

# Liquor Act 2007 No 90

[2007-90]



New South Wales

## Status Information

### Currency of version

Current version for 12 December 2023 to date (accessed 19 May 2024 at 12:54)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[24-Hour Economy Legislation Amendment \(Vibrancy Reforms\) Act 2023 No 53](#), Sch 2[8] [10] [18] [20] [23] [27] and [36]–[41] (not commenced)  
Sec 163 of this Act (sec 163(4A) repeals sec 163 on 31.12.2025)
- **See also**  
[Better Regulation, Fair Trading and Other Legislation Amendment Bill 2024](#)
- **Editorial note**  
See the [Liquor Regulation 2018](#), cl 132B as it applies to this Act, Part 12.

### Responsible Minister

- Minister for Gaming and Racing

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 8 May 2024

# Liquor Act 2007 No 90



New South Wales

## Contents

<b>Long title</b> .....	14
<b>Part 1 Preliminary</b> .....	14
1 Name of Act .....	14
2 Commencement .....	14
3 Objects of Act .....	14
3A Meaning of dedicated live music and performance venue .....	15
4 Definitions .....	15
4A Meaning of “Kings Cross precinct” .....	25
5 Meaning of “intoxicated” .....	25
6 Exemptions from Act .....	25
<b>Part 2 Principal offences relating to sale and supply of liquor</b> .....	30
7 Licence required to sell liquor .....	30
8 Keeping or using unlicensed premises .....	30
9 Sale or supply of liquor contrary to licence .....	31
<b>Part 3 Liquor licences</b> .....	32
<b>Division 1 Preliminary</b> .....	32
10 Types of licences and authorisation conferred by licence .....	32
11 Licence conditions—general provisions .....	32
11A Special licence condition—6-hour closure period for licensed premises .....	33
12 Standard trading period for certain licensed premises .....	34
12A Extended trading hours for particular dedicated live music and performance venues .....	35

12B Records to be kept about extended hours for dedicated live music and performance venues.....	36
13 Special events extended trading period for certain venues .....	37
<b>Division 2 Hotel licences</b> .....	38
14 Authorisation conferred by hotel licence .....	38
15 Hotel licence—general provisions.....	39
15A Cessation of liquor sales during trading hours .....	39
16 Hotel licence may be designated as a general bar licence.....	40
17 Hotel licence—miscellaneous conditions .....	40
<b>Division 3 Club licences</b> .....	42
18 Authorisation conferred by club licence .....	42
19 Club licence—general provisions .....	42
20 Club licence—miscellaneous conditions .....	43
<b>Division 3A Small bar licences</b> .....	43
20A Authorisation conferred by small bar licence .....	43
20B Trading hours for small bars .....	43
20C Small bar licence—miscellaneous conditions .....	44
<b>Division 4 On-premises licences</b> .....	45
21 Certain kinds of premises not to be licensed.....	45
22 Primary purpose test .....	45
23 On-premises licence must specify business/activity or kind of licensed premises.....	46
24 On-premises licence—sale or supply of liquor must be with or ancillary to other product or service .....	47
25 Authorisation conferred by on-premises licence (generally).....	47
26 Authorisation to sell liquor for consumption away from licensed premises in special circumstances .....	49
27 Requirement to provide food on licensed premises.....	50
28 Certain licensed premises must be open to general public .....	50
<b>Division 5 Packaged liquor licences</b> .....	51
29 Authorisation conferred by packaged liquor licence .....	51
30 Liquor sales area required if bottle shop is part of another business activity.....	51
31 Restrictions on granting packaged liquor licences.....	52

<b>Division 6 Producer/wholesaler licences</b> .....	52
32 Wholesale suppliers of liquor.....	52
33 Producers—authorisation conferred by licence.....	52
34 (Repealed) .....	55
35 Producers—miscellaneous provisions .....	55
<b>Division 7 Limited licences</b> .....	56
36 Authorisation conferred by limited licence .....	56
37 Limited licence—general provisions .....	57
38 Limited licence—miscellaneous conditions.....	57
39 Limited licence for special event .....	59
<b>Part 4 Licensing procedures and related matters</b> .....	60
<b>Division 1 Licence applications and granting of licences</b> .....	60
40 Licence applications .....	60
41 Statement as to interested parties .....	61
42 Investigations, inquiries and referrals in relation to licence applications .....	61
43 Authority or Secretary may require further information .....	62
44 Submissions to Authority in relation to licence applications.....	62
45 Decision of Authority in relation to licence applications .....	63
46 Duration of licences.....	64
46A Voluntary suspension of licence .....	64
47 Granting of licence .....	65
<b>Division 1A (Repealed)</b> .....	65
<b>Division 2 Miscellaneous provisions relating to licences and licence-related authorisations</b>	
.....	65
48 Community impact .....	65
49 Extended trading authorisation—general provisions .....	68
49A Extended trading authorisation—small bars .....	71
49B Special provisions relating to multi-occasion ETAs .....	72
50 Drink on-premises authorisation.....	72

51 General provisions relating to licence-related authorisations.....	73
52 Authority may impose special licence conditions .....	74
53 Authority may impose, vary or revoke licence conditions .....	75
54 Secretary may impose, vary or revoke licence conditions.....	76
54A Directions relating to “sale on other premises” authorisations .....	78
55 Requirement to provide information in relation to persons interested in licensee’s business .....	78
56 Incident registers.....	79
57 Authority may establish administrative policies and procedures in relation to licensing matters ...	80
58 Courses of training and instruction for applicants and licensees.....	80
<b>Division 2A Periodic licence fees .....</b>	<b>80</b>
58A Periodic licence fee.....	80
58B Suspension and cancellation for late payment of periodic licence fee .....	81
58C Application for reinstatement of cancelled licence.....	82
<b>Division 3 Licence removals and transfers .....</b>	<b>83</b>
59 Removal of licence to other premises.....	83
59A Removal of unrestricted club licences to other premises .....	84
60 Transfer of licence .....	85
60A Alternative process for transfer of licence.....	87
61 Application for transfer of licence on dispossession of licensee .....	88
62 Carrying on licensee’s business after death etc of licensee .....	89
63 Grant of application for endorsement of licence following death etc of licensee .....	90
64 Transfer of licence after death etc of licensee .....	91
<b>Division 4 Special provisions relating to corporate licensees .....</b>	<b>92</b>
65 Application of Division .....	92
66 Appointment of managers.....	92
67 Restrictions on who may be appointed as manager.....	93
68 Approval of persons to manage licensed premises .....	93
69 Notice of appointments .....	95
70 Liability of licensee for contravention by manager.....	95
71 Liability of directors etc for offences by corporation—accessory to the commission of the offences .....	96
71A Evidence as to state of mind of corporation .....	97

72 Corporate licences—interpretative provisions .....	97
<b>Division 5 Cumulative impact assessments</b> .....	97
72A Definitions .....	97
72B Preparation of cumulative impact assessment .....	98
72C Contents of cumulative impact assessment .....	98
72D Consultation with relevant stakeholders .....	99
72E Publication of cumulative impact assessment .....	99
72F Review of cumulative impact assessment .....	99
72G Variation of cumulative impact assessments .....	100
72H Revocation of cumulative impact assessments .....	100
<b>Part 5 Regulation and control of licensed premises</b> .....	100
<b>Division 1 Conduct on licensed premises</b> .....	100
73 Prevention of excessive consumption of alcohol on licensed premises .....	100
74 Sale of stolen goods and possession, use or sale of drugs on licensed premises .....	102
75 Secretary, police officers and marine authorities may issue improvement notices to licensees and staff of licensed premises .....	103
<b>Division 2 Exclusion of persons from licensed premises</b> .....	105
76 Self-exclusion of patrons from licensed premises .....	105
77 Non-voluntary exclusion of persons from licensed premises .....	106
78 Banning orders .....	108
<b>Division 3 Disturbance of quiet and good order of neighbourhood</b> .....	108
79 Making of complaint .....	108
80 Dealing with complaints .....	109
81 Decision by Secretary in relation to complaint .....	110
<b>Division 4 Closure orders</b> .....	111
82 Short-term closure of licensed premises .....	111
83 Urgent application for short-term closure order .....	112
84 Order by Authority for long-term closure of licensed premises .....	113
85 Further long-term closure orders .....	114

86 Breach of the peace .....	114
<b>Division 5 Late hour entry declarations</b> .....	115
87 Secretary may make late hour entry declaration .....	115
88 Effect of late hour entry declaration .....	115
89 Provisions relating to making of late hour entry declaration .....	115
90 Secretary may vary or revoke late hour entry declaration .....	116
<b>Division 6 General provisions relating to licensed premises</b> .....	116
91 Responsibilities and liabilities in relation to licensed premises.....	116
92 Control of business conducted on licensed premises .....	117
93 Cessation of trade .....	118
94 Boundaries of licensed premises .....	118
94A Boundaries of licensed premises—applications for temporary boundary changes for outdoor spaces .....	118
94B Boundaries of licensed premises—applications for permanent boundary changes for outdoor spaces .....	120
95 Name of licensed premises.....	120
96 Temporary premises .....	122
97 Breath analysis equipment.....	122
98 Work carried out on licensed premises.....	123
<b>Part 6 Miscellaneous offences and regulatory controls</b> .....	123
<b>Division 1 General</b> .....	123
99 Responsible sale, supply, service or promotion of liquor .....	123
100 Regulations may declare undesirable liquor products .....	124
101 Secretary may restrict or prohibit sale or supply of undesirable liquor products .....	125
102 Secretary may restrict or prohibit undesirable promotion of liquor .....	126
102A Secretary may restrict or prohibit activities that encourage misuse or abuse of liquor .....	126
103 Closing of certain hotel and bottle shop areas .....	127
104 Person in bar area or certain other areas of hotel outside trading hours .....	127
105 Carrying liquor away from licensed premises outside trading hours .....	128
106 Delivery of liquor from unlicensed premises .....	129
107 Production of licence on licensed premises .....	129

108 Prohibition on providing money or extending credit for gambling .....	130
108A Requirement to record credit transactions and extensions .....	130
109 Misrepresentation or misdescription of credit transactions .....	130
110 Falsely indicating that premises are licensed or that person is authorised to sell or supply liquor .....	130
111 Carrying liquor away from premises to which on-premises licence relates .....	131
112 Obtaining liquor by false representation .....	131
113 Carrying liquor for sale .....	132
114 Sale of liquor through internet or by other communication media .....	132
<b>Division 1A Responsible service of alcohol training courses .....</b>	<b>134</b>
114A Definitions .....	134
114B Conditions of approval to conduct training courses .....	135
114C Prohibition on granting interim certificates to unqualified persons .....	135
114D Prohibition on providing training courses without approval .....	135
<b>Division 1B Same day liquor deliveries .....</b>	<b>135</b>
114E Definitions .....	136
114F Meaning of “same day delivery” .....	136
114G Meaning of “same day delivery provider” .....	136
114H Restrictions on same day deliveries .....	136
114HA Age to be verified when agreement made for same day delivery .....	137
114I Evidence of identity and age required for same day deliveries .....	137
114J Liquor not to be supplied to intoxicated person .....	137
114K Liquor not to be supplied in alcohol-free zones, alcohol prohibited areas or restricted alcohol areas .....	138
114L Cut-off time for deliveries .....	138
114M Records to be kept about refusal to deliver liquor .....	139
114N Employees and agents not to be penalised for refusal to deliver in particular circumstances ..	139
114O Self-exclusion .....	140
114P Training of persons making same day deliveries .....	141
114Q Same day delivery providers liable for acts of employees and agents .....	142
114R Review of regulation of liquor deliveries .....	142
<b>Division 2 Restricted alcohol areas .....</b>	<b>143</b>



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115 Declaration of restricted alcohol area.....	143
116 Provisions relating to making of regulations declaring restricted alcohol areas .....	144
<b>Division 3 (Repealed)</b> .....	144
<b>Division 4 Prescribed precincts</b> .....	144
116B Interpretation .....	144
116C Prescribed precincts .....	145
116D, 116E (Repealed).....	146
116F Temporary banning orders—licensed premises in prescribed precinct and adjacent precincts .....	146
116G Long-term banning orders—high risk venues.....	147
116H Administrative review by Civil and Administrative Tribunal of long-term banning orders .....	149
116I Regulatory controls for licensed premises in prescribed precincts .....	149
<b>Part 7 Special provisions relating to minors</b> .....	151
<b>Division 1 Underage drinking</b> .....	151
117 Offences relating to sale or supply of liquor to minors .....	151
118 Offences relating to consumption etc of liquor by minor.....	153
119 Licensee not to allow minors to sell or supply liquor on licensed premises.....	153
120 Responsible adult not to allow minor to consume liquor on licensed premises .....	154
<b>Division 2 Minors on licensed premises</b> .....	154
121 Minors in hotels in company of responsible adult.....	154
122 Functions for minors in hotels and public entertainment venues .....	154
122A Minors in small bars .....	155
123 Minor not to enter or remain in certain licensed premises .....	156
124 Licensee not to allow minors to enter or remain in certain licensed premises .....	159
125 Responsible adult not to leave minor unaccompanied on licensed premises .....	162
126 Minors must be refused entry to licensed premises .....	162
127 Notices to be displayed in relation to minors on licensed premises .....	163
<b>Division 3 Other provisions relating to minors</b> .....	163
128 Minor required to provide information .....	163
129 Minor must not use false evidence of age .....	164

