activities as the dissolved club, the dissolved club may, subject to this Division, amalgamate with any other club.

[33] Section 17AI Major assets of dissolved clubs to be kept intact

Omit section 17AI (1). Insert instead:

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- (1) During the period of 3 years following the amalgamation of 2 or more licensed clubs, the parent club must not dispose of any of the major assets of the dissolved club unless the disposal has been approved by the Director.

Maximum penalty: 100 penalty units.

[34] Section 17AI (2)

Omit “Board” wherever occurring. Insert instead “Director”.

[35] Part 2, Division 2, heading

Omit “Other applications”.

Insert instead “**Junior members authorities and club functions authorities**”.

[36] Section 22A

Omit the section. Insert instead:

22A Access to club premises by junior members

- (1) The Director may, on application by or on behalf of a licensed club, grant an authority (a *junior members authority*) to enable members of the club who are under the age of 18 years access to areas of the club premises that would otherwise be restricted to those members, but only for the purpose of taking part in sporting activities or a prize-giving ceremony associated with sporting activities.
- (2) An application for a junior members authority must be accompanied by the fee prescribed by the regulations.
- (3) A junior members authority is subject to such conditions as may be imposed by the Director or as are referred to in subsection (5).
- (4) Without limiting the conditions that may be imposed by the Director, any such conditions may relate to the following:
 - (a) the required level of adult supervision of members under the age of 18 years using the premises of the club under the authority,
 - (b) the establishment of, and the manner of keeping, a register to be signed by members under the age of 18 years each time they use the premises of the club under the authority and by each adult supervising them,
 - (c) the steps that the club must take to ensure that liquor is not sold or supplied to persons under the age of 18 years using the premises of the club under the authority,

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- (d) the steps that the club must take to ensure that approved gaming machines are not used by persons under the age of 18 years using the premises of the club under the authority.
- (5) A junior members authority is subject to the following conditions:
 - (a) a condition that tobacco vending machines must be unable to be operated while members under the age of 18 years are using the premises of the club under the authority,
 - (b) any conditions prescribed by the regulations for the purposes of this section.
- (6) A junior members authority has effect only while the conditions to which it is subject are being complied with.
- (7) The Director may, on the Director's own motion or on the application of the licensed club or the Commissioner of Police:
 - (a) revoke a junior members authority, or
 - (b) impose further conditions to which the authority is subject, or
 - (c) revoke or vary any condition to which the authority is subject (other than a condition referred to in subsection (5)).
- (8) A licensed club and the secretary of the club are each guilty of an offence if any conditions of a junior members authority held by the club are contravened.
Maximum penalty: 20 penalty units in the case of the licensed club and 10 penalty units in the case of the secretary.

[37] Section 23

Omit the section. Insert instead:

23 Functions on club premises

- (1) The Director may, on application by or on behalf of a licensed club, grant an authority (a *club functions authority*) to the club to permit persons:
 - (a) who are not members of the club, or
 - (b) who are under the age of 18 years,to attend in a specified part of the club premises functions of a cultural, educational, religious, patriotic, professional, charitable, political, literary, sporting, athletic, industrial or community nature.

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- (2) An application for a club functions authority must be accompanied by the fee prescribed by the regulations.
- (3) A club functions authority is to designate function areas (that is, each part of the club premises on which the functions concerned are permitted to be held) and access areas (that is, each part of the club 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) A club functions authority:
 - (a) is subject to such conditions as may be imposed by the Director or as are referred to in subsection (5), and
 - (b) has effect only while the conditions to which it is subject are being complied with.
- (5) A club functions authority is subject to the following conditions but only to the extent that it authorises functions for minors on the club premises:
 - (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 secretary of the club and person conducting the function must comply with any directions given by the local police or the Director 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 any function is held,
 - (e) gaming machines must not be located in the area in which any function is held and any area of the club in which gaming machines are located must not be accessible to any minor attending the function,
 - (f) such other conditions as may be prescribed by the regulations.
- (6) The Director may, on the Director's own motion or on the application of the licensed club or the Commissioner of Police:
 - (a) revoke a clubs functions authority, or
 - (b) impose further conditions to which the authority is subject, or

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- (c) revoke or vary any condition to which the authority is subject (other than a condition referred to in subsection (5)).
- (7) A licensed club and the secretary of the club are each guilty of an offence if:
 - (a) any conditions of a club functions authority held by the club are contravened, or
 - (b) a function is held pursuant to the club functions authority otherwise than in accordance with the approval of the governing body of the club.Maximum penalty: 20 penalty units in the case of the licensed club and 10 penalty units in the case of the secretary.
- (8) It is a defence to a prosecution of a secretary of a licensed club for an offence under subsection (7) if it is proved that:
 - (a) the secretary had taken all reasonable precautions to avoid commission of the alleged offence, and
 - (b) at the time of the alleged offence the secretary did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.

[38] Part 2, Divisions 3 and 4

Omit the Divisions.

[39] Part 3, heading

Omit “**registered**”. Insert instead “**licensed**”.

[40] Section 30 Rules of licensed clubs

Omit section 30 (2) (d). Insert instead:

- (d) Liquor must not be sold, supplied or disposed of on the premises of the club to any person who is not a member of the club except:
 - (i) on the invitation and in the company of a member of the club, or
 - (ii) if the person is attending a function in respect of which a club functions authority under section 23 is in force.

[41] Section 30 (6) (b)

Omit “referred to in section 52 (2)”.

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[42] Part 4, heading

Omit “**registered**”. Insert instead “**licensed**”.

[43] Sections 32 (3), 37A, 72C (2) and 73 (2A)

Omit “Board” wherever occurring. Insert instead “Director”.

[44] Section 33

Omit the section. Insert instead:

33 Approval of person to act as secretary of licensed club

- (1) A person may apply to the Director for approval to act as the secretary of a licensed club. Any such application is to be in the form approved by the Director.
- (2) The Director may grant such an approval or refuse to grant the approval.
- (3) The Director must refuse to grant an approval of a person to act as secretary of a licensed club if the Director is satisfied that the applicant is not a fit and proper person to act as the secretary of a licensed club.
- (4) The Director must not refuse to grant an approval unless the Director has given the applicant an opportunity to make written submissions in relation to the application and has taken any such submissions into consideration before making the decision.

[45] Section 33A Secretary or manager of club prohibited from holding hotel licence

Omit section 33A (1). Insert instead:

- (1) A person who is the secretary of a licensed club or the manager (within the meaning of the *Liquor Act 2005*) of the premises of a licensed club must not:
 - (a) hold a hotel licence under the *Liquor Act 2005*, or
 - (b) acquire any financial interest in respect of a hotel.Maximum penalty: 100 penalty units.

[46] Section 33A (2)

Omit “hotelier’s”. Insert instead “hotel”.

[47] Sections 34 (3) and 36 (7B)

Omit “Principal Registrar” wherever occurring. Insert instead “Director”.

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[48] Section 35A Investigations by Director

Omit section 35A (1). Insert instead:

- (1) The Director may carry out all such investigations and inquiries as are considered by the Director to be necessary in order to:
 - (a) determine a person's application under section 33 for approval to act as secretary of a licensed club, or
 - (b) ascertain whether a licensed club or member of the governing body or employee of a licensed club is complying with the provisions of Part 4A, or
 - (c) determine whether or not to take disciplinary action under Part 6A against a licensed club, secretary of a licensed club or member of the governing body of a licensed club.

[49] Section 36 Conduct of club elections by Electoral Commissioner

Omit section 36 (2) (b), (3) and (11).

[50] Section 36 (2) (c) (ii)

Omit "day appointed for the commencement of the hearing of the application".

Insert instead "application is made".

[51] Section 36 (5)

Omit "in the manner referred to in subsection (2) (b) or".

[52] Section 37 Lodgment of licensed club's balance sheet and profit and loss account or income and expenditure account

Omit section 37 (1). Insert instead:

- (1) A licensed club must, within one month after its annual general meeting or within such further time as the Director may allow in any particular case, lodge with the Director copies of the balance sheet and of either the profit and loss account or the income and expenditure account, each as duly audited, submitted to that annual general meeting.

[53] Section 41 Licensed clubs under official management or receivership or in liquidation

Omit section 41 (2)–(5).

[54] Section 41A Appointment of temporary administrator

Omit section 41A (3).

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[55] Part 4A, heading

Omit “**registered**”. Insert instead “**licensed**”.

[56] Section 41D Declaration of financial interests in hotels

Omit section 41D (5) (and the note at the end of the subsection). Insert instead:

- (5) This section does not apply to the secretary of a licensed club or a person appointed as manager under the *Liquor Act 2005* of any premises of a licensed club.

Note. Section 33A prohibits the secretary or manager of a licensed club from holding a hotel licence under the *Liquor Act 2005* or acquiring any financial interest in respect of a hotel.

[57] Part 4A, headings to Divisions 2, 3, 4 and 6

Omit “**registered**” wherever occurring. Insert instead “**licensed**”.

[58] Section 41I Exhibition on premises of licensed club of certain disclosures

Omit “secretary of the Board” from section 41I (2). Insert instead “Director”.

[59] Section 41L Contracts with secretary, manager, close relatives and others

Omit “under section 34A” from section 41L (1) (a).

Insert instead “under the *Liquor Act 2005*”.

[60] Section 41ZC Guidelines

Omit “registered clubs industry”. Insert instead “licensed clubs industry”.

[61] Part 5 Appeals and reviews

Omit the Part.

[62] Section 45 Unauthorised persons using club premises

Omit “the defined premises of a registered club” from section 45 (1).

Insert instead “the premises of a licensed club”.

[63] Section 45 (1) (c)

Insert at the end of section 45 (1) (b):

, or

- (c) is not attending a function in accordance with a club functions authority under section 23,

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[64] Section 49 Amendment of rules of club

Omit “secretary of the Board”. Insert instead “Director”.

[65] Section 50B Display of notices

Omit section 50B (1).

[66] Section 56 General defence available to secretary of licensed club

Omit section 56 (2). Insert instead:

- (2) Subsection (1) does not apply to any other offence under this Part in respect of which a defence is specifically available to the secretary of a licensed club.

[67] Part 6A

Insert after Part 6:

Part 6A Disciplinary action

57E Disciplinary action against licensed clubs

- (1) The Director may, by notice in writing issued to a licensed club, call on the licensed club to show cause why the Director should not take disciplinary action under this section against the club on any of the grounds referred to in subsection (3).
- (2) Any such notice must specify the disciplinary grounds on which the Director is proposing to take action and specify the time within which a submission may be made on the matter.
- (3) The grounds on which the Director may take disciplinary action against a licensed club are as follows:
 - (a) that the requirements specified in section 10 (1) are not being met, or have not been met, in relation to the club,
 - (b) that the supply of liquor to the club or on the premises of the club has not been under the control of the governing body of the club,
 - (c) that the club or the secretary has contravened a condition to which a junior members authority held by the club under section 22A, or a club functions authority held by the club under section 23, is subject,
 - (d) that the secretary of the club or any member of the governing body of the club is not a fit and proper person to act as such,

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- (e) that the club has contravened a provision of this Act, whether or not it has been convicted of an offence in respect of that contravention,
 - (f) that a rule of the club referred to in section 30 (1) has been broken or any other rule of the club has been habitually broken,
 - (g) that the club has been conducted, or the premises of the club have been habitually used, for an unlawful purpose.
- (4) After taking into consideration any written submissions in relation to the matter, the Director may decide not to take any action in relation to the matter or may decide to do any one or more of the following:
- (a) cancel or suspend the licence of the club,
 - (b) cancel or suspend a junior members authority held by the club under section 22A or a club functions authority held by the club under section 23,
 - (c) order the club to pay a penalty not exceeding 500 penalty units within such time as may be specified in the order,
 - (d) impose a condition to which the licence of the club, or to which any such authority held by the club under this Act, is subject,
 - (e) appoint a person to administer the affairs of the club who, on appointment and until the Director orders otherwise, has, to the exclusion of any other person or body of persons, the functions of the governing body of the club,
 - (f) declare that each person specified in the declaration is, for such period as is specified in the declaration, ineligible to stand for election or to be appointed to, or to hold office in, the position of secretary or member of the governing body (or both of those positions) of:
 - (i) the club, and
 - (ii) if the Director so declares—all other licensed clubs or such other licensed clubs as are specified or as are of a class specified in the declaration.

57F Director may remove secretary or member of governing body from office

- (1) The Director may, by notice in writing issued to a person who is or was the secretary or a member of the governing body of a licensed club, call on the person to show cause why the person should not:

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- (a) be removed from his or her position as the secretary or a member of the governing body of that club, or
 - (b) be prevented from holding such a position in that or another club in the future,on either of the grounds referred to in subsection (3).
- (2) Any such notice must specify the grounds on which the Director is proposing to take action and specify the time within which a submission may be made on the matter.
- (3) The grounds on which a notice may require a person to show cause are:
 - (a) that for reasons specified in the notice, the secretary or member, or former secretary or member, is not a fit and proper person to hold office as secretary or as a member of the governing body, or
 - (b) that a requirement of the Director made under this Act in relation to the investigation of the secretary or member, or former secretary or member, of the governing body and specified in the notice has not been complied with.
- (4) A notice under subsection (1) may be issued in respect of a person's membership, or former membership, of the governing bodies of 2 or more licensed clubs specified in the notice.
- (5) The Director may, after taking into consideration any written submissions in relation to the matter, decide to take no further action in relation to the matter or may make an order declaring:
 - (a) that the position of the person as the secretary, or as a member of the governing body, of any licensed club specified in the notice is vacant, or
 - (b) that the position of the person as secretary, or as a member of the governing body, of any licensed club specified in the notice is vacant and that the person is, for such period not exceeding 3 years as is specified in the declaration, ineligible to stand for election or to be appointed to, or to hold office in, the position of secretary or member of the governing body or both of those positions (whether the person was called on to show cause as the secretary or as a member of the governing body) of:
 - (i) all licensed clubs, or all licensed clubs of, or other than of, a class specified in the declaration, or
 - (ii) all licensed clubs specified in the notice or any licensed club so specified, or

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- (c) that the person is, for such period not exceeding 3 years as is specified in the declaration, ineligible to stand for election or to be appointed to, or to hold office in, the position of secretary or member of the governing body or both of those positions (whether the person was called on to show cause as the former secretary or as a former member of the governing body) of:
 - (i) all licensed clubs, or all licensed clubs of, or other than of, a class specified in the declaration, or
 - (ii) all licensed clubs specified in the notice or any licensed club so specified.
- (6) If the Director makes any such declaration, the position of the person as secretary, or as a member of the governing body, of any licensed club to which the declaration relates becomes vacant.
- (7) If a person called on to show cause under this section vacates office as secretary or member of a governing body of a club before the matter is determined:
 - (a) the Director may declare that the person is, for such period as is specified in the declaration, ineligible for appointment or election, or to hold office, as secretary of that or any other licensed club or as a member of the governing body of that or any other licensed club, and
 - (b) if such a declaration is made, all offices held by the person as secretary, or as a member of the governing body, of any licensed club become vacant.
- (8) A person must not, during the period for which the person is declared under subsection (5) (b) or (c) or (7) to be ineligible for a position, stand for election or accept appointment to, or hold office in, that position.

Maximum penalty: 100 penalty units.
- (9) Despite any other law, if the Director makes an order under subsection (5), the person to whom the order relates is not, in consequence of the order or of anything done to give effect to the order, entitled to compensation or damages from the licensed club of which the person was the secretary or a member of the governing body unless the Director specifies in the order that the order does not affect the rights, if any, of the person to compensation or damages from that club.
- (10) A vacancy in the position of a member of the governing body of a licensed club resulting from an order under subsection (5) may be filled as a casual vacancy.

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- (11) The Director may appoint a person to administer the affairs of a licensed club until a vacancy in the position of the secretary or a member of the governing body of the club resulting from an order under subsection (5) is filled.
- (12) A person appointed under subsection (11) has, to the exclusion of any other person or body of persons, the functions of the governing body of the club until:
 - (a) the vacancy in the position of the secretary or member of the governing body of the club is filled, or
 - (b) the Director orders otherwise,whichever first occurs.

57G Procedure for implementing disciplinary action

- (1) If the Director decides to take any action under section 57E or 57F against a licensed club, secretary or person who is a member of the governing body of a licensed club, the Director is required to serve on the club, the secretary or person a notice informing the person of the Director's decision.
- (2) The notice must include the reasons for the Director's decision.
- (3) The action specified in the notice takes effect when notice of it is given or on a later date specified in the notice.
- (4) The Director may, by serving a further notice on the club or person concerned, cancel a notice under this section before the notice takes effect.
- (5) A monetary penalty imposed by the Director under this Part may be recovered as a debt due to the Crown in a court of competent jurisdiction.
- (6) The Director or the Liquor and Gaming Court is not prevented from taking any action under this Part merely because the club, secretary or person concerned is subject to criminal or civil proceedings that relate to the same matters or incident to which the action under this Part relates.

57H Disciplinary action taken by Liquor and Gaming Court

- (1) If the Director is satisfied that:
 - (a) any of the grounds referred to in section 57E (3) apply in relation to a licensed club, or
 - (b) any of the grounds referred to in section 57F (3) apply in relation to a person who is or was the secretary or a member of the governing body of a licensed club,

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the Director may, instead of taking action against the club or person concerned under this Part, refer the matter to the Liquor and Gaming Court to be dealt with by the Court.

- (2) If the Director decides:
 - (a) not to take action against a licensed club or person under this Part, or
 - (b) not to refer the matter to the Liquor and Gaming Court, the Commissioner of Police may, if satisfied that there are grounds for taking action under this Part against the club or person concerned, request the Liquor and Gaming Court to deal with the matter.
- (3) The Liquor and Gaming Court may deal with any matter that is referred to it, or that is the subject of a request by the Commissioner of Police, under this section by deciding:
 - (a) to take any one or more of the kinds of action against the licensed club or person that the Director may take under this Part, or
 - (b) to take no action against the club or person concerned.
- (4) If any such referral or request is made under subsection (1) or (2), the Director and the Commissioner of Police are entitled to be heard and represented in any proceedings in which the Liquor and Gaming Court deals with the matter and to make submissions in relation to the matter.
- (5) Without limiting subsection (3) (a), the Liquor and Gaming Court may, in the case of a disciplinary matter taken against a licensed club under section 57E, order the licensed club to pay a penalty not exceeding 2,500 penalty units, or 5,000 if circumstances of aggravation exist in relation to the matter.
- (6) For the purposes of subsection (5), circumstances of aggravation exist in relation to a disciplinary matter before the Liquor and Gaming Court if either or both of the following apply:
 - (a) the Court is of the opinion that the disciplinary grounds on which the matter relates are so serious as to warrant the taking of action that is available to the Court when circumstances of aggravation exist,
 - (b) the Court, in finding that the taking of disciplinary action is justified, is of the opinion (having regard to any matter such as the number of disciplinary grounds involved, the seriousness of the grounds involved, the seriousness of the outcome of the grounds, or any other relevant consideration) that the matter is so serious as to warrant the

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taking of action that is available to the Court when circumstances of aggravation exist.

- (7) In dealing with any disciplinary matter that is referred to it, or that is the subject of a request by the Commissioner of Police, under this section, the Liquor and Gaming Court has, despite any other law, the following powers and discretions:
- (a) the Court may, in taking disciplinary action, take into account the deterrent effect, or punitive effect, or both, of the action,
 - (b) the Court is not required, in taking disciplinary action, to take into account any action taken by the licensed club or person concerned to rectify or mitigate the disciplinary grounds (as referred to in section 57E (3)) applying in relation to the club or person.

[68] Part 8, heading

Omit “**Legal**”. Insert instead “**Appeals and legal**”.

[69] Sections 60–60D

Omit section 60. Insert instead:

60 Appeals to Liquor and Gaming Court against certain decisions

(1) Refusal to grant junior members authority

A licensed club may appeal to the Liquor and Gaming Court against the decision of the Director not to grant a junior members authority under section 22A.

(2) Refusal to grant club functions authority

A licensed club may appeal to the Liquor and Gaming Court against the decision of the Director not to grant a club functions authority under section 23.

(3) Refusal to approve person as secretary

A person may appeal to the Liquor and Gaming Court against the decision of the Director under section 33 to refuse to approve the person to act as the secretary of a licensed club.

(4) Appeal against disciplinary action

A licensed club, secretary of a licensed club or person who is a member of the governing body of a licensed club may appeal to the Liquor and Gaming Court against the decision of the Director to take any disciplinary action under Part 6A against the club, secretary or person.

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(5) Appeals by Commissioner of Police

The Commissioner of Police may appeal to the Liquor and Gaming Court against the decision of the Director:

- (a) to grant a junior members authority to a licensed club under section 22A, or
- (b) to grant a club functions authority to a licensed club under section 23, or
- (c) to approve of a person to act as the secretary of a licensed club.

60A Determination of appeal

The Liquor and Gaming Court may do any of the following in respect of an appeal under section 60:

- (a) dismiss the appeal,
- (b) confirm the decision appealed against or vary the decision by substituting any decision that could have been made by the Director,
- (c) refer any matter relating to the decision appealed against to the Director (in accordance with directions given by the Court),
- (d) make such other orders in relation to the disposal of the appeal as the Court thinks fit.

60B Provisions relating to appeals to Liquor and Gaming Court

- (1) Appeals under section 60 are to be made in accordance with the regulations.
- (2) The regulations may make provision for or with respect to appeals to the Liquor and Gaming Court under section 60 and, in particular, for or with respect to:
 - (a) the procedures to be followed at or in connection with appeals, and
 - (b) the suspension of a decision appealed against pending the determination of the appeal, and
 - (c) the payment of fees in respect of appeals under section 60, and
 - (d) any matters incidental to or connected with appeals.

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60C Appeal to Supreme Court on question of law against decision of Liquor and Gaming Court

- (1) A person who is aggrieved by any decision of the Liquor and Gaming Court under this Act may, in accordance with the rules of court of the Supreme Court, appeal against the decision to the Supreme Court on a question of law.
- (2) On the determination of an appeal under subsection (1), the Supreme Court may:
 - (a) remit the matter to the Liquor and Gaming Court for determination in accordance with the decision of the Supreme Court, or
 - (b) make such other order in relation to the appeal as it thinks fit.

60D Review of declaration of ineligibility

- (1) A person may, in accordance with the regulations, apply to the Liquor and Gaming Court for a review of a declaration of ineligibility under Part 6A or section 65A if the declaration has effect for a period of more than 3 years.
- (2) On application being made for the review of a declaration of ineligibility, the Liquor and Gaming Court may:
 - (a) revoke the declaration, or
 - (b) shorten the period of ineligibility, or
 - (c) confirm the declaration and set a minimum period during which a further application for review under this section may not be made.
- (3) This section does not affect any right of appeal that a person might have under section 60 (4) against the original decision to make the relevant declaration.