130 Minors not to be detained.....	164
<b>Division 4 (Repealed)</b> .....	164
<b>Part 8 Liquor accords</b> .....	164
<b>Division 1 Local liquor accords</b> .....	164
131 Definitions .....	164
132 Eligible parties to local liquor accord.....	164
133 Establishing local liquor accord .....	165
134 Terms of local liquor accords .....	165
135 Registration and termination of local liquor accord .....	166
136 Requirement to contribute to costs of implementing local liquor accord .....	166
<b>Division 2 Precinct liquor accords and community event liquor accords</b> .....	166
136A General provisions.....	166
136B Secretary may approve liquor accords for designated precincts.....	167
136C Secretary may approve liquor accords for community events .....	168
136D Content of precinct and community event liquor accords.....	169
136E Requirement to participate in precinct or community event liquor accord.....	170
136F Precinct liquor accord contributions and fund.....	171
<b>Part 9 Disciplinary action</b> .....	171
137 Interpretation .....	171
138 Secretary may carry out inquiries and investigations in relation to complaints and proposed complaints .....	172
139 Grounds for making complaint .....	173
140 Procedure for taking disciplinary action.....	176
141 Disciplinary powers of Authority.....	176
142 Procedure for implementing disciplinary action.....	179
143 Requirement for legal member of Authority to be present .....	180
144 Administrative review by NCAT of decisions by Authority under this Part .....	180
<b>Part 9A Demerit points scheme</b> .....	181

<b>Division 1 Preliminary</b> .....	181
144A Part 9 not affected.....	181
144B Definitions .....	181
144C Committing demerit offence .....	181
<b>Division 2 Demerit points register</b> .....	182
144D Demerit points register .....	182
144E Secretary to record demerit points incurred or imposed .....	183
144F Secretary may publish details from demerit points register .....	183
144G When demerit points come into force or expire .....	183
<b>Division 3 Incurring and imposition of demerit points</b> .....	184
<b>Subdivision 1 Demerit points incurred for demerit offences</b> .....	184
144H Demerit points incurred for demerit offences—licensed premises other than club premises ...	184
144I Demerit points incurred for demerit offences—club premises.....	184
144J Notice of demerit points incurred .....	184
<b>Subdivision 2 Demerit points imposed for prescribed complaints</b> .....	185
144K Definition.....	185
144L Authority may impose demerit points in relation to prescribed complaints.....	185
144M Notice of proposed demerit points.....	186
144N Decision about imposition of demerit points .....	186
144O Authority to give notice of decision.....	187
<b>Division 4 Remedial action for accumulation of demerit points</b> .....	187
<b>Subdivision 1 Remedial action for accumulation of demerit points—licensees or managers of licensed premises</b> .....	187
144P Remedial action—accumulation of 2-3 demerit points .....	187
144Q Remedial action—accumulation of 4-5 demerit points .....	188
144R Remedial action—accumulation of 6 or more demerit points.....	188
<b>Subdivision 2 Remedial action for accumulation of demerit points—licences other than club licences</b>	

.....	188
144S Definition.....	188
144T Remedial action—accumulation of 2–3 demerit points.....	189
144U Remedial action—accumulation of 4–5 demerit points.....	189
144V Remedial action—accumulation of 6 or more demerit points.....	189
<b>Subdivision 3 Remedial action for accumulation of demerit points—club licences</b>	
.....	190
144W Remedial action—accumulation of 2–3 demerit points.....	190
144X Remedial action—accumulation of 4–5 demerit points.....	190
144Y Remedial action—accumulation of 6 or more demerit points.....	191
<b>Subdivision 4 General provisions</b> .....	192
144Z Notice of proposed remedial action.....	192
144ZA Requirements for deciding to take remedial action.....	193
144ZB Provisions relating to conditions imposed on licences under Subdivision 2 or 3.....	194
<b>Division 5 Removal and reinstatement of demerit points</b> .....	195
144ZC Application by licensee or manager of licensed premises to remove a category 1 demerit point.....	195
144ZD Application to remove demerit points.....	196
144ZE Deciding application to remove demerit points.....	196
144ZF Reinstatement of demerit points.....	198
<b>Division 6 General provisions</b> .....	199
144ZG Submissions not to be used for prosecuting offences.....	199
144ZH Administrative review by NCAT.....	199
144ZI Effect of appeals against convictions for demerit offences.....	200
<b>Part 9B Enforceable undertakings</b> .....	200
144ZJ Secretary may accept enforceable undertakings.....	200
<b>Part 10 Criminal proceedings and related matters</b> .....	201
145 Proceedings for offences.....	201
146 Time within which proceedings for offences may be commenced.....	201

147 (Repealed) .....	202
148 Additional penalties may be imposed by court.....	202
149 Licensees and managers liable for act of employees etc .....	202
149A General defence available to managers of club premises.....	203
150 Penalty notices .....	203
151 Forfeiture and seizure of liquor and other things.....	204
152 Evidentiary provisions .....	204
<b>Part 11 Miscellaneous provisions .....</b>	<b>206</b>
153 (Repealed) .....	206
154 Review of disqualification by Authority.....	206
155 (Repealed) .....	207
156 Report by Authority on liquor licensing matters .....	207
157 Delegations .....	207
158 Crown not liable for any compensation .....	208
159 Regulations.....	208
160 Savings and transitional provisions .....	209
161 Repeals.....	209
162 Review of Act.....	210
163, 163A (Repealed).....	210
<b>Part 12 Special provisions relating to COVID-19 pandemic .....</b>	<b>210</b>
164 Purpose .....	210
165 Definitions .....	210
166 Local councils to have temporary powers to encourage use of outdoor space .....	211
167 Repeal of Part .....	212
<b>Schedule 1 Savings and transitional provisions .....</b>	<b>212</b>
<b>Schedule 2 Kings Cross precinct.....</b>	<b>239</b>
<b>Schedule 3 Oxford Street-Darlinghurst precinct.....</b>	<b>240</b>
<b>Schedules 4, 5 (Repealed) .....</b>	<b>240</b>

# Liquor Act 2007 No 90



New South Wales

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the [Liquor Act 2007](#).

#### Note—

This Act is part of the gaming and liquor legislation for the purposes of the [Gaming and Liquor Administration Act 2007](#). That Act contains administrative and other relevant provisions that apply in relation to this Act (including investigation and enforcement powers and provisions relating to the probity of officials).

### 2 Commencement

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

### 3 Objects of Act

(1) The objects of this Act are as follows—

- (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
- (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
- (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.

(2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following—

- (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
- (b) the need to encourage responsible attitudes and practices towards the promotion,

sale, supply, service and consumption of liquor,

- (c) the need to ensure that the sale, supply and consumption of liquor, and the operation of licensed premises, contributes to, and does not detract from, the amenity of community life,
- (d) the need to support employment and other opportunities in the—
  - (i) live music industry, and
  - (ii) arts, tourism, community and cultural sectors.

### **3A Meaning of dedicated live music and performance venue**

For the purposes of this Act, a **dedicated live music and performance venue** means licensed premises that are on a list of live music and performance venues—

- (a) kept by the Secretary for the purposes of this section in accordance with the regulations, and
- (b) published on an appropriate government website.

## **4 Definitions**

(1) In this Act—

**accommodation premises** means premises that provide temporary accommodation to travellers and includes a bed and breakfast establishment, but does not include a boarding house, lodging house, nursing home, caravan park or any other type of premises prescribed by the regulations for the purposes of this definition.

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

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

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

**Authority** means the Independent Liquor and Gaming Authority constituted under the [Gaming and Liquor Administration Act 2007](#).

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

- (a) a dining area in the hotel or on the club premises, or
- (b) any part of the hotel in which liquor is, otherwise than as authorised under section 17(6), sold or supplied exclusively to residents, or

- (c) any part of the hotel in respect of which a minors area authorisation or minors functions authorisation is in force, whenever the authorisation operates to authorise the use by a minor of that part, or
- (d) any part of the club premises in respect of which an authorisation under section 22 of the *Registered Clubs Act 1976* specifying the part as a non-restricted area is in force, or
- (e) any part of the club premises in respect of which—
  - (i) a junior members authorisation under section 22A of the *Registered Clubs Act 1976* is in force, or
  - (ii) a club functions authorisation under section 23 of that Act is in force, whenever the authorisation operates to authorise the use by a minor of that part.

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

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

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

**category 1 demerit offence** means an offence against—

- (a) any of the following provisions of this Act—
  - (i) section 9 (sale or supply of liquor contrary to licence), but only where the offence relates to the sale or supply of liquor on or in relation to licensed premises outside of the trading hours of the premises,
  - (ii) section 11(2) (breach of licence conditions), but only in respect of a condition imposed under—
    - (A) Division 4 of Part 6, or
    - (B) Subdivision 2 or 3 of Division 4 of Part 9A,that restricts the trading hours of licensed premises or prohibits patrons from entering licensed premises at certain times,
  - (iii) section 73(1)(a) or (b) (permitting intoxication or indecent, violent or quarrelsome conduct),



- (iv) section 73(2) (selling or supplying liquor to an intoxicated person),
  - (v) section 74(1)(b) or (2) (permitting the sale, possession or use of a prohibited plant or drug),
  - (vi) section 75(3) (failure to comply with a direction given by the Secretary),
  - (vii) section 82(6) (failure to comply with a short-term closure order),
  - (viii) section 84(7) (failure to comply with a long-term closure order),
  - (ix) section 102A(2) (failure to comply with a notice issued by the Secretary),
  - (x) section 114J (supplying liquor to an intoxicated person),
  - (xi) section 114L (making a same day delivery past the cut-off time),
  - (xii) section 149 (licensees and managers liable for act of employees etc) in respect of a contravention of section 73(2) or 75(3), or
- (b) any other provision of this Act or the regulations that is prescribed by the regulations for the purposes of this definition.

**category 2 demerit offence** means an offence against—

- (a) any of the following provisions of this Act—
- (i) section 117(1), (2) or (8) (selling or supplying liquor to a minor or allowing such sale or supply),
  - (ii) section 149 (licensees and managers liable for act of employees etc) in respect of a contravention of section 117(1) or (2), or
- (b) any other provision of this Act or the regulations that is prescribed by the regulations for the purposes of this definition.

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

**close associate** means a close associate within the meaning of the [Gaming and Liquor Administration Act 2007](#).

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

**community event liquor accord**—see section 136A.

**complainant**, for Part 5, Division 3—see section 79B(4).

**criminal intelligence** means information classified by the Commissioner of Police as criminal intelligence within the meaning of the [Crimes \(Criminal Organisations Control\)](#)

[Act 2012](#), or declared by the Supreme Court under that Act to be criminal intelligence.

**dedicated live music and performance venue**—see section 3A.

**demerit offence** means a category 1 demerit offence or a category 2 demerit offence.

**demerit point**, in relation to a licensee, manager of licensed premises or club licence, means a demerit point—

- (a) incurred against a licensee or manager of licensed premises under section 144H, or
- (b) incurred against a club licence under section 144I, or
- (c) imposed against a licensee or manager of licensed premises, or a club licence, under section 144N(1)(b).

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

**disturbance complaint**, for Part 5, Division 3 and Schedule 1, clause 71—see section 79B(1).

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

**employ** includes engage under a contract for services.

**employee** includes—

- (a) a person engaged by a licensee or the manager of licensed premises under a contract for services, and

**Example—**

a person engaged by a licensee under a contract to provide catering at a registered club

- (b) a person employed by a person mentioned in paragraph (a).

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

- (a) a motor vehicle driver or rider's licence or permit issued by Transport for NSW under the [Road Transport Act 2013](#) or by the corresponding public authority of another State or Territory or under the law of another country,
  - (a1) a digital driver licence within the meaning of the [Road Transport Act 2013](#),
  - (b) a Photo Card issued under the [Photo Card Act 2005](#),

(b1) a digital Photo Card within the meaning of Part 2A of the [Photo Card Act 2005](#),

(c) a document (referred to as **an existing RTA proof of age card**) issued by the Roads and Traffic Authority under section 117EA of the [Liquor Act 1982](#) and in force immediately before the repeal of that section by this Act,

**Note—**

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

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

(e) an Australian or foreign passport,

(f) any other class of document prescribed by the regulations for the purposes of this definition.

**extended trading authorisation** means an extended trading authorisation under section 49 or 49A.

**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.

**gaming machine** has the same meaning as in the [Gaming Machines Act 2001](#).

**general bar licence**—see section 16.

**hotel** means the premises to which a hotel licence relates.

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

**incentivised event** means—

(a) an event prescribed by the regulations, or

(b) a live music performance or other arts and cultural event designated by the Secretary, in accordance with the regulations, to be an incentivised event.

**inspector** means an inspector within the meaning of the [Gaming and Liquor Administration Act 2007](#).

**intoxicated**—see section 5.

**Kings Cross precinct**—see section 4A.

**licence** means a licence under this Act.

**licensed premises** means the premises to which a licence relates.

**licensee** means the holder of a licence.

**liquor** means—

- (a) a beverage which, at 20° Celsius, contains more than 1.15% ethanol by volume,  
or
- (b) (Repealed)
- (c) any other substance prescribed by the regulations as liquor.

**liquor accord** means a local liquor accord, precinct liquor accord or community event liquor accord.

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

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

**local liquor accord**—see section 131.

**manager** of licensed premises means any of the following—

- (a) a person appointed by the licensee under section 66 to manage the licensed premises,
- (b) in the case of a registered club that has only one set of premises or is a registered club referred to in section 66(3)—the secretary of the registered club,
- (c) in the case of a high risk venue within the meaning of section 116B—a person appointed by the licensee, in accordance with licence conditions imposed by the regulations under section 116I, to be present in the venue in accordance with those conditions.

**marine authority** means—

- (a) the Minister administering the [Ports and Maritime Administration Act 1995](#), or
- (b) Transport for NSW.

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

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

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

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

**minors authorisation**, for a small bar—see section 122A.

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

**navigable waters**—

- (a) means all waters that are, from time to time, capable of navigation and open to or used by the public for navigation, whether on payment of a fee or otherwise, but
- (b) does not include flood waters that have temporarily flowed over the established bank of a watercourse.