[70] Section 63

Omit the section. Insert instead:

63 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 club is or was a licensed club,

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- (b) that a specified person is or was the secretary of a licensed club,
 - (c) that a specified person is the Director,
 - (d) that a specified person is a delegate of the Minister, or of the Commissioner of Police, or of the Director, to whom a specified function has been delegated under section 6A,
 - (e) that a specified person is a special inspector.
- (2) In any proceedings for an offence under this Act or the regulations, an allegation in an information 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.

[71] Section 65

Omit the section. Insert instead:

65 Proceedings for offences

- (1) Proceedings for an offence under this Act or the regulations are to be dealt with summarily by a Local Court.
- (2) Without limiting subsection (1), a Local Court may, for the purposes of dealing with an offence under this Act or the regulations, be constituted by a Liquor and Gaming Magistrate.
- (3) Except as provided by subsection (4), proceedings for an offence under this Act or the regulations may be instituted within 12 months after the act or omission giving rise to the offence.
- (4) Proceedings for an offence referred to in the following Table may be instituted within the period of 3 years after the act or omission giving rise to the offence.

Table (Offences to which 3 year time limit applies)

An offence under section 32, 34, 37, 40, 43A, 45, 45A, 47, 49, 57F (8), 59A, 59B or 72C of this Act.

[72] Section 65A

Omit the section. Insert instead:

65A Additional penalties

- (1) This section applies in relation to a Local Court only if it is constituted by a Liquor and Gaming Magistrate.

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- (2) In addition to any other penalty that a Local Court may impose for an offence committed by a licensed club under this Act, the Court may, if it thinks it appropriate, do any one or more of the following:
- (a) cancel or suspend the licence of the club or any junior members authority held by the club under section 22A or any club functions authority held by the club under section 23,
 - (b) subject the licence, or any such authority, to a specified condition,
 - (c) declare that each person specified in the declaration is, for such period as is specified in the declaration, ineligible to stand for election or to be appointed to, or to hold office in, the position of secretary or member of the governing body (or both of those positions) of:
 - (i) the club, and
 - (ii) if the Court so declares—all other licensed clubs or such other licensed clubs as are specified or as are of a class specified in the declaration.

[73] Section 66 Penalty notices

Omit “except proceedings under section 17 or 17AAA” from section 66 (4).
Insert instead “, except taking disciplinary action under Part 6A”.

[74] Section 66 (6)

Omit “sections 17 and 17AAA”. Insert instead “Part 6A”.

[75] Section 67 Power to demand particulars from certain persons on club premises

Omit section 67 (1).

[76] Section 71

Omit the section. Insert instead:

71 Service of notices

- (1) Any notice or other instrument to be served on a club under this Act may be served by leaving it with the secretary of the club, a member of the governing body or of a committee of the club or a person who is apparently an employee of the club at the premises of the club or by affixing it to a conspicuous part of the premises of the club.

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- (2) A notice or other instrument required or permitted to be served under this Act by post is taken to have been properly addressed for the purpose of its service by post if addressed to the person to whom it is directed at any of the following addresses:
- (a) the address of the premises of the licensed club (in the case of service on the club),
 - (b) the address of the place at which the person resides, as last known to the Director,
 - (c) the address of a place at which the person carries on business, as last known to the Director.
- (3) The provisions of this section operate in addition to and do not derogate from the operation of a provision of any other law relating to service (such as section 109X of the *Corporations Act 2001* of the Commonwealth in respect of a licensed club that is a company within the meaning of that Act).

[77] Section 72 Special provisions relating to Sydney Cricket Ground Club and Newcastle International Sports Centre Club

Omit section 72 (3) and (8).

[78] Section 73 Regulations

Omit section 73 (1) (a)–(d), (g), (k) and (m) and (2).

[79] Section 73 (1) (i) and (j)

Omit “registered clubs” wherever occurring. Insert instead “licensed clubs”.

[80] Section 74 Protection from personal liability

Omit section 74 (a). Insert instead:

- (a) the Director, or

[81] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1A (1):

Liquor Act 2005, to the extent that it amends this Act

[82] Schedule 2, Part 19

Insert after Part 18:

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Amendment of Registered Clubs Act 1976

Schedule 2

Part 19 Provisions consequent on enactment of Liquor Act 2005

91 Definitions

In this Part:

relevant date means the date on which section 9 of this Act is repealed by Schedule 2 to the *Liquor Act 2005*.

restricted trading day means Good Friday or Christmas Day.

92 Existing registered clubs taken to be licensed under Liquor Act 2005

- (1) If a certificate of registration under this Act was in force in respect of a club immediately before the relevant date, the club is, on that date, taken to be the holder of a club licence granted under the *Liquor Act 2005*. Any such club is referred to in this Part as an *existing club*.
- (2) The licence of an existing club:
 - (a) is subject to any conditions and restrictions to which the club's certificate of registration was subject under this Act (including provisions relating to trading hours) immediately before the relevant date, and
 - (b) may be dealt with under, and is otherwise subject to, the provisions of the *Liquor Act 2005*.
- (3) If, immediately before the relevant date, an existing club owned or occupied more than one set of premises, each set of premises is, on the commencement of section 18 of the *Liquor Act 2005*, taken to be separately licensed under the *Liquor Act 2005*.

93 Existing trading hours (other than on restricted trading days)

- (1) An existing club that, immediately before the relevant date, had no restrictions in respect of its on-premises trading hours for any day (other than a restricted trading day) may continue to trade on that basis until such time as action (if any) is taken under the *Liquor Act 2005* to vary those trading hours.
- (2) Any such club must, within 12 months of the commencement of section 18 of the *Liquor Act 2005*, provide the Director with a statement of its current on-premises trading hours (other than on restricted trading days) for each of its premises. The statement is to be in the form approved by the Director and the secretary of the club must verify the statement by way of statutory declaration.

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- (3) If the Director is satisfied that the on-premises trading hours of an existing club extend past midnight, the Director is to grant an extended trading authority under the *Liquor Act 2005* in relation to the licensed premises.
- (4) If the club fails to provide the statement required under subclause (2), the trading hours for the club's premises are taken to be the standard trading period under the *Liquor Act 2005* for any day of the week other than a restricted trading day.
- (5) An existing club that, immediately before the relevant date, had restricted on-premises trading hours may continue to trade on that basis only. However, the club may apply for an extended trading authority under the *Liquor Act 2005*.
- (6) Nothing in this clause authorises an existing club to sell or supply liquor, for consumption away from the licensed premises, at any time other than the off-premises trading hours that applied immediately before the relevant date.
- (7) This clause does not affect the generality of clause 92 (2).

94 Existing trading hours on restricted trading days

- (1) An existing club that, immediately before the relevant date, had no restrictions in respect of its on-premises trading hours on a restricted trading day may continue to trade on that basis on such a day until such time as action (if any) is taken under the *Liquor Act 2005* to vary those trading hours.
- (2) Any such club must, within 12 months of the commencement of section 18 of the *Liquor Act 2005*, provide the Director with a statement of its current on-premises trading hours on restricted trading days for each of its premises. The statement is to be in the form approved by the Director and the secretary of the club must verify the statement by way of statutory declaration.
- (3) If the Director is satisfied that the on-premises trading hours of an existing club on a restricted trading day extend beyond the period between 10 am and midnight on that day, the club is authorised to continue to trade on that basis.
- (4) If the club fails to provide the statement required under subclause (2), the trading hours for the club's premises on a special trading are taken to be the period between 10 am and midnight.
- (5) Nothing in this clause authorises an existing club to sell or supply liquor, for consumption away from the licensed premises, at any time on a restricted trading day.
- (6) This clause does not affect the generality of clause 92 (2).

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Schedule 2

95 References to registered clubs

A reference in this or any other Act or instrument to a registered club, or to a club in respect of which a certificate of registration under this Act is in force, is to be read as a reference:

- (a) to a licensed club, or
- (b) if the context of the reference indicates that it applies to the premises of a registered club—to the premises of a licensed club.

96 Pending applications and proceedings

- (1) The provisions of this Act, as in force immediately before being amended by the *Liquor Act 2005*, continue to apply, as if they had not been amended, to and in respect of an application or other matter that was pending immediately before the commencement of the amendment of the provision concerned.
- (2) Without limiting subclause (1):
 - (a) proceedings in the Licensing Court (including any disciplinary proceedings or proceedings that are the subject of an appeal to the Supreme Court) that were instituted before, but not determined by, the commencement of the amendment of the provision under which the proceedings were instituted may be continued and determined as if the provision had not been amended, and
 - (b) any matter being dealt with by the Liquor Administration Board under a provision of this Act immediately before its amendment may continue to be determined by the Board as if the provision had not been amended.
- (3) If any pending matter before the Liquor Administration Board is not determined within such period as may be prescribed by the regulations, the Director may deal with the matter instead under the relevant provision of this Act.
- (4) Any authorisation, appointment or other matter granted or determined pursuant to subclause (1) or (2) is taken to have been granted or determined under the corresponding provision of this Act.
- (5) In this clause:

amended includes repealed.

Licensing Court means the Licensing Court constituted in accordance with Part 2 of the *Liquor Act 1982* (as in force before its repeal by the *Liquor Act 2005*).

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Liquor Administration Board means the Liquor Administration Board constituted by section 72 of the *Liquor Act 1982* (as in force before its repeal by the *Liquor Act 2005*).

97 General savings provision

- (1) Subject to the regulations, anything done under or for the purposes of a provision of this Act that had effect immediately before the provision was amended by Schedule 2 to the *Liquor Act 2005* is taken to have been done under or for the purposes of this Act as so amended.
- (2) Without limiting subclause (1), any approval, authority or appointment in force under a provision of this Act immediately before the amendment of the provision by Schedule 2 to the *Liquor Act 2005* is taken to be an approval, authority or appointment of the corresponding kind in force under this Act as so amended.

[83] Schedule 3 Transferred clubs

Omit the Schedule.

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Amendment of Gaming Machines Act 2001

Schedule 3

Schedule 3 Amendment of Gaming Machines Act 2001

(Section 163)

[1] Long title

Omit “registered clubs”. Insert instead “on the premises of licensed clubs”.

**[2] Section 3 Gambling harm minimisation and responsible gambling
conduct are primary objects of this Act**

Omit “Licensing Court, the Board,” from section 3 (2).

Insert instead “Liquor and Gaming Court,”.