**non-proprietary association** means—

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

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

**person authorised to sell liquor** means—

- (a) a licensee, or
- (b) a person who is authorised by the law of another State or Territory to sell liquor, or
- (c) any person who sells or supplies liquor (whether in New South Wales or elsewhere) but is not required by this Act to hold a licence in respect of the sale or supply of

liquor in New South Wales, or

- (d) a person who is prescribed by the regulations, or who is of a class of persons prescribed by the regulations, for the purposes of this definition.

**precinct liquor accord**—see section 136A.

**premises** includes—

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

**prescribed precinct**—see section 116C.

**prohibited drug** and **prohibited plant** have the same meanings as in the [Drug Misuse and Trafficking Act 1985](#).

**public entertainment venue** means any of the following—

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

**published cumulative impact assessment**, for Division 5 of Part 4—see section 72A.

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

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

**related authorisation**, for Division 5 of Part 4—see section 72A.

**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.

**relevant licence**, for Division 5 of Part 4—see section 72A.

**relevant stakeholders**, for Division 5 of Part 4—see section 72A.

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

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

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

**responsible person** for licensed premises means any of the following—

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

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

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

**restricted trading day** means Good Friday or Christmas Day.

**same day delivery**, for Division 1B of Part 6—see section 114E.

**same day delivery provider**, for Division 1B of Part 6—see section 114E.

**Secretary** means the Secretary of the Department of Enterprise, Investment and Trade.

**secretary** of a registered club has the same meaning as in the [Registered Clubs Act 1976](#).

**sell** includes any of the following—

- (a) barter or exchange,
- (b) offer, agree or attempt to sell,

(c) expose, send, forward or deliver for sale,

(d) cause or permit to be sold or offered for sale.

**small bar** means the premises to which a small bar licence relates.

**social impact duty**, for Division 5 of Part 4—see section 72A.

**special entertainment precinct** has the same meaning as in the [Local Government Act 1993](#), section 202.

**standard trading period**—see section 12.

**statement of risks and potential effects**—see section 48(1).

**supply** includes dispose of or deliver.

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

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

**tertiary institution** means—

(a) a university, or

(b) a TAFE establishment within the meaning of the [Technical and Further Education Commission Act 1990](#), or

(c) any higher education provider (within the meaning of Division 16 of Part 2-1 of the [Higher Education Support Act 2003](#) of the Commonwealth) prescribed by the regulations.

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

**Note—**

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

(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.

#### **4A Meaning of “Kings Cross precinct”**

(1) For the purposes of this Act, the ***Kings Cross precinct*** is the area including and bounded by the streets or parts of streets specified in Schedule 2.

(2) (Repealed)

(3) The regulations may amend Schedule 2 by adding or removing, or varying the description of, a street or part of a street.

#### **5 Meaning of “intoxicated”**

(1) For the purposes of this Act, a person is ***intoxicated*** if—

(a) the person’s speech, balance, co-ordination or behaviour is noticeably affected, and

(b) it is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor.

(2) Accordingly, a reference in this Act to ***intoxication*** in relation to licensed premises is a reference to the presence of intoxicated persons on the licensed premises.

(3) The Secretary is to issue guidelines to assist in determining whether or not a person is intoxicated for the purposes of this Act. Such guidelines are to be made publicly available in such manner as the Secretary considers appropriate.

(4) The guidelines issued by the Secretary may also indicate circumstances in which a person may be assumed not to be intoxicated for the purposes of this Act.

#### **6 Exemptions from Act**

(1) **General exemptions** This Act does not apply to or in respect of the following—

(a) the sale of liquor to an adult on such trains under the control of Sydney Trains or NSW Trains as are determined by those corporations,

(b) the sale of spirituous or distilled perfume as perfumery only and not for drinking,

(c) the sale of liquor for medicinal purposes by a medical practitioner, nurse practitioner, midwife practitioner or pharmacist,

(d) the sale of liquor to an adult at an auction conducted by an auctioneer, but only if such requirements (if any) as are prescribed by the regulations are complied with,

(e) the sale of liquor taken in execution or under similar process, or forfeited to the

Crown, if the sale is by or on behalf of the sheriff or a sheriff's officer, or a bailiff or a police officer,

- (f) the sale of liquor to an adult on board a vessel engaged in interstate or overseas voyages, but only if such requirements (if any) as are prescribed by the regulations are complied with,
- (g) the sale of liquor to an adult on board an aircraft, except in the case of a charter service where a person other than the aircraft operator sells or supplies liquor on board the aircraft,
- (h) the sale of liquor authorised by a law of the Commonwealth for the export of the liquor from the Commonwealth,
- (i) (Repealed)
- (j) the sale or supply of liquor to an adult who—
  - (i) is accommodated in a nursing home within the meaning of the *Public Health Act 2010*, 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 an overnight patient of a private health facility within the meaning of the *Private Health Facilities Act 2007*, 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.

(1A) **Exemption for gift services in certain circumstances** This Act does not apply to or in respect of the sale or supply of liquor that is part of a sale of flowers or food designed to be delivered as a gift to a person (other than the purchaser) specified by the purchaser, but only if the following requirements are complied with—

- (a) the business of the vendor is promoted or marketed as a genuine gift service,

- (b) the gift is packaged and presented in such a manner that any person receiving it would assume it to be a genuine gift,
- (c) the gift is delivered to the person specified by the purchaser at a place other than the premises at which the business of the vendor is conducted,
- (d) the person to whom the gift is delivered is an adult,
- (e) the gift is delivered between 7am and 7pm (except in the case where unforeseen circumstances have delayed the delivery of the gift during that period),
- (f) the volume of liquor supplied as part of the gift does not exceed 2 litres,
- (g) the liquor has been purchased by the vendor on a retail basis.

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

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

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

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

of the retirement village.

- (4) In subsection (3), **operator, resident, Residents Committee** and **retirement village** have the same meanings as in the [Retirement Villages Act 1999](#).
- (5) **Exemption for fundraising functions held by non-proprietary associations** Subject to this section, this Act does not apply to or in respect of the sale or supply of liquor at a function held by or on behalf of an eligible non-proprietary association if the following requirements are complied with—
- (a) the purpose of the function is to raise funds for the benefit of the association or the community,
  - (b) the sale or supply of liquor is ancillary to that purpose,
  - (c) liquor is sold or supplied from one bar only,
  - (d) liquor is sold or supplied for consumption on the premises only and only in open containers,
  - (e) liquor is sold or supplied for a continuous period of not more than 4 hours,
  - (f) liquor is not sold or supplied before 6 am or after midnight,
  - (g) any person who sells, supplies or serves liquor at the function has the same qualifications with respect to responsible service of alcohol as licensees and employees of licensees are required to have under this Act,
  - (h) liquor is not sold or supplied to minors,
  - (i) a member of the non-proprietary association who is an adult, or a person involved in the management of the association who is an adult, and who is not intoxicated, is to be present in the immediate vicinity of the bar area at all times that minors are present at the function,
  - (j) liquor is not sold or supplied to a person who is intoxicated,
  - (k) meals or other prepared food (namely, food requiring preparation, cooking or reheating before being eaten) and free drinking water are available whenever liquor is sold or supplied,
  - (l) police officers and inspectors are permitted full and free access to the premises where the function is held at all times while the function is being held,
  - (m) notice, in the form and manner approved by the Secretary, of the function has been given, at least 14 days before the function is held, to the Secretary, local police and the local council in whose area the function is to be held,
  - (n) no more than 250 people are attending the function,

(o) no more than 6 functions in any period of 12 months are held in accordance with the exemption under this subsection.

(6) A non-proprietary association is not an **eligible** association for the purposes of subsection (5) if—

(a) the association is subject to an order under subsection (7), or

(b) a limited licence is held on behalf of the association, or

(c) an order under section 141(2)(i) that a limited licence is not to be granted to any person on behalf of the association is in force, or

(d) any disciplinary action under section 141 has, during the period of 6 months before any function is held in accordance with the exemption under subsection (5), been taken against a person who held a limited licence on behalf of the association, or

(e) the association, or the secretary or an office holder of the association, has committed a prescribed offence within the meaning of section 144B during the period of 6 months before any function is held in accordance with the exemption under subsection (5).

For the purposes of paragraph (e), a prescribed offence is committed in the circumstances referred to in section 144C.

(7) The Secretary may, by order in writing given to a non-proprietary association, declare that the association is not an eligible association for the purposes of subsection (5). Any such order has effect for the period specified in the order.

(8) The regulations may—

(a) create exceptions to subsection (5) (including modifying any of the requirements specified in that subsection), and

(b) prescribe additional requirements that must be complied with for the purposes of subsection (5).

(9) Any offence that is committed under this Act because the requirements of subsection (5) are not complied with is taken to have been committed by—

(a) the non-proprietary association holding the function or on whose behalf the function is held, or

(b) in the case of a non-proprietary association that is not incorporated—the secretary or other relevant office holder of the association.

(10) **Directions relating to conduct of functions under subsection (5)** The Secretary may give a written direction to a non-proprietary association or, in the case of a non-proprietary

association that is not incorporated, to the secretary of the association or other relevant office holder of the association, that relates to the conduct of a function held by or on behalf of the association in accordance with the exemption under subsection (5).

(11) Without limitation, any such direction may prohibit or restrict the sale or supply of liquor at any such function.

(12) A direction under subsection (10)—

(a) takes effect when it is given to the non-proprietary association or person concerned or on a later date specified in the direction, and

(b) may be varied or revoked by the Secretary, and

(c) has effect despite the exemption under subsection (5).

(13) A non-proprietary association or person who, without reasonable excuse, fails to comply with a direction given to the association or person under subsection (10) is guilty of an offence.

Maximum penalty—50 penalty units.

(14) **General provision** For the avoidance of doubt, an exemption under this section does not have effect if any requirement that applies in relation to the exemption is not complied with.

## **Part 2 Principal offences relating to sale and supply of liquor**

### **7 Licence required to sell liquor**

(1) A person must not sell liquor unless the person is authorised to do so by a licence.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

(2) A person does not commit an offence under subsection (1) if the person is an employee or agent of a licensee and the sale is made in accordance with this Act and the authorisation conferred by the licence.

(3) A person who is the occupier, manager or person apparently in control of any premises on or from which liquor is sold in contravention of subsection (1) is taken to have sold the liquor unless it is proved that the person—

(a) had no knowledge of the sale, and

(b) had used all due diligence to prevent the sale of liquor on or from the premises.

### **8 Keeping or using unlicensed premises**

(1) A person must not—

- (a) open, keep or use any premises for the purpose of selling liquor, or
- (b) permit any premises to be opened, kept or used by another person for the purpose of selling liquor, or
- (c) have the care or management of any premises opened, kept or used for the purpose of selling liquor, or
- (d) assist in conducting the business of any premises opened, kept or used for the purpose of selling liquor,

unless the premises are licensed premises or are otherwise authorised under this Act to be used for the sale or supply of liquor.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

- (2) A person who is found on, or who is found entering or leaving, any premises opened, kept or used in contravention of subsection (1) is guilty of an offence.

Maximum penalty—5 penalty units.

## **9 Sale or supply of liquor contrary to licence**

- (1) A licensee or an employee or agent of a licensee must not sell or supply liquor, or cause or permit liquor to be sold or supplied—
  - (a) in contravention of the conditions to which the licence is subject, or
  - (b) otherwise than in accordance with the authority conferred on the licensee by or under this Act.

- (2) Without limiting subsection (1), a licensee must not—

- (a) keep licensed premises open for the sale or supply of liquor, or
- (b) sell or supply liquor,

at a time when the licensee is not authorised under this Act to sell or supply liquor.

- (3) A licensee must not sell, or employ or permit another person to sell, liquor on premises other than premises on which the licensee is authorised by the licence or this Act to sell the liquor.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

## **Part 3 Liquor licences**

### **Division 1 Preliminary**

#### **10 Types of licences and authorisation conferred by licence**

- (1) The following types of licences may be granted and held under this Act—
  - (a) hotel licence,
  - (b) club licence,
  - (b1) small bar licence,
  - (c) on-premises licence,
  - (d) packaged liquor licence,
  - (e) producer/wholesaler licence,
  - (f) limited licence,
  - (g) any other type of licence that is prescribed by the regulations.
- (2) A licence authorises the licensee to sell or supply liquor in accordance with this Act and the conditions of the licence.
- (3) The authorisation conferred by a licence is subject to this Act and the regulations.

#### **11 Licence conditions—general provisions**

- (1) A licence is subject to—
  - (a) such conditions as may be imposed, or are taken to have been imposed, by the Authority or the Secretary (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.
- (1A) (Repealed)
- (2) A licensee must comply with any conditions to which the licence is subject.  
Maximum penalty—100 penalty units or imprisonment for 12 months, or both.
- (3) For the purposes of this Act, a condition to which a licence is subject includes any provision of this Act that imposes a requirement or restriction (other than as an offence) on or in relation to the licence, licensee or licensed premises concerned.



**Note—**

The times during which licensed premises are authorised to trade is an example of such a requirement.