**[3] Sections 4 (1) (definitions of “AAD threshold”, “centralised cash control
equipment”, “large-scale club” and “SIA threshold”), 12 (1), 16, 17
(2)–(4), 19 (1) and (4), 20 (2), 21 (2), (4) and (5), 24A (1), 25A, 26 (1) and (3),
28 (1) and (5), 29 (1), (1AA) and (3), 30 (1) and (2), 31 (1), 31A (2) (b) and (4)
(paragraph (b) of the definition of “gaming machine entitlement”), 31C
(1) and (3), 32 (1), 34 (2) (b) and (3), 39 (1), 40 (1), 40A (1), 42 (1), 43 (1) and
(3), 44 (1) and (3), 45 (1) (definition of “promotional prize), (2) and (4), 46
(1), 47 (2) (c) (i), 47A (3) (definition of “prize winning cheque”), 49 (1)
(paragraph (b) of the definition of “responsible person”), (3), (4) and (5),
51 (2), 52 (1) and (2), 53 (3) (paragraph (b) of the definition of “authorised
person”), 56 (1), (2) and (5), 57 (1), 59A, 61 (2) and (4), 64 (4) and (8), 66
(1), 67 (4), 69 (1), 70 (1) (b), 71 (3) and (5) (a), 72, 73 (1) and (2), 74 (1), 75,
76 (1), 82 (paragraph (b) of the definition of “gaming machine adviser”),
85 (3) (a) and (5) (a), 106 (1) and (3), 122 (1), 123 (b), 133 (2) and (3), 134
(1) and (2), 142 (2) (b), 148, 149 (2), 177 (1) (a), 182, 183 (5) (b) and (d), 194
(1) (c), (h) and (i), 196 (1), 201 (1) and 203 (1)**

Omit “registered club” wherever occurring. Insert instead “licensed club”.

**[4] Sections 4 (1) (definitions of “approved amusement device”, “approved
poker machine”, “sell” and “SIA threshold”), 8, 9 (b), 10 (1), 11, 12, 14 (2)
and (3), 15A (2) (c), (2A) and (3) (b), 16 (1) and (2), 17 (2) and (4), 18 (2) and
(3), 19 (2), (3) and (4), 20 (3) (b) and (7), 21 (2) and (5), 21A (2), 22 (1), (1A)
(a) and (1B), 23 (2), 24A (2), 25 (2), 25A (2), 26 (1), 27 (3), 28 (1) and (3), 29
(1), (1AA), (1A) and (1B), 30 (1), (2) and (3), 31 (1), (3) and (4), 31A (1) and
(2), 31B (3), 31C (1) and (2), 32 (1) and (2), 33 (1), 35 (e), 36 (1) and (3)–(5),
37 (1)–(3) and (6), 37A, 40 (1) and (3), 40A (1) and (3), 42 (3), 56 (1) (a), (2)
and (4)–(8), 57, 58 (1) and (1A), 59 (1) and (2), 61 (2) and (3), 62A (1), 62
(1), 63, 64 (1), (3), (6) and (8), 65, 66 (1), 67, 69 (2) (b) and (c), 70 (3) (b), 71
(1) and (5) (a) and (b), 72 (1) (b) and (2), 74 (2) (b), 80 (3) (b) and (c), 83 (1)
(e) and (4), 84 (3) (a), 85 (3) and (5) (a) and (b), 88 (3) (a), 89 (1), 106 (1) and
(3), 107, 108 (1), 109 (2), 110 (6) and (7), 111, 112, 121, 122, 123, 126 (1)
and (3), 134 (2) (b), 136 (3), 141 (paragraph (b) of the definition of**

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“specially approved gaming machine”, 156 (3) (b) and (c), 182 (1) (d) and (e), 183 (8), 205 (1), (3), (4) and (6) and 206 (2) (a)

Omit “Board” wherever occurring. Insert instead “Director”.

[5] Section 4 (1), definition of “Board”

Omit the definition.

[6] Section 4 (1), definition of “Director”

Omit the definition. Insert instead:

Director means the Director of Liquor and Gaming appointed as provided by the *Liquor Act 2005*.

[7] Section 4 (1), definition of “gaming machine area”

Omit the definition. Insert instead:

gaming machine area in relation to a licensed club means any part of the club’s premises in which approved gaming machines are located.

[8] Sections 4 (1) (definition of “hardship gaming machine”), 7 (a), 9, 14 (1) (b), 43 (6) (paragraph (a) of the definition of “gaming machine advertising”), 44 (6) (paragraph (a) of the definition of “gambling-related sign”), 45 (1) (definition of “player reward scheme”), 47 (2) (e), 50 (1), 158 (1) and 209 (4) and (5)

Omit “registered club” wherever occurring.

Insert instead “on the premises of a licensed club”.

[9] Section 4 (1), definitions of “hotel”, “hotelier” and “hotelier’s licence”

Omit the definitions. Insert instead:

hotel, *hotel licence* and *hotelier* have the same meanings as in the *Liquor Act 2005*.

[10] Section 4 (1), definition of “Licensing Court”

Omit the definition.

[11] Sections 4 (1) (definitions of “liquor” and “manager”), 20 (1A), 25 (1), 30 (3), 31A (1) (b), 33 (3) (a), 52 (5), 58 (2), 60 (4) and 70 (2) (a)

Omit “*Liquor Act 1982*” wherever occurring.

Insert instead “*Liquor Act 2005*”.

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Schedule 3

[12] Section 4 (1), definitions of and “Liquor and Gaming Court” and “Liquor and Gaming Magistrate”

Insert in alphabetical order:

Liquor and Gaming Court means the Liquor and Gaming Court of New South Wales constituted by the *Liquor and Gaming Court Act 2005*.

Liquor and Gaming Magistrate means a Liquor and Gaming Magistrate appointed under the *Liquor and Gaming Court Act 2005*.

[13] Section 4 (1), definitions of “new club” and “new hotel”

Omit the definitions. Insert instead:

new club means a club:

- (a) that became registered the first time under the *Registered Clubs Act 1976* on or after 26 July 2001 (other than as the result of an amalgamation under section 17A of that Act), or
- (b) that becomes licensed under the *Liquor Act 2005* for the first time (other than as the result of the transfer of a club licence under section 51 of that Act or because of the operation of clause 92 of Schedule 2 to the *Clubs Management Act 1976*).

new hotel means:

- (a) a hotel that became licensed for the first time under the *Liquor Act 1982* on or after 26 July 2001 or a hotel to which a licence under that Act was removed after that date, or
- (b) a hotel that becomes licensed for the first time under the *Liquor Act 2005* (otherwise than because of the operation of clause 3 of Schedule 1 to that Act) or a hotel to which a licence is removed under that Act.

[14] Section 4 (1), definitions of “primary purpose test”, “Principal Registrar” and “registrar”

Omit the definitions.

[15] Section 4 (1), definition of “registered club”

Omit the definition. Insert instead in alphabetical order:

licensed club means a club that holds a club licence under the *Liquor Act 2005*.

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- [16] **Section 4 (1), definition of “special inspector”**
Omit the definition. Insert instead:
special inspector means a person holding office under section 151 of the *Liquor Act 2005* as a special inspector.
- [17] **Section 4 (1), definition of “temporary premises”**
Omit the definition. Insert instead:
temporary premises in relation to a hotel or licensed club means any premises approved by the Director under section 84 of the *Liquor Act 2005*.
- [18] **Section 5 Meaning of “close associate”**
Omit “the Licensing Court or” from section 5 (1) (a) and (2) (a) wherever occurring.
- [19] **Sections 5 (2) (b), 16 (2), 19 (1), (3) (c), (4), (5) and (6), 20, 21 (1), 22 (1) and (2), 23, 25, 29 (1B), 30 (1) and (3), 31A (1) and (4) (paragraph (a) of the definition of “gaming machine entitlement”), 31B, 31C (1) and (3), 33 (3) (a), 56 (4) (a), 58 (2), 60 (4), 60A (2), 70 (2) (a), 71 (5) (b), 73 (3) (a) and 85 (5) (b)**
Omit “hotelier’s licence” wherever occurring. Insert instead “hotel licence”.
- [20] **Section 6 Primary purpose test in respect of hotels**
Omit the section.
- [21] **Sections 9 (a), 39 (1), 40 (2), 40A (2), 49 (3), 66 (3), 75, 76 (1), 106 (3), 133 (3), 134 (1) (a) and 182 (1) (d)**
Omit “in the hotel or club” wherever occurring.
Insert instead “in the hotel or on the premises of the club”.
- [22] **Section 10 Overall State cap on number of poker machines**
Omit “registered clubs”.
Insert instead “on the premises of licensed clubs”.
- [23] **Sections 14 (1) (b), 19 (3), 29 (1AA) and (1B), 31 (4), 40 (3), 40A (3), 62A (2) and 122 (2)**
Omit “Board’s” wherever occurring. Insert instead “Director’s”.
- [24] **Sections 14 (2) (b), 37 (4), 40 (3), 40A (3), 49 (2) and 60A (2)**
Omit “registered club” wherever occurring. Insert instead “club premises”.

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[25] Sections 14 (3), 132 (2) (c) and 142 (3)

Omit “registered clubs” wherever occurring. Insert instead “licensed clubs”.

[26] Section 15 Initial allocation of poker machine entitlements

Insert after section 15 (7):

- (8) In this section, *Board*, *registered club* and *hotelier’s licence* have the meanings given under section 4 of this Act immediately before the repeal of those definitions by Schedule 3 to the *Liquor Act 2005*.

[27] Section 16 Further allocation of poker machine entitlements and certificate of entitlements

Omit “hoteliers’ licences” from section 16 (1). Insert instead “hotel licences”.

[28] Section 17 Allocation of free poker machine entitlements in respect of certain clubs

Omit section 17 (1). Insert instead:

- (1) This section applies to a licensed club:
- (a) that is a new club, or
 - (b) that was, immediately before the commencement of this section, authorised under the *Registered Clubs Act 1976* to keep less than 10 approved poker machines on any of its premises.

[29] Section 17 (2)

Omit “subsection (1) (c)”. Insert instead “subsection (1) (b)”.

[30] Section 21 Other provisions relating to transfer of poker machine entitlements

Omit section 21 (6). Insert instead:

- (6) If a licensed club (*the dissolved club*) amalgamates with another licensed club (*the parent club*) as referred to in Division 1A of Part 2 of the *Clubs Management Act 1976*, any poker machine entitlements allocated in respect of any of the premises of the dissolved club are taken to be transferred to those same premises without the forfeiture of any entitlement to the Director.

[31] Section 21A Special provisions relating to transfer by large-scale clubs of poker machine entitlements

Omit “(whether or not as the result of an amalgamation with another registered club under the *Registered Clubs Act 1976*)” from section 21A (1).

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[32] Section 24

Omit the section. Insert instead:

24 Transfer of poker machine entitlements when club licence surrendered or cancelled

- (1) If:
 - (a) the licence of a club is surrendered or cancelled, or
 - (b) a licensed club's authorisation under Part 5 to keep approved gaming machines is cancelled,any poker machine entitlements allocated in respect of any of the premises of the club may, in accordance with this Division, be transferred.
- (2) If, at the end of the period of 12 months immediately following the surrender or cancellation of the club's licence, or the cancellation of the club's authorisation under Part 5, any such poker machine entitlements have not been transferred, the remaining entitlements are forfeited to the Director.
- (3) This section does not apply:
 - (a) in relation to the cancellation of a club's licence if that cancellation is the result of an amalgamation with another licensed club as referred to in Division 1A of Part 2 of the *Clubs Management Act 1976*, or
 - (b) merely because:
 - (i) the licence of the club concerned, or its authorisation under Part 5 to keep approved gaming machines, is suspended, or
 - (ii) the club has temporarily ceased to trade on the premises concerned.

[33] Sections 25A (1), 28 (5), 31A (2) (b), 32 (5), 33 (3) (b) and 58 (3)

Omit "*Registered Clubs Act 1976*" wherever occurring.

Insert instead "*Liquor Act 2005*".

[34] Section 27 Hardship applications by hoteliers and prospective hoteliers

Insert after section 27 (7):

- (8) In this section, *Board* and *hotelier's licence* have the meanings given under section 4 of this Act immediately before the repeal of those definitions by Schedule 3 to the *Liquor Act 2005*.