**11A Special licence condition—6-hour closure period for licensed premises**

- (1) This section applies in relation to—
  - (a) any licence granted on or after 30 October 2008, and
  - (b) any licence in force before that date, but only if an extended trading authorisation granted on or after that date is in force in relation to the licensed premises concerned.
- (2) A licence to which this section applies is subject to the condition that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours (as determined in accordance with this section) during each consecutive period of 24 hours (**the 6-hour closure period**).
- (3) Except as provided by subsection (4), the 6-hour closure period for any particular licensed premises is the period that is approved for the time being by the Authority.
- (4) In the case of a licence—
  - (a) granted on or after 30 October 2008 but before the date on which this section (as inserted by the *Liquor Legislation Amendment Act 2008*) commenced, or
  - (b) granted by the Local Court (as provided by clause 25 of Schedule 1) at any time after the date on which this section commenced,the 6-hour closure period for the licensed premises is, subject to subsection (5), the period from 4 am to 10 am.
- (5) The Authority may at any time, on application by the licensee or by the Secretary or the Commissioner of Police, or on its own initiative, approve of licensed premises having a different 6-hour closure period than—
  - (a) the period as last approved by the Authority, or
  - (b) the period specified in subsection (4).
- (6) Any such application by the licensee must be accompanied by the fee prescribed by the regulations.
- (7) To avoid doubt, during the 6-hour closure period for any licensed premises—
  - (a) the licensed premises are not authorised to stay open for the retail sale of liquor on the premises, and
  - (b) the licensee is not authorised to sell liquor by retail for consumption away from

the licensed premises.

- (8) This section has effect despite any other provision of this Act (in particular, those provisions relating to the standard trading period for licensed premises).
- (9) This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.
- (10) The regulations may also create exceptions to this section.

## **12 Standard trading period for certain licensed premises**

- (1) For the purposes of this Act, the **standard trading period** means—
  - (a) the period from 5am to midnight, or
  - (b) if the regulations prescribe a shorter period—the shorter period.
- (1A) Despite subsection (1), the **standard trading period** for a small bar is the period from 10am to midnight on any day of the week.

### **Note—**

Small bars are subject to the 6-hour closure period under section 11A.

- (1B) Despite subsection (1), the standard trading period for a Sunday for premises to which this subsection applies is—
  - (a) from 10am to 10pm, or
  - (b) for a Sunday that falls on 24 or 31 December—from 10am to midnight.
- (1C) Subsection (1B) applies to the following premises or part of premises—
  - (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
  - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
  - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may—

- (a) apply to a specified class of licensed premises, and
- (b) apply in relation to a specified day or days, and
- (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.

(3) Without limiting subsection (2)(a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

### **12A Extended trading hours for particular dedicated live music and performance venues**

(1) This section applies to the following licensed premises (***prescribed venues***)—

- (a) prescribed live music venues,
- (b) prescribed live performance venues,
- (c) venues that are—
  - (i) located in a special entertainment precinct, or
  - (ii) participating in an incentivised event.

(2) The trading period for prescribed venues referred to in subsection (1)(a) and (b) is extended by 2 hours after the time that would otherwise apply to the prescribed venue under—

- (a) section 12, or
- (b) an extended trading authorisation that applies to the premises.

(3) The extension under subsection (2) is subject to the following conditions—

- (a) the development consent for the prescribed venue permits the extended trading hours,
- (b) a live music performance or other arts and cultural event that meets the following criteria is held on any night of the week on which the prescribed venue trades during the extended trading period—
  - (i) the performance or event is of a duration of 45 minutes or more,
  - (ii) the performance or event is held after 8pm.

(4) The trading period for prescribed venues referred to in subsection (1)(c) is extended

by 60 minutes after the time that would otherwise apply to the prescribed venue under the following, on all nights of the week—

- (a) section 12,
- (b) an extended trading authorisation that applies to the premises.

(5) The extension under subsection (4) is subject to the following conditions—

- (a) the development consent for the prescribed venue permits the extended trading hours,
- (b) a live music performance or other arts and cultural event that meets the following criteria is held on the premises on at least 2 nights in any 7-day period—
  - (i) the performance or event is of a duration of 45 minutes or more,
  - (ii) the performance or event is held after 8pm,
- (c) for an incentivised event—the live music performance or other arts and cultural event is held in conjunction with the incentivised event.

(6) To avoid doubt, to the extent of an inconsistency between this section and a relevant condition that applies to the prescribed venue, this section prevails.

(7) In this section—

**relevant condition** means a condition of a type referred to in section 116I(2)(c) or (d).

### **12B Records to be kept about extended hours for dedicated live music and performance venues**

- (1) If the trading period for licensed premises is extended under section 12A, it is a condition of the licence that the licensee keep a record of each live music performance or other arts and cultural event held or provided on the licensed premises.
- (2) A record under subsection (1) is to be kept in the form and way approved by the Secretary.
- (3) The licensee of licensed premises must, if asked by a police officer or inspector—
  - (a) make a record kept under subsection (1) available for inspection by a police officer or inspector, and
  - (b) allow a police officer or inspector to take copies of the record.

### 13 Special events extended trading period for certain venues

- (1) In addition to the trading hours that apply under this Act to relevant licensed premises, the Minister may, by notice published in the Gazette, declare a period (an **extended trading period**) during which liquor may be sold or supplied on relevant licensed premises.
- (2) An extended trading period may be declared only in relation to a specified day—
  - (a) on which a special event is to be held, or
  - (b) that immediately follows the day on which a special event is to be held.
- (3) A notice under this section may—
  - (a) apply to a specified class of relevant licensed premises, or
  - (b) specify conditions that must be met for liquor to be sold or supplied on relevant licensed premises during the extended trading period.
- (4) Without limiting subsection (3), a class of relevant licensed premises may be specified by reference to relevant licensed premises located in a particular area, however described.
- (5) This section does not authorise—
  - (a) the sale, supply or consumption of liquor on licensed premises contrary to a restriction or prohibition imposed by or under this Act in relation to the trading hours for the licensed premises, or
  - (b) the operation of gaming machines during an extended trading period.
- (6) In this section—

**relevant licensed premises** means the following—

  - (a) licensed premises to which a club licence applies,
  - (b) a dedicated live music and performance venue,
  - (c) licensed premises to which a general bar licence applies,
  - (d) licensed premises to which a hotel licence applies,
  - (e) licensed premises to which a small bar licence applies.

**special event** means an event the Minister considers to be of regional, State or national significance.

## Division 2 Hotel licences

### 14 Authorisation conferred by hotel licence

- (1) A hotel licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on or away from the licensed premises.
- (2) **Trading hours for consumption on premises** The times when liquor may be sold for consumption on the licensed premises are as follows—
  - (a) during the standard trading period or at such other times as may be authorised by an extended trading authorisation,
  - (b) on 31 December in any year (but without limiting the operation of any extended trading authorisation)—from the start of the standard trading period for that day until 2 am on the next succeeding day,
  - (c) at any time on any day (including a restricted trading day) to a resident of the licensed premises or to a guest of such a resident while the guest is in the resident's company.
- (3) **Restricted trading days** Despite subsection (2)(a), the times when liquor may be sold for consumption on the licensed premises on a restricted trading day are as follows—
  - (a) between midnight and 5 am on that day (but only if authorised by an extended trading authorisation),
  - (b) between noon and 10 pm on that day.
- (3A) In the case of Christmas Day, liquor must not be sold for consumption on the licensed premises between noon and 10 pm unless it is sold with or ancillary to a meal served in a dining area on the licensed premises.
- (4) **Trading hours for consumption away from premises** Liquor may be sold for consumption away from the licensed premises during the standard trading period or at such other times as may be authorised by an extended trading authorisation.
- (4A) An extended trading authorisation must not authorise the sale of liquor for consumption away from the licensed premises—
  - (a) on a Sunday that does not fall on 24 or 31 December—after 11 pm, and
  - (b) on any other day—after midnight.
- (5) **No take-away sales on restricted trading days** However, the sale of liquor for consumption away from the licensed premises is not authorised on a restricted trading day.
- (6) **Functions on other premises** A hotel licence also authorises the licensee to sell liquor by

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

**Note—**

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

## **15 Hotel licence—general provisions**

- (1) The following provisions apply in relation to a hotel licence (***the hotel primary purpose test***)—
  - (a) except as provided by section 15A, the primary purpose of the business carried out on the licensed premises must at all times be the sale of liquor by retail,
  - (b) the keeping or operation of gaming machines (as authorised under the [Gaming Machines Act 2001](#)) on the licensed premises must not detract unduly from the character of the hotel or from the enjoyment of persons using the hotel otherwise than for the purposes of gambling.
- (2) The authorisation conferred by a hotel licence does not apply unless the hotel primary purpose test is complied with in relation to the licensed premises.
- (3) Any premises (other than the actual hotel) that are authorised by the Authority for the sale of liquor under a hotel licence are, for the purposes of this Act, taken to be part of the licensed premises to which the licence relates.

### **15A Cessation of liquor sales during trading hours**

- (1) **Extended trading periods** A hotelier may, at any time during the period that an extended trading authorisation is in force in relation to the licensed premises—
  - (a) cease to sell or supply liquor on the licensed premises, and
  - (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings and for gambling activities that are otherwise permitted on the premises).
- (2) **Authority may approve of cessation of liquor sales during standard trading period** A hotelier may, at any time during the standard trading period—
  - (a) cease to sell or supply liquor on the licensed premises, and
  - (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings and for gambling activities that are otherwise permitted on the premises),

but only with the approval of the Authority.

- (3) An application for the approval of the Authority under subsection (2) may be made by the hotelier concerned. Any such application must be accompanied by the fee prescribed by the regulations.
- (4) The Authority may give its approval only if it is satisfied that—
  - (a) the operation of gaming machines on the licensed premises during the period to which the approval relates will not detract unduly from the character of the hotel, and
  - (b) gambling activities on the licensed premises will be conducted in a responsible manner.
- (5) **Cessation of liquor sales during standard trading period without gambling activities** A hotelier may, at any time during the standard trading period—
  - (a) cease to sell or supply liquor on the licensed premises, and
  - (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings).

However, it is a condition of the licence that the licensed premises must not be used for the purposes of any gambling activities during any such time that liquor is not being sold or supplied unless an approval is in force under subsection (2) in relation to the licensed premises.

## **16 Hotel licence may be designated as a general bar licence**

- (1) The Authority may, in granting a hotel licence, designate the licence as a general bar licence and specify in the licence that it is a general bar licence.
- (2) The designation of a hotel licence as a general bar licence cannot be changed.
- (3) It is not lawful to keep or operate gaming machines on the premises to which a general bar licence relates. Accordingly, the keeping or operation of gaming machines on any such premises cannot be authorised under the [Gaming Machines Act 2001](#).
- (4) Despite section 14, a general bar licence does not authorise the sale or supply of liquor for consumption away from the licensed premises at any time.

## **17 Hotel licence—miscellaneous conditions**

- (1) **Cash advances prohibited** A hotelier must not—
  - (a) provide a cash advance in the hotel, or



(b) permit a cash advance to be provided in the hotel on behalf of the hotelier, except as a prize or bonus won as a direct or indirect consequence of participating in a form of gambling that may lawfully be conducted on the licensed premises.

(2) **Hotels must be open to general public** The business carried out under a hotel licence must not be, or include, a business that is limited to the sale or supply of liquor only—

(a) to persons who have been invited to use or attend the hotel, or

(b) to a particular class, or particular classes, of persons using or attending the hotel.

(2A) To avoid doubt, subsection (2)—

(a) does not prevent a hotel being closed to the general public because it has been booked for a private function including, for example, a wedding or party, but

(b) does not allow it to be closed to the general public for use as a members-only premises or club, or for other exclusive use on a recurrent basis.

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

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

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

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

**Note—**

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

## Division 3 Club licences

### 18 Authorisation conferred by club licence

- (1) A club licence authorises the licensee to sell liquor by retail on the licensed premises to a member of the club (or a guest of a member of the club) for consumption on or away from the licensed premises.
- (2) **Trading hours for consumption on premises** The times when liquor may be sold for consumption on the licensed premises are as follows—
  - (a) during the standard trading period or at such other times as may be authorised by an extended trading authorisation,
  - (b) on 31 December in any year (but without limiting the operation of any extended trading authorisation)—from the start of the standard trading period for that day until 2 am on the next succeeding day.
- (3) **Trading hours for consumption away from premises** Liquor may be sold for consumption away from the licensed premises during the standard trading period or at such other times as may be authorised by an extended trading authorisation.
- (3A) An extended trading authorisation must not authorise the sale of liquor for consumption away from the licensed premises—
  - (a) on a Sunday that does not fall on 24 or 31 December—after 11 pm, and
  - (b) on any other day—after midnight.
- (4) **No take-away sales on restricted trading days** However, the sale of liquor for consumption away from the licensed premises is not authorised on a restricted trading day.

### 19 Club licence—general provisions

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

## 20 Club licence—miscellaneous conditions

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

### Note—

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

## Division 3A Small bar licences

### 20A Authorisation conferred by small bar licence

- (1) A small bar licence authorises the licensee to sell liquor by retail on the licensed premises—
  - (a) for consumption on the premises, or
  - (b) as house-made cocktails in sealed containers for consumption away from the premises.
- (2) In this section—

**house-made cocktails**, in relation to licensed premises—

  - (a) means alcoholic beverages that are mixed on the licensed premises, but
  - (b) does not include cocktails that are pre-mixed away from the licensed premises for the licensee to sell by retail.

### Note—

Gaming machines in small bars are prohibited under the [Unlawful Gambling Act 1998](#).

### 20B Trading hours for small bars

- (1) The times when liquor may be sold under the authority conferred by a small bar licence are during the standard trading period or at such other times as may be

authorised by an extended trading authorisation.

- (2) An extended trading authorisation under section 49A is, on the granting of the licence, taken to be in force authorising the sale or supply of liquor on the licensed premises between midnight and 2 am on any day of the week.

**Note—**

Small bars may apply for longer trading periods under section 49A.

- (3) Despite subsection (1), the times when liquor may be sold for consumption on the licensed premises for a small bar on a restricted trading day are—
- (a) between midnight and 5 am, if authorised by an extended trading authorisation, and
  - (b) between noon and 10 pm.
- (4) Liquor may be sold for consumption away from the licensed premises in accordance with an authorisation referred to in section 20A(1)(b) or (c)—
- (a) during the standard trading period for the licensed premises, or
  - (b) for a Sunday that is not 24 or 31 December—no later than 11pm.
- (5) Despite subsection (4), the sale of liquor for consumption away from the licensed premises is not authorised on a restricted trading day.

**20C Small bar licence—miscellaneous conditions**

- (1) **Maximum number of patrons** Liquor must not be sold or supplied in a small bar if the number of patrons on the premises exceeds 60 or such greater number as may be prescribed by the regulations.
- (2) **Small bars must be open to general public** The business carried out under a small bar licence must not be, or include, a business that is limited to the sale or supply of liquor only—
- (a) to persons who have been invited to use or attend the small bar, or
  - (b) to a particular class, or particular classes, of persons using or attending the small bar.
- (2A) To avoid doubt, subsection (2)—
- (a) does not prevent a small bar being closed to the general public because it has been booked for a private function including, for example, a wedding or party, but
  - (b) does not allow it to be closed to the general public for use as a members-only premises or club, or for other exclusive use on a recurrent basis.

- (3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular small bar or to such other exceptions as may be prescribed by the regulations. Also, subsection (2) does not apply to the extent that is necessary to comply with any other provision of this Act or with any other law.
- (4) **Food must be made available** Liquor may only be sold or supplied in a small bar if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied on the premises. If any requirements are prescribed by the regulations in relation to the nature of any such food, those requirements must be complied with.

## **Division 4 On-premises licences**

### **21 Certain kinds of premises not to be licensed**

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

### **22 Primary purpose test**

- (1) An on-premises licence must not be granted in respect of any premises if the primary purpose of the business or activity carried out on the premises is the sale or supply of liquor.
- (2) The authorisation conferred by an on-premises licence does not apply if the primary purpose of the business or activity carried out on the licensed premises at any time is the sale or supply of liquor.
- (2A) To remove any doubt, subsection (2) applies in relation to—
  - (a) an on-premises licence that specifies the kind of business or activity carried out on the licensed premises, and
  - (b) an on-premises licence that specifies the kind of licensed premises to which the

licence relates.

- (3) Subsections (1) and (2) do not apply if the premises to which the licence or proposed licence relates—
  - (a) are part of an airport, or
  - (b) are located on land occupied by a tertiary institution and cater for students of that institution.
- (4) Subsections (1) and (2) are also subject to such exceptions as may be prescribed by the regulations.

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

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

**Note—**

For example, the terms “licensed restaurant” and “licensed public entertainment venue” are used in this Act to refer to premises in respect of which an on-premises licence relating to a restaurant or public entertainment venue, respectively, is granted.

- (5) The business or activity, or the kind of premises, specified in an on-premises licence may, on application by the licensee, be varied by the Authority. Any such variation may include the addition of a specified business or activity, or a specified kind of premises, in respect of the licence.
- (6) The authorisation conferred by an on-premises licence does not apply if—
  - (a) the business or activity carried out on the licensed premises is not the business or activity specified for the time being in the licence, or
  - (b) the licensed premises at any time do not comprise premises of the kind specified for the time being in the licence.
- (7) The regulations may provide for requirements in relation to the business or activity

carried out on licensed premises that are a licensed restaurant.

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

- (1) An on-premises licence authorises the sale or supply of liquor only if the liquor is sold or supplied for consumption on the licensed premises with, or ancillary to, another product or service that is sold, supplied or provided to people on the licensed premises.
- (2) **Regulations may limit products or services provided on licensed premises** A product or service is not to be considered a product or service for the purposes of subsection (1) if it is, or is of a class, specified by the regulations for the purposes of this subsection.
- (3) **Authorisation to sell or supply liquor without other product or service** Despite subsection (1), the Authority may, on application by the holder of an on-premises licence, endorse the licence with an authorisation that allows liquor to be sold or supplied for consumption on the licensed premises otherwise than with, or ancillary to, the other product or service referred to in that subsection.

**Note—**

Section 51 applies to any such authorisation.

- (3A) However, the other product or service must be available on the licensed premises at all times while the authorisation operates to allow liquor to be sold or supplied otherwise than with, or ancillary to, the product or service.
- (4) Subsection (1) does not apply if the premises to which the licence relates—
  - (a) are part of an airport, or
  - (b) are located on land occupied by a tertiary institution and cater for students of that institution, or
  - (c) are exempt from the primary purpose test referred to in section 22.

#### **25 Authorisation conferred by on-premises licence (generally)**

- (1) An on-premises licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on the premises only.
- (2) **Trading hours for consumption on premises** The times when liquor may be sold for consumption on the licensed premises are during the standard trading period or at such other times as may be authorised by an extended trading authorisation.
- (3) **Restricted trading days** Despite subsection (2), the times when liquor may be sold for consumption on the licensed premises on a restricted trading day are as follows—
  - (a) between midnight and 5 am on that day (but only if authorised by an extended

trading authorisation),

- (b) between 5 am and noon on that day (but only if authorised by an extended trading authorisation and only if the liquor is sold with or ancillary to a meal served in a dining area on the licensed premises),
- (c) between noon and 10 pm on that day (but only if the liquor is sold with or ancillary to a meal served in a dining area on the licensed premises),
- (d) between 10 pm and midnight on that day (but only if authorised by an extended trading authorisation and only if the liquor is sold with or ancillary to a meal served in a dining area on the licensed premises).

**Note—**

Section 49(7) restricts the granting of an extended trading authorisation for licensed public entertainment venues on restricted trading days.

(4) Subsection (3) does not apply to—

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

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

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

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

**Note—**

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

(8) **Special provisions relating to licensed accommodation premises** An on-premises licence that relates to accommodation premises also authorises the licensee to sell liquor by retail on the licensed premises—

- (a) for consumption on the licensed premises only—at any time on any day (including



a restricted trading day) to a resident (or a guest of a resident while in the resident's company) or an employee of the licensee, and

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

(9) **Special provisions relating to licensed vessels** Despite any other provision of this section, an on-premises licence that relates to a vessel authorises the licensee to sell liquor by retail to passengers on board the vessel, for consumption on board the vessel only—

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

**Note—**

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

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

- (1) Despite section 25(1), liquor may be sold by retail on the licensed premises to which an on-premises licence relates for consumption away from the licensed premises if the licence is, on application by the licensee, endorsed by the Authority with an authorisation for the purposes of this section.
- (2) An authorisation under this section does not authorise the sale of liquor on a restricted trading day.
- (3) In granting an authorisation under this section, the Authority is to specify the circumstances in which, and the times when, liquor may be sold for consumption away from the licensed premises.
- (3A) An authorisation must not authorise the sale of liquor for consumption away from the licensed premises—
  - (a) on a Sunday that does not fall on 24 or 31 December—after 11 pm, and
  - (b) on any other day—after midnight.

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

**Note—**

Section 51 applies to an authorisation under this section.

**27 Requirement to provide food on licensed premises**

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

**28 Certain licensed premises must be open to general public**

- (1) This section applies to an on-premises licence that relates to—
  - (a) a restaurant, or
  - (b) a public entertainment venue.
- (2) The business carried out under an on-premises licence to which this section applies must not be, or include, a business that is limited to the sale or supply of liquor only—
  - (a) to persons who have been invited to use or attend the licensed premises, or
  - (b) to a particular class, or particular classes, of persons using or attending the licensed premises.
- (2A) To avoid doubt, subsection (2)—
  - (a) does not prevent a restaurant or public entertainment venue to which an on-premises licence applies being closed to the general public because it has been booked for a private function including, for example, a wedding or party, but
  - (b) does not allow it to be closed to the general public for use as a members-only premises or club, or for other exclusive use on a recurrent basis.
- (3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular licensed premises or to such other exceptions as may be prescribed by the regulations. Also, subsection (2) does not apply to the extent that is necessary to comply with any other provision of this Act or

with any other law.

## Division 5 Packaged liquor licences

### 29 Authorisation conferred by packaged liquor licence

- (1) **Retail sales** A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only—
  - (a) during the standard trading period or such other period as may be authorised by an extended trading authorisation, or
  - (b) in the case of any Sunday that falls on 24 December—from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to midnight on that day.
- (2) **No retail trading on restricted trading days** Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.
- (3) **Selling liquor by wholesale or to employees** A packaged liquor licence also authorises the licensee—
  - (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
  - (b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.
- (3A) An extended trading authorisation must not authorise the sale of liquor for consumption away from the licensed premises—
  - (a) on a Sunday that does not fall on 24 or 31 December—after 11 pm, and
  - (b) on any other day—after midnight.
- (4) **Tastings** A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

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

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

- (2) The principal activity carried out in any such liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.

### **31 Restrictions on granting packaged liquor licences**

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

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

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

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

## **Division 6 Producer/wholesaler licences**

### **32 Wholesale suppliers of liquor**

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

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

### **33 Producers—authorisation conferred by licence**

- (1) A producer/wholesaler licence authorises the licensee, if the licensee carries on

business as a wine producer, as a producer of cider, perry or mead, as a producer of beer or spirits or as a primary producer—

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

**Note—**

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

- (2) The authorisation conferred by subsection (1) does not apply unless the primary purpose of the business or activity carried out on the licensed premises is the sale or supply of wine, or the sale or supply of cider, perry or mead, or the sale or supply of beer or spirits, that is the licensee's product.
- (3) For the purposes of this section, a product is the **licensee's product** if—
  - (a) in the case of wine or cider, perry or mead—it has been produced on the licensed premises (or a vineyard related to the licensed premises) from fruit grown or honey produced on the licensed premises or vineyard, or
  - (b) in the case only of wine—it is uniquely the licensee's (or a related corporation of the licensee's) own product, but only if that product contains not less than a percentage of wine, as prescribed by the regulations, that has been produced—

- (i) by or under the direction of the licensee (or a related corporation of the licensee) on the licensed premises or a vineyard related to the licensed premises, or
  - (ii) on the licensee's behalf from fruit grown on the licensed premises or a vineyard related to the licensed premises, or
- (c) in the case only of cider, perry or mead—it is uniquely the licensee's (or a related corporation of the licensee's) own product that has been produced—
- (i) by or under the direction of the licensee (or a related corporation of the licensee) on the licensed premises, or
  - (ii) on the licensee's behalf from fruit grown or honey produced by the licensee, or
- (d) for beer or spirits—it is uniquely the licensee's own product, or the own product of a related corporation of the licensee, and—
- (i) the product has been produced on the licensed premises, or
  - (ii) the licensee has a financial interest in the production, including if the product has been produced by or under the direction of the licensee or a related corporation of the licensee, and the licensee or related corporation has assumed the financial risk of the production, or
- (e) the liquor product is uniquely the licensee's own product because—
- (i) the licensee is a primary producer, and
  - (ii) the plants, fungi or other products, or part of the products, produced by the licensee are a characteristic ingredient of the liquor product.

**Example—**

a truffle manufacturer who uses truffles grown by the manufacturer to blend with a spirit distilled by another person to create a unique truffle spirit that is the truffle manufacturer's own product

- (4) For the purposes of subsection (3), a vineyard is **related** to licensed premises if it—
- (a) is operated by the licensee (or a related corporation of the licensee), and
  - (b) is within 500 metres of the licensed premises.
- (5) In this section—

**industry show** means a wine, beer, spirits or other liquor show at which liquor products are promoted and that is held by an industry association.

**primary producer** means a person who cultivates—

- (a) plants or fungi, or

(b) the products or parts of plants or fungi.

**producers' market or fair** means an event primarily held to promote and sell produce from—

- (a) the hospitality industry, or
- (b) a particular region.

### 34 (Repealed)

### 35 Producers—miscellaneous provisions

- (1) This section applies in relation to a producer/wholesaler licence under which the licensee carries on business as a wine producer, as a producer of cider, perry or mead or as a producer of beer or spirits.
- (2) **Multiple premises—wine producers** Despite any other provision of this Act, the licensed premises to which a producer/wholesaler licence relates may, in the case of a wine producer only, comprise more than one set of premises, but only if—
  - (a) each set of premises is operated by the licensee, and
  - (b) the premises are all located in the same wine region (as determined in accordance with the regulations).
- (2A) **Multiple premises—producers of cider, perry, mead, beer or spirits** Despite any other provision of this Act, the licensed premises to which a producer/wholesaler licence relates may, for a producer of cider, perry or mead or for a producer of beer or spirits, comprise more than one set of premises, but only if—
  - (a) each set of premises is operated by the licensee, and
  - (b) the premises are within—
    - (i) 10km of each other, if any of the premises are in a metropolitan area, or
    - (ii) 20km of each other, if any of the premises are in a non-metropolitan area.
- (3) **Industry shows** Liquor may only be sold or supplied by the licensee at an industry show in accordance with section 33(1)(d)—
  - (a) to customers or intending customers for consumption at the licensee's display area, but only for the purposes of tasting, or
  - (b) in sealed containers for consumption away from the industry show.
- (4) **Producers' markets or fairs** Liquor may only be sold or supplied by the licensee at a producers' market or fair in accordance with section 33(1)(e)—
  - (a) to customers or intending customers for consumption at the licensee's stall, but

only for the purposes of tasting, and

(b) in sealed containers for consumption away from the market or fair.

(5) Liquor must not be sold or supplied by the licensee at any such industry show, or at any such market or fair, to a person who is intoxicated.