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[35] Section 28 Hardship applications by clubs

Insert after section 28 (6):

- (7) In this section, *registered club* has the same meaning given under section 4 of this Act immediately before the repeal of that definition by Schedule 3 to the *Liquor Act 2005*.

[36] Sections 29 (3), 47 (2) (c) (i) and 49 (1) (paragraph (b) (iv) of the definition of “responsible person”)

Omit “in the club” wherever occurring.

Insert instead “on the club’s premises”.

[37] Section 29 Approval to keep gaming machines

Omit “in the registered club” from section 29 (4).

Insert instead “on the premises of the licensed club”.

[38] Sections 29 (5) (definition of “section 88AF hardship machine”), 52 (3), 61 (3) and 141 (paragraph (b) of the definition of “authorised inter-club linked gaming system”), 149 (1), 150 (1), 151 and 152 (5)

Omit “in a registered club” wherever occurring.

Insert instead “on the premises of a licensed club”.

[39] Section 29 (6)

Insert after section 29 (5):

- (6) In this section, *Board* has the meaning given under section 4 of this Act immediately before the repeal of that definition by Schedule 3 to the *Liquor Act 2005*.

[40] Sections 31A (2) (a) and 33 (3) (b)

Omit “certificate of registration” wherever occurring. Insert instead “licence”.

[41] Section 31A Forfeiture of other gaming machine entitlements in certain circumstances

Omit section 31A (3). Insert instead:

- (3) Subsection (2) does not apply in relation to the cancellation of a club’s licence if that cancellation is the result of an amalgamation with another licensed club as referred to in Division 1A of Part 2 of the *Clubs Management Act 1976*.

[42] Section 32 Application and operation of Division

Omit section 32 (4).

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- [43] Section 36 Advertising of social impact assessment**
Omit “the Director and” from section 36 (1) (c).
- [44] Section 37A Restrictions on approval of social impact assessment**
Omit “or registered club that is”.
Insert instead “that is, or on licensed club premises that are,”.
- [45] Section 38 Interim 3-hour shutdown period to operate until 1 May 2003**
Omit the section.
- [46] Sections 39 (2), 40 (2), 40A (2), 47A (2) and 49 (1) (paragraph (a) of the definition of “self-exclusion scheme”)**
Omit “registered club” wherever occurring.
Insert instead “the premises of a licensed club”.
- [47] Sections 40 (1), 40A (1), 42 (1), 44 (1), 45 (1) (definition of “promotional prize”) and (2) (c), 46 (1), 47 (2) (g) and 49 (4) (a) and (5) (b),**
Omit “or club” wherever occurring. Insert instead “or the club premises”.
- [48] Sections 40A (3), 56 (8), 63 (4) (b), 111, 112 (2) and 205 (1), (4) and (6)**
Omit “its” and “it” wherever occurring.
Insert instead “the Director’s” and “the Director” respectively.
- [49] Section 41**
Omit the section. Insert instead:
- 41 Approval of different shutdown periods for “early openers”**
- (1) This section applies in relation to a hotel or the premises of a licensed club (a *venue*) if, in the opinion of the Director, the venue:
 - (a) was, on a regular basis before 1 January 1997, open for business before 10 am on at least one day of the week, and
 - (b) was, on a regular basis before 1 January 1997, closed for business between midnight and 10 am for a minimum of 3 hours on at least one day of the week, and
 - (c) has continued, and is continuing, to open and close on that same basis ever since.
 - (2) The Director may, on application made in respect of a venue to which this section applies, approve of the venue having:

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- (a) a different 6-hour shutdown period to the general 6-hour shutdown period referred to in section 39, or
 - (b) a different 3-hour shutdown period on Saturdays, Sundays and public holidays to the 3-hour shutdown period referred to in section 40, or
 - (c) a different 3-hour shutdown period to the limited shutdown period referred to in section 40A.
- (3) The Director may only approve of a venue having any such different shutdown period if the approved period is consistent with the opening and closing times (as referred to in subsection (1)) of the venue.
- (4) If any such different shutdown period is approved for the time being in respect of a venue, the hotelier or licensed club concerned must ensure that each approved gaming machine that is kept in the venue is not operated for the purposes of gambling during the approved period.
Maximum penalty: 100 penalty units.
- (5) Despite any other provision of this section, the Director's approval of a venue having different shutdown periods may be given only in respect of those days of the week on which the venue has continued:
- (a) to close for business between midnight and 10 am for a consecutive period of at least 3 hours, and
 - (b) to re-open for business before 10 am.

[50] Section 42 General provisions

Omit section 42 (2). Insert instead:

- (2) Nothing in this section affects the operation of the *Liquor Act 2005*, or of any other Act or law, in relation to the hours during which a hotel or licensed club is authorised to trade.

[51] Sections 47 (1) and (2) (g), 204 (1) (b), 205 (2) (a) and (6) (b) and 210 (2) (e), (f), (s) and (u)

Omit "registered clubs" wherever occurring.

Insert instead "on the premises of licensed clubs".

[52] Section 48 Industry codes of practice

Omit section 48 (1). Insert instead:

- (1) For the purpose of providing practical guidance for the promotion of responsible practices and conduct in relation to approved

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gaming machines in hotels and on the premises of licensed clubs, the Minister is to approve industry codes of practice that set out the standards to be observed by hoteliers and licensed clubs.

[53] Section 49 Self-exclusion of patrons from hotels and clubs

Omit “or club” from section 49 (2).

Insert instead “or the entire club premises”.

[54] Section 51 Hoteliers and clubs liable for operation of gaming machines by minors

Omit section 51 (1) (b). Insert instead:

(b) on the premises of a licensed club—the licensed club and the secretary of the club are each guilty of an offence.

[55] Section 51 (2)

Omit “documentary evidence”.

Insert instead “an evidence of age document (within the meaning of the *Liquor Act 2005*)”.

[56] Section 52 Minors not permitted in gaming machine areas

Omit “of the registered club” from section 52 (4) (b).

[57] Section 53 Minors to provide information

Omit “documentary evidence” from section 53 (1) (b).

Insert instead “an evidence of age document (within the meaning of the *Liquor Act 2005*)”.

[58] Section 54 Reasonable evidence of age

Omit the section.

[59] Sections 56 (3) and 60 (3)

Omit “registered club” wherever occurring.

Insert instead “on the club premises”.

[60] Section 58 Cancellation of authorisations

Omit “the Licensing Court” from section 58 (1) (a).

Insert instead “a Court”.

[61] Section 58 (3)

Omit “a registered club moves”. Insert instead “a club licence is removed”.

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[62] Section 58 (4)

Omit the subsection. Insert instead:

- (4) A reference in subsection (2) or (3) to the removal of a licence to other premises includes a reference to the carrying on of the business under the licence on temporary premises.

[63] Section 59 Authorisation to keep gaming machines in hotel subject to primary purpose test

Insert “(as referred to in section 15 of the *Liquor Act 2005*)” after “primary purpose test” in section 59 (1).

[64] Section 60 Gaming machines not permitted in retail shopping centre

Omit section 60 (2). Insert instead:

- (2) An approved gaming machine cannot be authorised to be kept in a hotel or on the premises of a licensed club:
 - (a) that is or are part of a retail shopping centre or proposed retail shopping centre, or
 - (b) that was or were part of a retail shopping centre within the previous 12 months.

[65] Section 60 (5)

Omit the subsection. Insert instead:

- (5) If an application is granted under the *Liquor Act 2005* that results in the premises of a licensed club being moved or extended to premises that are part of a retail shopping centre or proposed retail shopping centre, any authorisation to keep approved gaming machines in that new part of the club’s premises ceases.

[66] Sections 60 (6), 80 (1), (3), (4) and (5) and 126 (1)

Omit “registered club” wherever occurring.

Insert instead “on the premises of a licensed club”.

[67] Section 60A SIA threshold for hotel or club to be decreased if poker machine entitlements are transferred from retail shopping centre

Omit section 60A (1). Insert instead:

- (1) This section applies to a hotel that is, or to licensed club premises that are, part of a retail shopping centre or proposed retail shopping centre.

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- [68] **Part 5, Division 2, heading**
Omit “**Board**”. Insert instead “**Director**”.
- [69] **Section 64 Declaration of approved gaming machines**
Omit “if it considers” from section 64 (6).
Insert instead “if the Director considers”.
- [70] **Part 5, Division 3, heading**
Omit “**Board’s**”. Insert instead “**Director’s**”.
- [71] **Section 67 Transfer of Director’s functions in relation to approved gaming machines**
Omit “section 75 of the *Liquor Act 1982*” from section 67 (5).
Insert instead “section 159 of the *Liquor Act 2005*”.
- [72] **Section 70 Possession of approved gaming machine by unauthorised persons**
Omit section 70 (2) (b). Insert instead:
 (b) by a licensed club if the club’s licence has been cancelled under the *Liquor Act 2005* and the possession has not extended beyond a reasonable time after the cancellation.
- [73] **Section 71 Supply and purchase of gaming machines**
Omit section 71 (5) (c). Insert instead:
 (c) a club whose licence under the *Liquor Act 2005* has been cancelled (or which has been disqualified for a period from holding a club licence under that Act) if the supply is effected in accordance with arrangements approved by the Director.
- [74] **Section 73 Sharing of receipts from gaming machines**
Omit section 73 (3) (b). Insert instead:
 (b) is named in a statement (as required by section 37 or 58 of the *Liquor Act 2005*) in relation to that licence.
- [75] **Section 74 Granting interests in gaming machines**
Omit “registered club’s” wherever occurring in section 74 (2) (a).
Insert instead “licensed club’s”.

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[76] Section 85 Sale of gaming machines

Omit section 85 (5) (c). Insert instead:

- (c) a club whose licence under the *Liquor Act 2005* has been cancelled (or which has been disqualified for a period from holding a club licence under that Act) if the sale is effected in accordance with arrangements approved by the Director.

[77] Sections 88 (1) and (2), 95 (3), 105 and 110 (1)

Omit “Licensing Court” wherever occurring. Insert instead “Director”.

[78] Section 88 Applications for gaming-related licences

Omit section 88 (6).

[79] Sections 89, 120 and 124

Omit “Principal Registrar” wherever occurring. Insert instead “Director”.

[80] Sections 90, 92, 93, 96–100, 102 and 103

Omit the sections.

[81] Section 91 Disclosure of interested parties

Omit “an affidavit” from section 91 (1).

Insert instead “a written statement”.

[82] Section 91 (1) (a)

Omit “the affidavit”. Insert instead “the statement”.

[83] Section 94

Omit the section. Insert instead:

94 Investigations by Director

- (1) On receiving an application for a gaming-related licence, the Director may carry out such investigations and inquiries in relation to the application as are considered by the Director to be necessary for a proper consideration of the application.
- (2) 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.

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- (3) The Commissioner of Police is to inquire into, and report to the Director on, such matters concerning the application as the Director may request.

[84] Section 95 Director may require further information

Omit “whose application for a gaming-related licence has been referred to the Director” from section 95 (1).

Insert instead “who has applied for a gaming-related licence”.