(6) In this section—

**metropolitan area** means an area prescribed by the regulations to be a metropolitan area.

**non-metropolitan area** means any area that is not a metropolitan area.

## Division 7 Limited licences

### 36 Authorisation conferred by limited licence

(1) **General scope of limited licence** A limited licence authorises the licensee to sell or supply liquor on the licensed premises—

(a) in the case of a licence granted on behalf of a non-proprietary association—

(i) for consumption on the licensed premises only, and

(ii) only as part of, or in connection with, a function held in accordance with this Division, and

(b) in the case of a licence granted in respect of a function that is a trade fair—for consumption on or away from the licensed premises.

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

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

(4) **Notification requirements** Liquor may only be sold or supplied under a limited licence at a function if notice, in the form and manner approved by the Secretary, of the function has been given to the local police at least 14 days before it is held. This subsection does not apply in relation to a function referred to in subsection (5) or (6).

(5) **Social functions held on premises of surf life saving clubs** In the case of a limited licence held on behalf of a surf life saving club, the licence also authorises the sale or supply of liquor at any gathering (referred to in this Division as a **club social function**) of



the members of the club and their guests that—

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

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

- (6) **Special functions held on race days** In the case of a limited licence held on behalf of a racing club, the licence also authorises liquor to be sold or supplied at functions held on any day on which—
  - (a) the racing club holds race meetings or operates a betting auditorium authorised under section 24 of the *Betting and Racing Act 1998*, or
  - (b) betting authorised by section 8(6)(f) of the *Unlawful Gambling Act 1998* takes place at premises occupied by the racing club.
- (7) This section does not apply in relation to a limited licence granted under section 39 in respect of a special event.

### **37 Limited licence—general provisions**

- (1) Except in the case of a limited licence granted under section 39 in respect of a special event, a limited licence may only be granted to—
  - (a) an individual on behalf of a non-proprietary association, or
  - (b) an individual in respect of a trade fair.

#### **Note—**

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

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

### **38 Limited licence—miscellaneous conditions**

- (1) **How and when liquor may be sold or supplied** Liquor may only be sold or supplied on the licensed premises to which a limited licence relates—

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

**Note—**

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

- (2) The trading hours for licensed premises to which a limited licence relates cannot include the time between 3 am and 6 am.
- (3) **Supervision requirements** Liquor may only be sold or supplied on the licensed premises to which a limited licence relates if—
  - (a) the licensee is present on those premises at all times when liquor is being provided under the licence (except when a person referred to in paragraph (b) is present in the circumstances referred to in that paragraph), or
  - (b) a person nominated by the licensee as the person in charge of the sale and supply of liquor at the function or event is present on the premises at any time when the licensee cannot be present on those premises.
- (4) **Surf life saving clubs—club social functions** In the case of a limited licence held on behalf of a surf life saving club, liquor may only be sold or supplied at a club social function in accordance with the following requirements—
  - (a) the function must be held on the club's premises (and if the club has several premises, only on its principal premises) and the only participants must be members of the club and their guests,
  - (b) the licensee must ensure that a register, in which such details as the Authority may require concerning any such function are recorded, is kept on the premises,
  - (c) the function must have been approved by resolution recorded in the records of the governing body of the club,
  - (d) food of a nature and quantity consistent with the responsible sale, supply and service of alcohol must be made available whenever liquor is made available at the function,
  - (e) liquor must not be made available at the function at any time before 12 noon or after 10 pm on the day on which the function is held,
  - (f) liquor must not be made available at the function for a period of more than 4 hours,

(g) a member of the club who is an adult and who is not intoxicated must be present in the immediate vicinity of the bar area at all times that minors are present at the function,

(h) police officers and inspectors are to be permitted full and free access to the premises where the function is held, and to the register referred to in paragraph (b), at all times while the function is being held.

(4A) If, for the purposes of subsection (4)(d), any requirements are prescribed by the regulations in relation to the nature of any such food, those requirements must be complied with.

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

### **39 Limited licence for special event**

(1) The Authority may grant a limited licence that authorises the licensee to sell or supply liquor only—

(a) for consumption on the premises specified in the licence, and

(b) on a day or days specified in the licence (being a day or days during which a special event is held).

(2) The times when liquor may be sold or supplied under the licence are to be specified in the licence.

(3) The authorisation conferred by a limited licence does not apply unless the sale or supply of liquor under the licence is ancillary to the special event in respect of which the licence is granted.

(4) In this section—

**special event** means an event that—

(a) is of an infrequent or temporary nature, and

(b) in the Authority's opinion—

(i) is genuine, and

(ii) the holding of which is in the public interest, having regard to the objects of this Act.

## Part 4 Licensing procedures and related matters

### Division 1 Licence applications and granting of licences

#### 40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may be made by—
  - (a) an individual, or
  - (b) a corporation, or
  - (c) in the case of a club licence—a club (or a person on behalf of a club) that meets the requirements specified in section 10(1) of the [Registered Clubs Act 1976](#).
- (3) An application for a licence may not be made by—
  - (a) an individual who is under the age of 18 years, or
  - (b) a person who is disqualified from holding a licence or who holds a suspended licence, or
  - (c) an individual who is a controlled member of a declared organisation within the meaning of the [Crimes \(Criminal Organisations Control\) Act 2012](#).

**Note—**

Controlled members are prohibited from applying for licences—see section 27 of the [Crimes \(Criminal Organisations Control\) Act 2012](#).

- (4) An application for a licence must—
  - (a) be in the form and manner approved by the Authority, and
  - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
  - (c) be advertised in accordance with the regulations, and
  - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.

**Note—**

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

- (5) If, before an application for a licence is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must

immediately notify the Authority of the particulars of the change.

#### **41 Statement as to interested parties**

- (1) An application for a licence must be accompanied by a written statement, made by a person having knowledge of the facts, specifying—
  - (a) that the person has made all reasonable inquiries to ascertain the information required to complete the statement, and
  - (b) whether there are any persons (other than financial institutions) who will be interested in the business, or the profits of the business, carried on under the licence, and
  - (c) if there are any such persons, their names and dates of birth and, in the case of a proprietary company, the names of the directors and shareholders.
- (2) For the purposes of subsection (1), a person is interested in the business, or the profits of the business, carried on under the licence if the person is entitled to receive—
  - (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or
  - (b) any rent, profit or other income in connection with the use or occupation of premises on which the business is to be carried on.
- (3) The regulations may provide exceptions to this section.

#### **42 Investigations, inquiries and referrals in relation to licence applications**

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

the Secretary considers to be appropriate for referral to the Commissioner.

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

#### **43 Authority or Secretary may require further information**

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

#### **44 Submissions to Authority in relation to licence applications**

- (1) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for a licence.
- (2) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the licence.
- (3) If a contract or other agreement purports to extinguish the right of a person to make a submission under subsection (1), the contract or other agreement is, to the extent of the purported extinguishment, void.

#### 45 Decision of Authority in relation to licence applications

- (1) The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (2) The Authority may, in such circumstances as the Authority considers appropriate, treat an application for a licence as having been withdrawn.
- (3) The Authority must not grant a licence unless the Authority is satisfied that—
  - (a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and
  - (b) practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place, and
  - (c) if development consent is required under the *Environmental Planning and Assessment Act 1979* (or approval under Part 3A or Part 5.1 of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates—that development consent or approval is in force.

**Note—**

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

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.
- (5) Without limiting subsection (3)(a), a person is not a fit and proper person to carry on the business or activity to which a proposed licence relates if the Authority has reasonable grounds to believe from information provided by the Commissioner of Police in relation to the person—
  - (a) that the person—
    - (i) is a member of, or
    - (ii) is a close associate of, or
    - (iii) regularly associates with one or more members of,  
a declared organisation within the meaning of the *Crimes (Criminal Organisations Control) Act 2012*, and

(b) that the nature and circumstances of the person's relationship with the organisation or its members are such that it could reasonably be inferred that improper conduct that would further the criminal activities of the declared organisation is likely to occur if the person is granted a licence.

(5A) Without limiting subsection (3)(a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant—

(a) is of good repute, having regard to character, honesty and integrity, and

(b) is competent to carry on that business or activity.

(6) The Authority is not, under this or any other Act or law, required to give any reasons for not granting a licence because of subsection (5) to the extent that the giving of those reasons would disclose any criminal intelligence.

(7) In deciding whether or not to grant a licence, the Authority must consider whether, if the licence were granted, it would provide employment in, or other opportunities for, any of the following—

(a) the live music industry,

(b) the arts sector,

(c) the tourism sector,

(d) the community or cultural sector.

#### **46 Duration of licences**

(1) Except during any period of suspension, a licence continues to be in force until such time as it is surrendered to the Authority, cancelled or otherwise ceases to be in force or, in the case of a licence that is granted for a specified term, when that term expires.

(2) A licence may be surrendered only in accordance with such arrangements as may be approved by the Authority.

#### **46A Voluntary suspension of licence**

(1) A licensee may apply to the Authority to have the licence suspended by the Authority for a specified period.

(2) An application for the suspension of a licence must—

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

(b) specify the period that the licensee is seeking to have the licence suspended, and

(c) specify the reasons for the proposed suspension, and



(d) be accompanied by such fee as may be prescribed by the regulations.

- (3) The Authority may, if the Authority is satisfied that the suspension of the licence is reasonable in the circumstances, suspend the licence, by notice in writing to the licensee, for the period specified in the notice.

**Note—**

A licence may also be suspended by or under section 58B or 61(5A), Part 9 or 9A or by a court under section 148.

- (4) The Authority may, on application by a licensee and on payment of such fee as may be prescribed by the regulations, vary or revoke the suspension of a licence under this section.

#### **47 Granting of licence**

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

### **Division 1A**

#### **47A-47J (Repealed)**

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

#### **48 Community impact**

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of—
- (a) the views of the local community, and
  - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application, and
  - (c) whether the granting of the application would provide employment in, or other opportunities for, any of the following—

- (i) the live music industry,
- (ii) the arts sector,
- (iii) the tourism sector,
- (iv) community or cultural sector.

(2) In this section—

**relevant application** means any of the following—

- (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
- (b) an application under section 59 for approval to remove a hotel licence, club licence, small bar licence or packaged liquor licence to other premises,
- (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
- (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
- (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
- (e1) an application for an extended trading authorisation in relation to a small bar licence (but only if the authorisation will result in trading on a regular basis at any time between 2 am and 5 am),
- (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
- (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,

but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49(5)(b) or (5A) or 49A(3)(b)).

(3) A relevant application must be accompanied by a community impact statement.

(3A) However, a small bar application is not required to be accompanied by a community impact statement if—

- (a) development consent is required under the *Environmental Planning and Assessment Act 1979* to use the premises to which the application relates as a

small bar or to sell liquor during the times to which the application relates, and

- (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.

(3B) For the purposes of subsection (3A), a **small bar application** means any of the following—

- (a) an application for a small bar licence,
- (b) an application for approval to remove a small bar licence to other premises,
- (c) an application for an extended trading authorisation for a small bar, other than if the authorisation would result in trading on a regular basis at any time between 2 am and 5 am,
- (d) an application to vary an extended trading authorisation for a small bar, other than if the variation would result in trading on a regular basis at any time between 2 am and 5 am.

(3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if—

- (a) the application relates to the same premises as the premises to which a general bar licence relates, and
- (b) development consent has been obtained under the [Environmental Planning and Assessment Act 1979](#) to sell liquor during the times to which the application relates and those times are specified in the development consent.

(3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if—

- (a) an extended trading authorisation of the kind referred to in section 49(5)(a) is in force in respect of the licensed premises concerned, or
- (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the [Registered Clubs Act 1976](#).

(4) The community impact statement must—

- (a) be prepared in accordance with the regulations and any requirements of the Authority, and

(b) be in the form approved by the Authority.

(5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to—

(a) the community impact statement provided with the application, and

(a1) any published cumulative impact assessment that applies to the area in which the premises the subject of the application are located, and

(b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),

that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.

(6) The regulations may make provision for or with respect to the following—

(a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),

(b) the matters to be addressed by a community impact statement,

(c) the information to be provided in a community impact statement,

(d) the criteria for determining the local and broader community for the purposes of a relevant application,

(e) any other matter relating to the preparation and content of a community impact statement.

(7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.

#### **49 Extended trading authorisation—general provisions**

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

(a) a hotel licence,

(b) a club licence,

(c) an on-premises licence (other than an on-premises licence that relates to a vessel),

(d) a packaged liquor licence,

(e) a producer/wholesaler licence.

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

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

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

(c) in any case—a specified period between 5 am and 10 am on a Sunday,

(d) in any case—a specified period between 10 pm and midnight on a Sunday.

(2A) Without limiting subsection (2), the Authority may, in the case of an on-premises licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during any of the following periods—

(a) a specified period between 5 am and noon on a restricted trading day,

(b) a specified period between 10 pm and midnight on a restricted trading day.

**Note—**

The sale of liquor at these times is subject to the requirement that a meal is also served—see section 25(3).

(3) Despite subsection (2)(a), the Authority may, in the case of a hotel—

(a) situated in the area constituting the City of Sydney (as at 1 July 1994), or

(b) situated in the Kings Cross precinct, or

(b1) situated in the area including and bounded by the parts of streets specified in Schedule 3 (Oxford Street-Darlinghurst precinct) or that fronts or backs onto, or abuts, any such specified part, or

(c) situated in the Kosciuszko National Park,

authorise the licensee, on application by the licensee, to sell or supply liquor, for consumption on the licensed premises only, during a specified period between midnight on a Sunday and 5 am on a Monday.

(4) **Extended trading authorisation for take-away sales on Sundays** In the case of a relevant licence (including a packaged liquor licence) that authorises the sale or supply of liquor for consumption away from the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for

consumption away from the licensed premises only, during either or both of the following—

- (a) a specified period between 5 am and 10 am on a Sunday,
- (b) a specified period between 10 pm and 11 pm on a Sunday.

(5) **Nature of extended trading authorisation** An extended trading authorisation operates to authorise the sale or supply of liquor on the licensed premises—

- (a) on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or
- (b) if the authorisation so provides—on a special occasion that takes place on a specified date, or
- (c) if the authorisation so provides—on up to 12 separate occasions in any period of 12 months.

(5A) Despite subsection (2)(a), the Authority may, in the case of a hotel licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during a specified period between midnight on a Sunday and 5 am on a Monday, but only on or in connection with a special occasion that takes place on a specified date.

(6) **Extended trading period to be specified** In granting an extended trading authorisation, the Authority is to specify—

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

(7) **Extended trading not permitted on or in relation to restricted trading days—hotels and licensed public entertainment venues** Despite any other provision of this section, an extended trading authorisation cannot, in the case of a hotel licence or an on-premises licence that relates to a public entertainment venue (other than a cinema or a theatre), be granted to authorise the sale or supply of liquor for consumption on the licensed premises during any of the following periods—

- (a) between 5 am and noon on a restricted trading day,
- (b) between 10 pm and midnight on a restricted trading day,
- (c) between midnight and 5 am on any day immediately following a restricted trading day.

(8) **Restrictions on granting extended trading authorisation** The Authority must not grant an extended trading authorisation in respect of licensed premises unless the Authority is

satisfied that—

- (a) practices are in place, and will remain in place, at the licensed premises that ensure as far as reasonably practicable that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and
  - (b) the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.
- (9) For the purposes of this section, a ***special occasion*** means the occasion of a unique or infrequent event of local, State or national significance that persons independent of the licensee (and of the owner or occupier of the premises) desire to celebrate or mark on the licensed premises concerned.

#### **49A Extended trading authorisation—small bars**

- (1) The Authority may, on application by the holder of a small bar licence, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, during a specified period outside of the standard trading period for small bars.

**Note—**

Small bars are, on the granting of the small bar licence, authorised to trade between midnight and 2 am. See section 20B(2).

- (2) An extended trading authorisation for a small bar cannot authorise the sale or supply of liquor after 5 am or before 10 am on any day of the week.
- (3) An extended trading authorisation in relation to a small bar operates to authorise the sale or supply of liquor on the licensed premises—
- (a) on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or
  - (b) if the authorisation so provides—on an occasion considered by the Authority to be a special occasion and that takes place on a specified date, or
  - (c) if the authorisation so provides—on up to 12 separate occasions in any period of 12 months.
- (4) In granting an extended trading authorisation for a small bar, the Authority is to specify the trading hours during which the licensee is authorised to sell or supply liquor.
- (5) Section 49(8) applies in relation to an extended trading authorisation granted by the Authority under this section.

#### **49B Special provisions relating to multi-occasion ETAs**

- (1) This section applies to an extended trading authorisation of the kind referred to in section 49(5)(c) or 49A(3)(c) (a **multi-occasion extended trading authorisation**).
- (2) A multi-occasion extended trading authorisation cannot be granted in respect of licensed premises situated in such part of the State (if any) as may be prescribed by the regulations.
- (3) Despite any other provision of this Act, a multi-occasion extended trading authorisation cannot be granted to authorise the sale or supply of liquor on licensed premises after 3 am.
- (4) A multi-occasion extended trading authorisation is subject to the condition that, at least 6 weeks before liquor is sold or supplied on each occasion authorised by the extended trading authorisation, the following persons or bodies are to be notified by the licensee in the form and manner approved by the Secretary—
  - (a) the local police,
  - (b) the local consent authority,
  - (c) the Secretary.

**Note—**

The actual trading hours that operate under a multi-occasion ETA are specified in the ETA—see sections 49(6) and 49A(4).

- (5) (Repealed)

#### **50 Drink on-premises authorisation**

- (1) The Authority may, on application by the holder of a producer/wholesaler licence, endorse the licence with an authorisation (referred to as a **drink on-premises authorisation**) relating to the sale, supply and consumption of liquor on the licensed premises.
- (2) A drink on-premises authorisation authorises the licensee to sell liquor by retail on the licensed premises, for consumption on the licensed premises only—
  - (a) on any day of the week (except a restricted trading day)—during the standard trading period for that day or during such other period as may be authorised by an extended trading authorisation, and
  - (b) on 31 December in any year—from the start of the standard trading period for that day until 2 am on the next succeeding day, and
  - (c) on a restricted trading day—from noon to 10 pm.



## **51 General provisions relating to licence-related authorisations**

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

authorisation.

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

## **52 Authority may impose special licence conditions**

- (1) **Conditions relating to harm minimisation** The Authority may impose conditions on a

licence prohibiting or restricting activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption).

- (2) **Conditions relating to serving of liquor** The Authority may impose conditions on a licence requiring a licensee, in specified circumstances—
- (a) to cease to serve liquor on the licensed premises, or
  - (b) to restrict access to the licensed premises in a manner and to the extent provided by the conditions,
- or both, from a time of day that is earlier than the time at which, as otherwise required by the licence, trading must cease.
- (3) **Conditions relating to local liquor accords** The Authority may impose conditions on a licence requiring the licensee to participate in, and to comply with, a local liquor accord.

### **53 Authority may impose, vary or revoke licence conditions**

- (1) Without limiting any other provision of this Act, the Authority may at any time—
- (a) on application by the Secretary or the Commissioner of Police, or
  - (b) on the Authority's own initiative,
- impose conditions on a licence.
- (1A) The conditions that may be imposed by the Authority on a licence under this section include, but are not limited to, conditions—
- (a) prohibiting the sale or supply of liquor on the licensed premises before 10 am or after 11 pm (or both), and
  - (b) restricting the trading hours of, and public access to, the licensed premises.
- (2) The Authority may at any time—
- (a) on application by the licensee, the Secretary or the Commissioner of Police, or
  - (b) on the Authority's own initiative,
- vary or revoke a condition of a licence that has been imposed (or taken to have been imposed) by the Authority under this Act.
- (3) An application under subsection (1) or (2) must—
- (a) be in the form and manner approved by the Authority, and
  - (b) in the case of an application by a licensee—be accompanied by the fee prescribed

by the regulations, and

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

#### **54 Secretary may impose, vary or revoke licence conditions**

- (1) Without limiting the power of the Secretary to impose conditions on a licence under any other provision of this Act, the Secretary may impose conditions on a licence for such reasons, or in such circumstances, as the Secretary considers necessary or appropriate.
- (1AA) The Secretary may, on application by the licensee, impose conditions of the kind imposed on a licence under section 116I in respect of a licence relating to premises in a prescribed precinct. Subsection (3) does not apply to such an application.
- (1A) The conditions that may be imposed by the Secretary on a licence include, but are not limited to, conditions—
- (a) prohibiting the sale or supply of liquor on the licensed premises before 10 am or after 11 pm (or both), and

- (b) restricting the trading hours of, and public access to, the licensed premises.
- (2) The Secretary may, on application by the licensee or the Commissioner of Police or on the Secretary's own initiative—
- (a) vary or revoke a licence condition that has been imposed by the Secretary under this section or any other provision of this Act, or
  - (b) vary or revoke a licence condition—
    - (i) relating to the trading hours of any licensed premises, or
    - (ii) relating to licensed premises situated wholly or partly in the precinct to which a precinct liquor accord applies or in an area to which a community event liquor accord applies, or
    - (iii) relating to licensed premises situated wholly or partly in a prescribed precinct, that has been imposed (or taken to have been imposed) by the Authority.
- (2A) An application by a licensee under subsection (1AA) or (2) must—
- (a) be made in the form and manner approved by the Secretary, and
  - (b) be accompanied by the fee prescribed by the regulations, and
  - (c) be accompanied by such information and particulars as may be prescribed by the regulations, and
  - (d) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
  - (e) comply with such other requirements as may be imposed by the Secretary or prescribed by the regulations.
- (2B) The regulations may provide for the waiver, remittance or postponed payment of the whole or any part of a fee payable under subsection (2A)(b).
- (3) The Secretary must not impose a condition on a licence under this section, or vary or revoke a condition otherwise than on the application of the licensee, unless the Secretary has—
- (a) given the licensee a reasonable opportunity to make submissions in relation to the proposed decision, and
  - (b) taken any such submissions into consideration before making the decision.
- (4) The power of the Secretary to impose conditions on a licence under this section, or to vary or revoke a condition, may also be exercised in relation to any authorisation to which section 51 applies that is held in relation to the licence concerned.

- (5) Except in the case of a condition imposed under subsection (1A) or in the case of the variation or revocation of a condition referred to in subsection (2)(b), this section does not authorise the Secretary—
- (a) to impose a condition that is inconsistent with a condition that has been imposed by the Authority or is imposed by this Act or the regulations, or
  - (b) to vary or revoke a condition of a licence that has been imposed by the Authority or is imposed by this Act or the regulations.

**54A Directions relating to “sale on other premises” authorisations**

- (1) The Secretary may give a licensee who is the holder of an authorisation under section 25(6), or any employee or agent of such a licensee, a written direction that relates to the operation of the authorisation.
- (2) Without limitation, any such direction may prohibit or restrict the sale of liquor under the authorisation during such times, or on such premises, as may be specified in the direction.
- (3) A direction under this section—
- (a) takes effect when it is given to the licensee or person concerned or on a later date specified in the direction, and
  - (b) may be varied or revoked by the Secretary, and
  - (c) has effect despite the authority conferred by the authorisation concerned.
- (4) A licensee or person who fails to comply with a direction under this section is guilty of an offence.
- Maximum penalty—100 penalty units.

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

- (1) If a person (other than the licensee or a financial institution) becomes interested in the business, or the conduct of the business, carried out on licensed premises, it is a condition of the licence that the Authority is provided with the following information within 28 days after the other person becomes so interested—
- (a) the name and date of birth of the person so interested and, in the case of a proprietary company, the names of the directors and shareholders,
  - (b) a statement, signed by the licensee, that the licensee has made all reasonable inquiries to ascertain the information referred to in paragraph (a).
- (2) For the purposes of subsection (1), a person is interested in the business, or the

conduct of the business, carried out on licensed premises if the person is entitled to receive—

- (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or
- (b) any rent, profit or other income in connection with the use or occupation of the premises on which the business is to be carried on.

- (3) The information required to be provided to the Authority under this section may be provided by the interested person.
- (4) This section does not apply in relation to limited licences.
- (5) The regulations may create exceptions to this section.

## **56 Incident registers**

- (1) If the sale or supply of liquor after midnight on licensed premises is authorised at least once a week on a regular basis, it is a condition of the licence that the licensee maintains an incident register in the form approved by the Secretary.
- (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 or that occur between midnight and 3 am in the case of a limited licence—
  - (a) any incident involving violence or anti-social behaviour occurring on the licensed premises,
  - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the licensed premises and that involves a person who has recently left, or been refused admission to, the premises,
  - (c) any incident that results in a person being turned out of the licensed premises under section 77,
  - (d) any other incident of a kind prescribed by the regulations.
- (3) The incident register must also record details of any action taken in response to any such incident.
- (3A) If information is required to be recorded in an incident register under subsection (2) or (3) about an incident, the licensee must ensure the information is recorded as soon as practicable, but no later than 24 hours, after the incident occurs.
- (4) The licensee of licensed premises must, if requested to do so by a police officer or inspector—

- (a) make any incident register kept under this section available for inspection by a police officer or inspector, and
  - (b) allow a police officer or inspector to take copies of any such register or to remove any such register from the premises.
- (5) The licensee must also ensure that the information recorded in an incident register is retained for at least 3 years from when the record was made.

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

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

**58 Courses of training and instruction for applicants and licensees**

- (1) The Authority may require an applicant or class of applicants for such kinds of licences as the Authority determines to attend a course of training or instruction approved by the Secretary.
- (2) If an applicant is required to attend any such course of training, the Authority—
  - (a) may refuse to grant the licence until such time as the applicant has completed the course to the standard required by the Authority, or
  - (b) may grant the licence subject to the condition that the licensee completes the course to the standard required by the Authority within such time as the Authority determines.
- (3) The regulations may require a licensee, or any employee or agent of a licensee, to undertake and satisfactorily complete such further courses of training or instruction as may be approved by the Secretary.

**Division 2A Periodic licence fees**

**58A Periodic licence fee**

- (1) A periodic licence fee is payable to the Secretary for a licence while the licence is in force or under suspension and is so payable on each due date prescribed by the regulations for the purposes of this section.



- (2) Regulations may be made prescribing the periodic licence fees payable under this section and for and with respect to—
  - (a) times for payment of the fees (including payment of different elements of the fees at different times), and
  - (b) penalties for late payment of the fees, and
  - (c) the circumstances in which the fee, or a proportion of such a fee, may be re-assessed, waived or refunded, and
  - (d) information to be provided to the Secretary for the purpose of calculating the fee.
- (3) The regulations may provide that a periodic licence fee (or an element of a periodic licence fee) is to be determined by reference to matters including, but not limited to the following—
  - (a) the location of the relevant licensed premises,
  - (b) the trading hours of the licensed premises,
  - (c) the patron capacity of the licensed premises,
  - (d) offences committed at or in relation to the licensed premises,
  - (e) compliance by the licensee with the requirements of this or any other Act with respect to the licensed premises,
  - (f) the number of packaged liquor licences held by the same person, or in which the same person (other than a financial institution) is interested in the business, or profits of the business, carried on under the licences, or both.
- (4) For the purposes of subsection (3), 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.

**58B Suspension and cancellation for late payment of periodic licence fee**

- (1) If the periodic licence fee payable for a licence has not been paid before the expiration of 28 days after the due date for payment as provided by the regulations, the licence is suspended.