[85] Section 95A

Insert after section 95:

95A Submissions in relation to licence applications

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

[86] Section 101

Omit the section. Insert instead:

101 Granting of gaming-related licences

- (1) The Director may, after considering an application for a gaming-related licence and any submissions received by the Director in relation to the application, grant the licence or refuse to grant the licence.
- (2) A fee prescribed by, or determined in accordance with, the regulations is payable in respect of the granting of a gaming-related licence.
- (3) A gaming-related licence is to be in the form approved by the Director.
- (4) The Director must not grant a gaming-related licence unless the Director is satisfied that the applicant is a fit and proper person to carry on the business or activity to which the licence relates.
- (5) The regulations may provide mandatory or discretionary grounds for refusing the granting of a gaming-related licence.

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[87] Section 104

Omit the section. Insert instead:

104 Conditions of gaming-related licences

- (1) A gaming-related licence is subject to:
 - (a) such conditions as may be imposed by 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) The holder of a gaming-related licence must comply with any conditions to which the licence is subject.
Maximum penalty: 100 penalty units.
- (3) The Director may vary or revoke a condition of a gaming-related licence that has been imposed by the Director (whether under this section or any other provision of this Act):
 - (a) at any time on the application of the licensee or the Commissioner of Police, or
 - (b) at any time on the Director's own motion.
- (4) Any such application by a licensee to vary or revoke a condition imposed by the Director must be accompanied by the fee prescribed by the regulations.

[88] Section 110 Application for reinstatement of cancelled gaming-related licence or work permit

Omit "and lodged" from section 110 (3).

[89] Section 110 (4)

Omit the subsection. Insert instead:

- (4) The Director may reinstate the licence or work permit if the Director is satisfied that there is a reasonable explanation for the failure to pay the licence fee that resulted in the cancellation of the licence or work permit.

[90] Section 110 (5)

Omit the subsection.

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[91] Section 114 Definition

Omit paragraph (b) of the definition of *key official*. Insert instead:

- (b) a member of staff of the Department of Gaming and Racing who is a senior executive officer within the meaning of the *Public Sector Employment and Management Act 2002*,

[92] Section 118 Control of business carried on under gaming-related licence

Omit section 118 (1). Insert instead:

- (1) If a person (other than the licensee or a financial institution) becomes interested in the business, or the profits of the business, carried on under a gaming-related licence, it is a condition of the gaming-related licence that the Director is to be 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 that the licensee has made all reasonable inquiries to ascertain the information referred to in paragraph (a).

[93] Part 8

Omit the Part. Insert instead:

Part 8 Disciplinary action

Division 1 Preliminary

127 Interpretation

- (1) In this Part:
 - licensee* means:
 - (a) a hotelier, or
 - (b) a licensed club, or
 - (c) the holder of a gaming-related licence (referred to as a *gaming-related licensee*).
- (2) In this Part:
 - (a) a reference to a licensee includes a reference to a former licensee, and

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- (b) a reference 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.

128 Director may carry out inquiries and investigations

- (1) The Director may carry out such investigations and inquiries as the Director considers to be necessary for the purposes of deciding whether or not:
 - (a) to take disciplinary action against a licensee under Division 2, or
 - (b) to refer a disciplinary matter to the Liquor and Gaming Court under Division 3.
- (2) The Commissioner of Police is to inquire into, and report to the Director on, such matters as the Director may request concerning the licensee, or the close associate of the hotelier or gaming-related licensee, to whom the disciplinary action or referral relates.
- (3) The Director may, by notice in writing, require a licensee 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 is relevant to the investigation and is specified in the notice,
 - (b) produce, in accordance with directions in the notice, such records as 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 authorities 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.

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Division 2 Disciplinary action taken by Director

129 Disciplinary action by Director against licensees

(1) Grounds for taking action

Disciplinary action may be taken by the Director against a licensee on any one or more of the following grounds:

- (a) the licensee:
 - (i) has contravened a provision of this Act or the regulations, or
 - (ii) has failed to comply with any requirement under this Act or the regulations that relates to the licensee, or
 - (iii) has been convicted of an offence under this Act or the regulations or of an offence prescribed by the regulations for the purposes of this section,
- (b) the hotelier or licensed club has engaged in conduct that has encouraged, or is likely to encourage, the misuse and abuse of gambling activities in the hotel or on the premises of the club concerned,
- (c) the hotelier or licensed club has failed to comply with any of the conditions to which an authorisation under Part 5 is subject (including, in the case of a hotelier, the condition that the hotelier comply with the primary purpose test as referred to in section 15 of the *Liquor Act 2005* in respect of the hotel),
- (d) the hotelier or licensed club has failed to pay tax within the meaning of the *Gaming Machine Tax Act 2001*, or an instalment of any such tax, within the time allowed by or under that Act, or has failed to pay a penalty or interest due for late payment of any such tax or instalment,
- (e) the gaming-related licensee:
 - (i) has failed to comply with a condition of the gaming-related licence, or
 - (ii) has failed to comply with an order or direction of the Director, or
 - (iii) has failed to make due payment of a penalty for late payment of a fee in accordance with this Act, or
 - (iv) is no longer a fit and proper person to hold a gaming-related licence,

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- (f) a close associate of the gaming-related licensee is not a fit and proper person to be a close associate of a gaming-related licensee,
- (g) a person who is interested in the business, or in the conduct or profits of the business, carried on under the gaming-related licence is not a fit or proper person to be so interested,
- (h) the gaming-related licence has not been exercised in the public interest,
- (i) the continuation of the gaming-related licence is not in the public interest.

(2) **Action that may be taken**

If the Director is satisfied that any of the grounds referred to in subsection (1) apply in relation to a licensee, the Director may decide not to take any action or may decide to do any one or more of the following:

- (a) if, in the case of a hotelier or licensed club, the ground made out is the ground referred to in subsection (1) (a), (b), (c) or (d):
 - (i) cancel, suspend or modify any authorisation or approval under this Act for the hotelier or licensed club to keep approved gaming machines, or
 - (ii) disqualify the hotelier or licensed club from keeping approved gaming machines for such period as the Director thinks fit, or
 - (iii) cancel the hotel licence or club licence, or
 - (iv) suspend the hotel licence or club licence for such period as the Director thinks fit,
- (b) impose a monetary penalty on the licensee not exceeding 500 penalty units in the case of a corporation or 200 penalty units in the case of an individual,
- (c) cancel the gaming-related licence or suspend the licence for such period as the Director thinks fit,
- (d) impose or vary a condition to which the gaming-related licence is subject,
- (e) disqualify the gaming-related licensee from holding a licence for such period as the Director thinks fit,
- (g) reprimand the licensee.

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130 Procedure for taking disciplinary action

- (1) The Director must, before taking any disciplinary action against a licensee under this Division, notify the licensee in writing of the disciplinary grounds on which the Director is proposing to take disciplinary action.
- (2) Any such notice is to invite the licensee to show cause, by way of a written submission, as to why the Director should not take disciplinary action.
- (3) The Director must also, before taking disciplinary action against a gaming-related licensee, invite written submissions from the following persons:
 - (a) each person named in the written statement referred to in section 91 that accompanied the application for the licence,
 - (b) each person referred to in section 118 (1) who has become interested in the business, or the conduct of the business, carried out on the licence.
- (4) The Director 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 Director must take the submission into consideration in deciding whether or not to take disciplinary action against the licensee under this Part.

131 Procedure for implementing disciplinary action

- (1) If the Director decides to take disciplinary action against a licensee under this Division, the Director is required to serve on the licensee a notice informing the person of the Director's decision.
- (2) The notice must include the reasons for the Director's decision.
- (3) Disciplinary action under this Division takes effect when notice of it is given or on a later date specified in the notice.
- (4) The Director may, by serving a further notice on a licensee, cancel a notice under this section before the notice takes effect.

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- (5) A monetary penalty imposed by the Director under this Division may be recovered as a debt due to the Crown in a court of competent jurisdiction.
- (6) The Director is not prevented from taking disciplinary action under this Division merely because the licensee is subject to criminal or civil proceedings that relate to the same matters or incident to which the disciplinary action relates.

Division 3 Disciplinary action taken by Liquor and Gaming Court

131A Director may refer disciplinary matters to Liquor and Gaming Court

(1) **Referral of matters relating to licensees**

If the Director is satisfied that any of the disciplinary grounds referred to in section 129 (1) apply in relation to a licensee, the Director may, instead of taking disciplinary action against the licensee under Division 2, refer the matter to the Liquor and Gaming Court to be dealt with by the Court.

(2) **Referral of matters relating to close associates of hoteliers or gaming-related licensees**

If the Director is satisfied that any of the following grounds apply in relation to a person who is a close associate of a hotelier or gaming-related licensee, the Director may refer the matter to the Liquor and Gaming Court to be dealt with by the Court:

- (a) the close associate is not a fit and proper person to be a close associate of a hotelier or gaming-related licensee,
- (b) the Director is satisfied that any of the grounds referred to in section 129 (1) apply in relation to the hotelier or gaming-related licensee concerned and:
 - (i) the close associate knew, or ought reasonably to have known, that the hotelier or licensee was engaging or was likely to engage in conduct of the kind to which those grounds relate, and
 - (ii) the close associate failed to take all reasonable steps to prevent the hotelier or licensee from engaging in conduct of that kind,
- (c) a requirement of the Director made under this Act in relation to the investigation of the close associate has not been complied with.

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131B Commissioner of Police may request Liquor and Gaming Court to take disciplinary action

If the Director decides:

- (a) not to take disciplinary action against a licensee under Division 2, or
- (b) not to refer a matter to the Liquor and Gaming Court under section 131A,

the Commissioner of Police may, if satisfied that disciplinary action should be taken against the licensee or close associate concerned, request the Liquor and Gaming Court to deal with the matter.

131C Disciplinary action may be taken by Liquor and Gaming Court

- (1) The Liquor and Gaming Court may deal with any matter that is referred to it under section 131A or that is the subject of a request by the Commissioner of Police under section 131B by deciding:

- (a) to take, in accordance with this section, disciplinary action against the licensee or close associate concerned, or
- (b) to take no such action.

- (2) **Action against licensees**

In the case of a disciplinary matter relating to a licensee, the Liquor and Gaming Court may take any one or more of the kinds of disciplinary action that the Director may take under section 129 (2) against a licensee or manager.

- (3) Without limiting the disciplinary action that may be taken by the Liquor and Gaming Court against a licensee, the Court may, if circumstances of aggravation exist in relation to the matter, order the licensee to pay to the Crown 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.

- (4) **Action against close associates of hoteliers or gaming-related licensees**

In the case of a disciplinary matter relating to a person who is a close associate of a hotelier or gaming-related licensee, the Liquor and Gaming Court may do any one or more of the following:

- (a) reprimand the person,
- (b) disqualify the person from being a close associate of a hotelier or gaming-related licensee for such period as the Court thinks fit,

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- (c) disqualify the person from holding a gaming-related licence for such period as the Court thinks fit,
- (d) order the person to pay to the Crown a monetary penalty not exceeding 500 penalty units in the case of a corporation or 200 penalty units in any other case.

(5) **Circumstances of aggravation**

For the purposes of subsection (3), circumstances of aggravation exist in relation to a disciplinary matter before the Liquor and Gaming Court if any of the following paragraphs applies:

- (a) the Director, in referring the matter to the Court, or the Commissioner, in requesting the Court to deal with the matter, alleges that for reasons specified in the referral or request the grounds on which the matter relates are so serious as to warrant the taking of action that is available to the Court when circumstances of aggravation exist,
- (b) the Court, in finding that the taking of disciplinary action is justified, 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 is so serious as to warrant the taking of action that is available to the Court when circumstances of aggravation exist.

131D Miscellaneous provisions relating to disciplinary matters dealt with by Liquor and Gaming Court

- (1) If the Liquor and Gaming Court deals with any disciplinary matter that is referred to it under section 131A or that is the subject of a request by the Commissioner of Police under section 131B, the Director and the Commissioner of Police are entitled:
 - (a) to be heard and represented in any proceedings in which the Court deals with the matter, and
 - (b) to make submissions in relation to the matter.
- (2) In dealing with any disciplinary matter that is referred to it under section 131A or that is the subject of a request by the Commissioner of Police under section 131B, the Liquor and Gaming Court has, despite any other law, the following powers and discretions:
 - (a) the Court may, in taking disciplinary action, take into account the deterrent effect, or punitive effect, or both, of the action,

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- (b) the Court is not required, in taking disciplinary action, to take into account any action taken by any person or body to rectify or mitigate the grounds for which the disciplinary action is taken.
- (3) In dealing with any disciplinary matter that is referred to it under section 131A or that is the subject of a request by the Commissioner of Police under section 131B, the Liquor and Gaming Court must admit into evidence and consider any relevant findings of a court, a tribunal or a Royal Commission, the Independent Commission Against Corruption or other commission of inquiry or a coroner in any investigation, inquiry or other proceeding if those findings have been publicly released and are brought to the attention of the Liquor and Gaming Court.
- (4) Any monetary penalty imposed by the Liquor and Gaming Court under this Division may be registered as a judgment debt in a court of competent jurisdiction and is enforceable accordingly.

[94] Section 141 Definitions

Omit the definition of *participating club*. Insert instead:

participating club means a licensed club whose premises are part of an authorised inter-club linked gaming system.

[95] Section 153 Granting of links licence

Omit “for registered clubs” from section 153 (5) (d).

Insert instead “for licensed clubs”.

[96] Section 153 (5) (d)

Omit “or registered clubs”.

Insert instead “or licensed club premises”.

[97] Section 179 Identification of special inspectors

Omit the section.

[98] Section 180 General powers of entry, inspection and seizure

Omit section 180 (1) (b). Insert instead:

- (b) the premises of a licensed club,

[99] Section 183 Powers of entry and inspection—gaming machines

Omit section 183 (2) (b). Insert instead:

- (b) the premises of a licensed club,

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[100] Section 183 (10)

Omit “A Licensing Magistrate or other Magistrate, or the Principal Registrar,”.

Insert instead “A Magistrate (including a Liquor and Gaming Magistrate) or a registrar of a Local Court or the Liquor and Gaming Court”.

[101] Section 183 (10)

Omit “the Licensing Court” wherever occurring.

Insert instead “a Local Court”.

[102] Section 183 (10A)

Insert after section 183 (10):

(10A) For the purposes of this section, a Local Court may be constituted by a Liquor and Gaming Magistrate.

[103] Section 185 Forfeiture or return of removed or seized gaming machines

Omit “A Licensing Magistrate or other Magistrate, the Principal Registrar,” from section 185 (2).

Insert instead “A Magistrate (including a Liquor and Gaming Magistrate) or a registrar of a Local Court or the Liquor and Gaming Court,”.

[104] Section 185 (2)

Omit “the Licensing Court”. Insert instead “a Local Court”.

[105] Section 185 (3)

Omit “Licensing”.

[106] Section 185 (4)

Insert after section 185 (3):

(4) For the purposes of this section, a Local Court may be constituted by a Liquor and Gaming Magistrate.

[107] Section 186 Other forfeitures of gaming machines

Omit “the Licensing Court” from section 186 (1).

Insert instead “a Local Court”.

[108] Part 14, Division 1

Omit the Division. Insert instead:

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Division 1 Appeals

187 Appeals to Liquor and Gaming Court against certain decisions

(1) **Refusal to grant gaming-related licence**

A person may appeal to the Liquor and Gaming Court against the decision of the Director to refuse to grant a gaming-related licence to the person.

(2) **Appeal by gaming-related licensee against imposing of conditions**

The holder of a gaming-related licence may appeal to the Liquor and Gaming Court against the decision of the Director to impose a condition on the licence.

(3) **Appeal against disciplinary action**

A hotelier, licensed club or holder of a gaming-related licence may appeal to the Liquor and Gaming Court against the decision of the Director to take any action under Division 2 of Part 8 against the hotelier, club or licence holder.

(4) **Appeals by Commissioner of Police**

The Commissioner of Police may appeal to the Liquor and Gaming Court against the decision of the Director:

- (a) to grant a gaming-related licence to a person, or
- (b) to take disciplinary action, or to fail to take disciplinary action, against a hotelier, licensed club or holder of a gaming-related licence under Division 2 of Part 8.

188 Determination of appeal

The Liquor and Gaming Court may do any of the following in respect of an appeal under section 187:

- (a) dismiss the appeal,
- (b) confirm the decision appealed against or vary the decision by substituting any decision that could have been made by the Director,
- (c) refer any matter relating to the decision appealed against to the Director (in accordance with directions given by the Court),
- (d) make such other orders in relation to the disposal of the appeal as the Court thinks fit.

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189 Provisions relating to appeals to Liquor and Gaming Court

- (1) Appeals under section 187 are to be made in accordance with the regulations.
- (2) The regulations may make provision for or with respect to appeals to the Liquor and Gaming Court under section 187 and, in particular, for or with respect to:
 - (a) the procedures to be followed at or in connection with appeals, and
 - (b) the suspension of a decision appealed against pending the determination of the appeal, and
 - (c) the payment of fees in respect of appeals under section 187, and
 - (d) any matters incidental to or connected with appeals.

190 Appeal to Supreme Court on question of law against decision of Liquor and Gaming Court

- (1) A person who is aggrieved by any decision of the Liquor and Gaming Court under this Act may, in accordance with the rules of court of the Supreme Court, appeal against the decision to the Supreme Court on a question of law.
- (2) On the determination of an appeal under subsection (1), the Supreme Court may:
 - (a) remit the matter to the Liquor and Gaming Court for determination in accordance with the decision of the Supreme Court, or
 - (b) make such other order in relation to the appeal as it thinks fit.

190A Review of disqualification

- (1) A person may, in accordance with the regulations, apply to the Liquor and Gaming Court for a review of a disqualification imposed under section 129 or 198 if the declaration has effect for a period of more than 3 years.
- (2) On application being made for the review of a disqualification, the Liquor and Gaming Court 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 for review under this section may not be made.

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- (3) This section does not affect any right of appeal that a person might have under section 187 (3) against the original decision to impose the disqualification.

[109] Sections 191–193 and 195

Omit the sections.

[110] Section 194 Evidentiary provisions

Omit “legal proceedings under this Act” from section 194 (1).

Insert instead “proceedings for an offence under this Act or the regulations”.

[111] Section 194 (2)

Omit the subsection. Insert instead:

- (2) In any proceedings for an offence under this Act or the regulations, an allegation in an information 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.

[112] Section 197

Omit the section. Insert instead:

197 Proceedings for offences

- (1) Proceedings for an offence under this Act or the regulations are to be dealt with summarily by a Local Court.
- (2) Without limiting subsection (1), a Local Court may, for the purposes of dealing with an offence under this Act or the regulations, be constituted by a Liquor and Gaming Magistrate.
- (3) Proceedings for an offence under this Act or the regulations may be instituted within 12 months after the act or omission giving rise to the offence.

[113] Section 198

Omit the section. Insert instead:

198 Additional penalties

- (1) This section applies in relation to a Local Court only if it is constituted by a Liquor and Gaming Magistrate.
- (2) In addition to any penalty that a Local Court may impose on a hotelier, licensed club or holder of a gaming-related licence for

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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) cancel the hotel licence, club licence or gaming-related licence concerned,
- (b) cancel, suspend or modify any authorisation or approval under this Act for the hotelier or licensed club to keep approved gaming machines,
- (c) disqualify the hotelier or licensed club from keeping approved gaming machines for such period as the Court thinks fit,
- (d) impose a condition to which the hotel licence, club licence or gaming-related licence is to be subject or revoke or vary a condition to which the hotel licence, club licence or gaming-related licence is subject,
- (e) suspend the hotel licence, club licence or gaming-related licence for such period, not exceeding 12 months, as the Court thinks fit,
- (f) disqualify the holder of the gaming-related licence from holding a gaming-related licence for such period as the Court thinks fit,
- (g) reprimand the hotelier, licensed club or holder of the gaming-related licence.

[114] Section 199 Remedial orders

Omit section 199 (1). Insert instead:

- (1) In addition to or as an alternative to any penalty that a Local Court imposes in any proceedings in which it finds a person guilty of an offence under this Act or the regulations (being an offence that is prescribed by the regulations for the purposes of this section) or any disciplinary action that the Liquor or Gaming Court takes under Division 3 of Part 8, the Court may make an order requiring:
 - (a) the hotelier concerned, or the manager of the hotel or any other person involved in the conduct of gambling activities in the hotel concerned, or
 - (b) the secretary of the licensed club concerned, or a director or employee of the club,

to undertake any specified course of training that the Court considers will promote responsible practices in relation to the keeping and operation of approved gaming machines in the hotel or on the premises of the club.

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Liquor Bill 2005

Schedule 3 Amendment of Gaming Machines Act 2001

(1A) Subsection (1) applies in relation to a Local Court only if it is constituted by a Liquor and Gaming Magistrate.

[115] Section 202 Liability of management and directors of corporate holders of gaming-related licences

Omit “a holder” from section 202 (1). Insert instead “holder”.

[116] Section 204 Crown not liable for any compensation

Omit “the Board or any officer, employee or agent of the Crown or the Board” from section 204 (2).

Insert instead “any officer, employee or agent of the Crown”.

[117] Section 206A False or misleading statements

Omit “the Board, the Licensing Court, a registrar,” from the definition of *official document* in section 206A (2).

Insert instead “the Liquor and Gaming Court,”.

[118] Section 207

Omit the section. Insert instead:

207 Protection from personal liability

Anything done or omitted to be done by a person who is:

- (a) the Director, or
- (b) a special inspector, or
- (c) a member of NSW Police, or
- (d) a member of staff of a Department within the meaning of the *Public Sector Employment and Management Act 2002*, or
- (e) an employee of the CMS licensee,

in exercising the functions conferred or imposed on the person by or under this Act, or in the course of the administration of this Act, does not, if it was done or omitted to be done in good faith, subject the person personally to any action, liability, claim or demand.

[119] Section 209 Relationship with Environmental Planning and Assessment Act 1979

Omit “, registered clubs” from section 209 (1).

Insert instead “or on the premises of licensed clubs”.

consultation draft

Liquor Bill 2005

Amendment of Gaming Machines Act 2001

Schedule 3

[120] Section 209 (3) (a)

Omit “, registered club”.

Insert instead “or on the premises of a licensed club”.

[121] Section 209 (3) (b)

Omit the paragraph. Insert instead:

- (b) refuse to grant any such development consent to a hotel or licensed club for any reason that relates to the installation, keeping or operation of approved gaming machines in a hotel or on the premises of a licensed club.

[122] Section 210 Regulations

Omit “registered clubs” from section 210 (2) (n).

Insert instead “the premises of licensed clubs”.

[123] Section 210 (2) (t)

Omit “registered clubs”. Insert instead “on the premises of licensed clubs”.

[124] Section 210 (2) (x)

Omit the paragraph.

[125] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

Liquor Act 2005, to the extent that it amends this Act

[126] Schedule 1

Insert after Part 8:

Part 9 Provisions consequent on enactment of Liquor Act 2005

33 Definitions

In this Part:

former Liquor Act means the *Liquor Act 1982* as in force immediately before its repeal by the *Liquor Act 2005*.

Licensing Court means the Licensing Court constituted in accordance with Part 2 of the former Liquor Act.

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

consultation draft

Liquor Bill 2005

Schedule 3 Amendment of Gaming Machines Act 2001

34 Pending applications and proceedings

- (1) The provisions of this Act, as in force immediately before being amended by the *Liquor Act 2005*, continue to apply, as if they had not been amended, to and in respect of an application or other matter that was pending immediately before the commencement of the amendment of the provision concerned.
- (2) Without limiting subclause (1):
 - (a) proceedings in the Licensing Court (including any disciplinary proceedings or proceedings that are the subject of an appeal to the Supreme Court) that were instituted before, but not determined by, the commencement of the amendment of the provision under which the proceedings were instituted may be continued and determined as if the provision had not been amended, and
 - (b) any matter being dealt with by the Liquor Administration Board under a provision of this Act immediately before its amendment may continue to be determined by the Board as if the provision had not been amended.
- (3) If any pending matter before the Liquor Administration Board is not determined within such period as may be prescribed by the regulations, the Director may deal with the matter instead under the relevant provision of this Act.
- (4) Any authorisation, appointment or other matter granted or determined pursuant to subclause (1) or (2) is taken to have been granted or determined under the corresponding provision of this Act.
- (5) In this clause:
amended includes repealed.

35 Existing conditions imposed by Licensing Court or Liquor Administration Board

- (1) Any condition imposed by the Licensing Court or the Liquor Administration Board (whether under the former Liquor Act or this Act) in relation to any matter under this Act, and in force immediately before the repeal of Part 4 of the former Liquor Act by the *Liquor Act 2005*, is taken to have been imposed by the Director under this Act.
- (2) The Director has such powers as are necessary to give effect to any such condition and may vary or revoke the condition.

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Liquor Bill 2005

Amendment of Gaming Machines Act 2001

Schedule 3

36 General savings provision

- (1) Subject to the regulations, anything done under or for the purposes of a provision of this Act that had effect immediately before the provision was amended by Schedule 3 to the *Liquor Act 2005* is taken to have been done under of or the purposes of this Act as so amended.
- (2) Without limiting subclause (1), any licence, authorisation or approval that was in force under a provision of this Act immediately before the amendment of the provision by Schedule 3 to the *Liquor Act 2005* is taken to be a licence, authorisation or approval in force under this Act as so amended.

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Liquor Bill 2005

Schedule 4 Amendment of other Acts

Schedule 4 Amendment of other Acts

(Section 164)

4.1 Bail Act 1978 No 161

[1] Section 4 Definitions

Omit “a licensing court under the *Liquor Act 1912* and” from the definition of *Local Court* in section 4 (1).

[2] Section 4 (1), definition of “magistrate”

Omit “a licensing magistrate under the *Liquor Act 1982*”.

Insert instead “a Liquor and Gaming Magistrate under the *Liquor and Gaming Court Act 2005*”.

4.2 Boxing and Wrestling Control Act 1986 No 11

Section 62A Application of Part and definitions

Omit paragraph (b) (i) of the definition of *public entertainment* in section 62A (2).

Insert instead:

- (i) patrons of any premises licensed under the *Liquor Act 2005*, or

4.3 Casino Control Act 1992 No 15

[1] Section 8 Gaming machines in casino

Omit “registered” from section 8 (1). Insert instead “licensed”.

[2] Section 89 Application of Liquor Act 2005

Omit “*Liquor Act 1982*” wherever occurring.

Insert instead “*Liquor Act 2005*”.

4.4 Constitution Act 1902 No 32

Section 52 Definition and application

Insert “; Chairperson or Liquor and Gaming Magistrate of the Liquor and Gaming Court” after “Licensing Court” in paragraph (f) of the definition of *judicial office* in section 52 (1).

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Liquor Bill 2005

Amendment of other Acts

Schedule 4

4.5 Court Security Act 2005 No 1

Section 4 Definitions

Omit paragraph (j) of the definition of *court* in section 4 (1).

Insert instead:

(j) the Liquor and Gaming Court,

4.6 Crimes (Local Courts Appeal and Review) Act 2001 No 120

Section 3 Definitions

Omit paragraph (c) of the definition of *Local Court* in section 3 (1).

4.7 Criminal Procedure Act 1986 No 209

[1] Section 3 Definitions

Omit the definition of *Licensing Court* from section 3 (1).

[2] Section 3 (1), definition of “Licensing Magistrate”

Omit the definition. Insert instead:

Liquor and Gaming Magistrate means a Liquor and Gaming Magistrate appointed under the *Liquor and Gaming Court Act 2005*.

[3] Sections 28 (2), 171 (definition of “Magistrate”), 275 and 312 (3)

Omit “a Licensing Magistrate” wherever occurring.

Insert instead “a Liquor and Gaming Magistrate”.

[4] Section 170 Application

Omit section 170 (2) (b).

[5] Section 171 Definitions

Omit paragraph (b) of the definition of *registrar*.

4.8 Fines Act 1996 No 99

Schedule 1 Statutory provisions under which penalty notices issued

Omit the matter relating to the *Liquor Act 1982*. Insert instead:

Liquor Act 2005, section 146

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Liquor Bill 2005

Schedule 4 Amendment of other Acts

4.9 Gaming Machine Tax Act 2001 No 72

[1] Section 3 Definitions

Omit the definition of *Board* from section 3 (1).

[2] Section 3 (1)

Insert in alphabetical order:

Director means the Director of Liquor and Gaming as referred to in the *Liquor Act 2005*.

[3] Section 3 (1)

Omit the definitions of *hotel*, *hotelier* and *hotelier's licence*. Insert instead:

hotel, *hotel licence* and *hotelier* have the same meanings as in the *Liquor Act 2005*.

[4] Section 3 (1), definition of "outgoings"

Omit "under Part 12 of the *Liquor Act 1982* or" from paragraph (d) of the definition.

[5] Sections 3 (1) (definition of "progressive jackpot payment"), 8 (1), 9 (2), 10 (1), 17 (1) and (3) and 23

Omit "Board" wherever occurring. Insert instead "Director".

[6] Section 3 (1), definition of "registered club"

Omit the definition. Insert instead in alphabetical order:

licensed club means a club that holds a club licence under the *Liquor Act 2005*.

[7] Sections 6 (3) (b), 7 (4) and 11 (1) (a) (i)

Omit "hotelier's" wherever occurring. Insert instead "hotel".

[8] Sections 3 (1) (definition of "tax year") and (3), 6 (1) and (2), 7 (1) (b), (2) and (3), 8, 9, 10 (1) and (2), 14 (Annual rate for licensed clubs), 15, 17 (1), (3) and (4) (definition of "prescribed profits"), 20 (1) and (3), 21 (1) and (3) (a), 22 and 23, clauses 1 and 5 of Schedule 1 and clause 6 (1) (b) of Schedule 2

Omit "registered club" wherever occurring. Insert instead "licensed club".

[9] Section 9 Calculation and assessment of tax

Omit "it" from section 9 (2) wherever occurring. Insert instead "the Director".

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Liquor Bill 2005

Amendment of other Acts

Schedule 4

- [10] **Section 11 Apportionment of liability for tax in certain circumstances**
Omit section 11 (1) (b). Insert instead:
- (b) apportion the liability for tax as between licensed clubs:
 - (i) in the event of an amalgamation of a licensed club as referred to in the *Clubs Management Act 1976*, or
 - (ii) in such other circumstances as the Chief Commissioner considers appropriate.
- [11] **Part 3, Division 2, heading**
Omit “Registered”. Insert instead “Licensed”.
- [12] **Section 15A Tax rates for licensed clubs**
Omit “registered” from the heading to Table 2. Insert instead “licensed”.
- [13] **Part 4, heading**
Omit “registered”. Insert instead “licensed”.
- [14] **Section 16 Community development and support expenditure (CDSE) scheme**
Omit “Registered Clubs Act 1976” from section 16 (1).
Insert instead “Clubs Management Act 1976”.
- [15] **Part 5, Division 2, heading**
Omit “registered”. Insert instead “licensed”.
- [16] **Section 24**
Omit the section. Insert instead:
- 24 Proceedings for offences**
- (1) Proceedings for an offence under this Act or the regulations are to be dealt with summarily by a Local Court.
 - (2) Without limiting subsection (1), a Local Court may, for the purposes of dealing with an offence under this Act or the regulations, be constituted by a Liquor and Gaming Magistrate appointed under the *Liquor and Gaming Court Act 2005*.
- [17] **Schedule 1 Mandatory provisions for guidelines on Community Development and Support Expenditure (CDSE) Scheme**
Omit “registered clubs” from clauses 3 and 4 (Availability of licensed clubs’ assistance to be published) wherever occurring.

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Liquor Bill 2005

Schedule 4 Amendment of other Acts

Insert instead “licensed clubs”.

4.10 Judicial Officers Act 1986 No 100

Section 3 Definitions

Omit “licensing magistrate” from the definition of *Magistrate* in section 3 (1).

Insert instead “Liquor and Gaming Magistrate”.

4.11 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

[1] Schedule 2 Search warrants under other Acts

Omit “*Liquor Act 1982*, section 151”.

Insert instead “*Liquor Act 2005*, section 131”.

[2] Schedule 2

Omit the matter relating to the *Registered Clubs Act 1976*.

4.12 Local Courts Act 1982 No 164

[1] Section 4 Definitions

Omit paragraph (b) of the definition of *Designated Magistrate* in section 4 (1).

[2] Section 4 (1), definition of “part-time Magistrate”

Omit paragraph (c) of the definition. Insert instead:

- (c) who, in accordance with the *Liquor and Gaming Court Act 2005*, becomes a Magistrate on becoming a Liquor and Gaming Magistrate and who holds office as a Liquor and Gaming Magistrate on a part-time basis under that Act.

4.13 Public Finance and Audit Act 1983 No 152

Schedule 3 Departments

Omit the matter relating to the Liquor Administration Board.

4.14 Statutory and Other Offices Remuneration Act 1975 (1976 No 4)

Schedule 1 Public offices

Omit the following:

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Liquor Bill 2005

Amendment of other Acts

Schedule 4

Chairperson of the Licensing Court of New South Wales (under the *Liquor Act 1982*)

Deputy Chairperson of the Licensing Court of New South Wales (under the *Liquor Act 1982*)

Licensing magistrate (under the *Liquor Act 1982*), other than the Chairperson, and the Deputy Chairperson, of the Licensing Court of New South Wales or a Magistrate who has limited tenure within the meaning of the *Local Courts Act 1982*

Insert instead:

Chairperson of the Liquor and Gaming Court of New South Wales (under the *Liquor and Gaming Court Act 2005*)

Liquor and Gaming Magistrate (under the *Liquor and Gaming Court Act 2005*) other than the Chairperson of the Liquor and Gaming Court of New South Wales or a Magistrate who has limited tenure within the meaning of the *Local Courts Act 1982*

4.15 Unlawful Gambling Act 1998 No 113

[1] Section 7 Lawful forms of gambling

Omit “registered club” from section 7 (f).

Insert instead “or on the premises of a licensed club”.

[2] Section 7 (g) (ii)

Omit “Liquor Administration Board”.

Insert instead “Director of Liquor and Gaming”.