- (2) The suspension is lifted if—
  - (a) the periodic licence fee, and
  - (b) the late payment fee prescribed by the regulations,are paid within 28 days of the suspension.
- (3) However, if the periodic licence fee payable for a licence and any such late payment fee are not paid before the expiration of the 28 day period after the licence is suspended, the licence is cancelled on the expiration of the period.

**58C Application for reinstatement of cancelled licence**

- (1) The following persons may apply to the Secretary for the reinstatement of a licence cancelled by the operation of section 58B—
  - (a) the former holder of the licence,
  - (b) any other person (other than a financial institution) who is interested in the business, or the profits of the business, carried on under the licence.
- (2) Such an application may only be made within 56 days after the cancellation of the licence.
- (3) An application under this section must—
  - (a) be made in the form and manner approved by the Secretary, and
  - (b) be accompanied by—
    - (i) the unpaid periodic licence fee concerned, and
    - (ii) the late payment fee prescribed by the regulations, and
    - (iii) the application fee prescribed by the regulations (if any), and
  - (c) be accompanied by such information and particulars as may be prescribed by the regulations, and
  - (d) comply with such other requirements as may be imposed by the Secretary or prescribed by the regulations.
- (4) The Secretary may reinstate the licence if the Secretary is satisfied that there is a reasonable explanation for the failure to pay the periodic licence fee.
- (5) A cancelled licence that is reinstated under this section is to take effect and continue in force as if the licence had been suspended during the period of cancellation.
- (6) Regulations may be made for and with respect to the circumstances in which a fee

that accompanies an application under this section, or a proportion of such a fee, may be waived or refunded.

- (7) For the purposes of subsection (1), a person is interested in the business, or the profits of the business, carried on under a 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 carried on.
- (8) Sections 23(2) and 28(2) of the *Gaming Machines Act 2001* do not apply in relation to a licence that has been cancelled by the operation of section 58B and reinstated under this section.

## **Division 3 Licence removals and transfers**

### **59 Removal of licence to other premises**

- (1) A licensee may apply to the Authority for approval to remove the licence to premises other than those specified in the licence.
- (2) An application for approval to remove a licence to other premises must—
  - (a) be in the form and manner approved by the Authority, and
  - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
  - (c) be advertised in accordance with the regulations, and
  - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
- (3) An application for approval to remove a licence to other premises is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises. Accordingly, the provisions of Division 1, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence.
- (4) The Authority may refuse an application for approval to remove a hotel licence if the Authority is satisfied that the removal of the licence would adversely affect the interest of the owner or a lessee or mortgagee of the premises from which it is proposed to remove the hotel licence, or a sublessee from a lessee or sublessee of those premises.

- (5) The Authority must refuse an application for approval to remove a licence unless the Authority is satisfied that—
  - (a) practices will, as soon as the removal of the licence takes effect, be in place at the premises to which the licence is proposed to be removed that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on those premises and that all reasonable steps are taken to prevent intoxication on those premises, and
  - (b) those practices will remain in place.
- (6) The regulations may provide additional mandatory or discretionary grounds for refusing to approve the removal of a licence.
- (7) The approval to remove a licence to other premises takes effect—
  - (a) on payment to the Secretary of the fee prescribed by the regulations, and
  - (b) when the Authority endorses the licence to the effect that those other premises are the premises to which the licence relates.

#### **59A Removal of unrestricted club licences to other premises**

- (1) This section applies in relation to an application under section 59 to remove an unrestricted club licence to premises other than premises specified in the licence if—
  - (a) the proposed premises are situated—
    - (i) on land zoned or otherwise designated for use for the same purpose as the land on which the existing licensed premises are situated, and
    - (ii) within a 1km radius of the existing licensed premises, or
  - (b) the proposed premises are situated—
    - (i) on urban use land, or land that adjoins urban use land, and
    - (ii) within a 5km radius of the existing licensed premises.
- (2) Despite any other provision of this Act, if the application is granted, the registered club to which the licence relates may continue to operate the club's premises under the licence as if the licence were an unrestricted club licence.
- (3) In this section—

***existing licensed premises*** means the premises specified in the unrestricted club licence that is the subject of the application.

***on-premises trading hours*** means the times during which liquor may be sold or supplied only for consumption on the existing licensed premises.

**proposed premises** means the premises to which the unrestricted club licence is proposed to be removed in the application.

**unrestricted club licence** means a club licence—

- (a) to which the *Registered Clubs Act 1976*, Schedule 2, clause 94(2) applies, and
- (b) under which the licensee continues, in accordance with the *Registered Clubs Act 1976*, Schedule 2, clause 94, to operate without restrictions in relation to the registered club's on-premises trading hours.

**urban use land** means land zoned or otherwise designated for use for urban purposes under an environmental planning instrument.

## 60 Transfer of licence

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

- (5) An application for approval to transfer a licence to another person is to be dealt with and determined by the Authority as if it were an application for the granting of a licence to the other person and the other person was the applicant for the licence. Accordingly, the provisions of Division 1 apply in relation to an application under this section.
- (6) A club licence may be transferred to another club only if the Authority is satisfied that the requirements of Division 1A or 1B of Part 2 of the *Registered Clubs Act 1976* and of any regulations made for the purposes of this section have, to the extent that they apply in relation to the transfer, been complied with.

**Note—**

Division 1A of Part 2 of the *Registered Clubs Act 1976* relates to club amalgamations and Division 1B relates to the de-amalgamation of amalgamated clubs.

- (7) The Authority may provisionally approve the transfer of a licence to another person if the Authority is satisfied that—
  - (a) there is nothing that would preclude the Authority from approving the transfer of a licence, and
  - (b) the circumstances of the case justify giving the approval on a provisional basis.
- (8) A provisional approval to transfer a licence is sufficient authority for the transfer of the licence. However, any such provisional approval ceases to have effect unless it is confirmed by the Authority before the end of the period specified by the Authority when provisionally approving the transfer (or such later period as may be allowed by the Authority before the expiration of the specified period).
- (9) If a provisional approval to transfer a licence ceases to have effect because of the operation of subsection (8), the Authority may make such orders in relation to the licence as the Authority considers appropriate, including any of the following orders—
  - (a) an order that the licence is to revert to the transferor,
  - (b) an order treating a person (with the person's consent) as licensee until a transfer of the licence is effected,
  - (c) an order that the licence cannot be exercised until specified conditions are met or the Authority orders otherwise.
- (10) Any such order has effect according to its terms.
- (11) The Authority must not approve or provisionally approve the transfer of a licence unless satisfied—
  - (a) that practices will be in place at the licensed premises of the transferee as soon as the licence is transferred that ensure as far as reasonably practicable that liquor is

sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and

(b) that those practices will remain in place.

(12) The transfer of a licence has effect as if the licence had been granted to the transferee.

#### **60A Alternative process for transfer of licence**

(1) A licence may not be transferred under this section if the transfer involves a change in the ownership of the business carried on under the licence.

(2) A licence may be transferred under this section to another person (the **transferee**) but only if—

(a) the transferee is the holder of a licence of the same type as the transferred licence or was, at any time during the period of 3 years immediately before the transfer, the holder of a licence of the same type as the transferred licence, and

(b) the transferee has not committed a demerit offence during that 3-year period, and

(c) the licence has not been suspended (otherwise than under section 46A) or cancelled, or the licensee has not been disqualified from holding a licence, during that 3-year period.

(3) The transfer of a licence under this section does not have effect until—

(a) the transferee has given the Authority notice in writing of the transfer, and

(b) the Authority, on payment of such fee as may be prescribed by the regulations, endorses the licence to the effect that the licence is held by the transferee.

(4) The Authority may refuse to endorse the licence to that effect if the Authority is of the opinion that the requirements under subsection (2) are not satisfied in relation to the transfer of the licence.

(5) A notice under this section must—

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

(b) be accompanied by the written consent of the owner of the business carried on under the licence to the transfer, and

(c) must be accompanied by a declaration in writing, in a form approved by the Authority, certifying such matters as may be required by the approved form (including matters relating to the transferee's responsibilities in relation to, and capacity to implement, practices in place at the licensed premises for ensuring the responsible sale, supply and service of alcohol, and the prevention of intoxication,

on the premises).

- (6) For the purposes of subsection (2)(b), a demerit offence is committed in the circumstances referred to in section 144C.

### **61 Application for transfer of licence on dispossession of licensee**

- (1) This section applies in relation to a licence (other than a club licence) if—
- (a) the licensee is evicted from the licensed premises, or
  - (b) the owner of the licensed premises comes into, or becomes entitled to, possession of the licensed premises to the exclusion of the licensee, or
  - (c) the licensee is no longer employed by the owner of the business carried on under the licence (**the business owner**), or
  - (d) the licensee is not complying, or does not have the capacity to comply, with the requirement under section 91(1) to be responsible at all times for the personal supervision and management of the business 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 the business owner.
- (3) The owner of the licensed premises who comes into, or is entitled to, possession of the premises, or the business owner (as the case requires), is taken to be the licensee of the premises until—
- (a) the day that is 28 days after this section becomes applicable, or
  - (b) the day on which application is made under subsection (2),
- whichever first occurs.
- (4) If an application is made under subsection (2) not later than 28 days after this section becomes applicable, the applicant is, until the application is determined by the Authority, taken to be the licensee under the licence to which the application relates.
- (5) The Authority is not to determine an application for the transfer of a licence under this section unless—
- (a) the Authority is satisfied—
    - (i) that notice of the application was given to the dispossessed licensee at least 3 clear days before the Authority determines the application (or that all reasonable steps necessary for giving notice were taken by or on behalf of the applicant and that failure to give notice was not due to any neglect or default of the applicant), and



- (ii) if so notified, that the dispossessed licensee has been given a reasonable opportunity to make submissions in relation to the application, and
- (b) the Authority is satisfied that any lessee of the licensed premises has been notified of the application for the transfer of the licence and been given a reasonable opportunity to make submissions in relation to the application, and
- (c) the Authority has taken any submissions made under this subsection into consideration.

(5A) If—

- (a) an application under subsection (2) in respect of the licensed premises is not made within 28 days after this section becomes applicable, or
- (b) such an application is made but the transfer of the licence to the applicant is refused by the Authority,

the licence is suspended until such time as the licence is transferred to another person.

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

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

- (1) In this section, a reference to the business of a licensee is a reference to the business of the licensee carried on by the licensee under the licence immediately before the licensee's death, bankruptcy or other disability referred to in this section.
- (2) If a licensee dies, the business of the licensee may be carried on for a period not exceeding one month by a person of or above the age of 18 years who—
  - (a) was the spouse or de facto partner of the licensee, or
  - (b) is a member of the family left by the licensee, or
  - (c) carries on the business on behalf of the family left by the licensee,so long as the Authority is notified immediately that the business of the licensee is being so carried on.

### **Note—**

"De facto partner" is defined in section 21C of the [Interpretation Act 1987](#).

- (3) If, within the period of one month referred to in subsection (2), an application is made to the Authority by—
  - (a) the person carrying on the business of the licensee under subsection (2), or

(b) a person who claims that, for the purpose of continuing to carry on the business, the person should be preferred to the person referred to in paragraph (a),

for endorsement of the licence, as agent, of the name of the applicant, the person referred to in paragraph (a) may continue to carry on the business of the licensee until the application is determined.

- (4) If, under the *Bankruptcy Act 1966* of the Commonwealth, a trustee holds office in relation to the business of a licensee, the business of the licensee may be carried on by the trustee, or by a person authorised for the purpose by the trustee, so long as—
- (a) the Authority is notified immediately that the business is being so carried on, and
  - (b) an application is made to the Authority by the trustee as soon as practicable for endorsement on the licence, as agent, of the name of the person so authorised.
- (5) If a licensee becomes a mentally incapacitated person, the business of the licensee may be carried on by the NSW Trustee and Guardian or a person authorised for the purpose by the NSW Trustee and Guardian, so long as—
- (a) the Authority is notified immediately that the business of the licensee is being so carried on, and
  - (b) an application is made to the Authority by the NSW Trustee and Guardian as soon as practicable for endorsement on the licence, as agent, of the name of the person so authorised.
- (6) A person who carries on the business of a licensee under this section is, while the person so carries on the business, taken to be the licensee.
- (7) An application under this section must be accompanied by the fee prescribed by the regulations.
- (8) The Authority is to notify the Secretary and the Commissioner of Police of any application under this section and the Secretary and the Commissioner are entitled to make submissions in relation to such an application.

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

- (1) The Authority may grant an application under section 62 if the Authority is satisfied that the person whose name the applicant seeks to have endorsed on the licence is a fit and proper person to carry on the business to which the application relates.
- (1A) Without limiting subsection (1), in determining whether a person is a fit and proper person to carry on the business to which the application relates the Authority is to consider whether the person—
- (a) is of good repute, having regard to character, honesty and integrity, and

(b) is competent to carry on that business.

- (2) In deciding whether or not to grant an application under section 62, the Authority is to take into consideration any submissions made by the Secretary or the Commissioner of Police in relation to the application.
- (3) If, following the death of a licensee, the Authority is so satisfied in relation to more than one such person, the Authority may grant the application of such one of them as the Authority thinks fit.
- (4) The granting of an application under section 62 takes effect with respect to a licence when the Authority endorses the licence accordingly.
- (5) A person whose name is endorsed on a licence under subsection (4) is, while the endorsement has effect, taken to be the licensee.
- (5A) If, following the death of a licensee—
  - (a) an application under section 62 for endorsement of the licence is not made within the period required by section 62(3), or
  - (b) such an application is made within that period but the application is refused by the Authority,the licence is suspended until such time as the licence is transferred to another person.
- (6) Subject to section 64(4), an endorsement under this section has effect for the period specified by the Authority. Any such specified period may, before the period expires, be extended by the Authority on application by the person who is taken to be the licensee.

#### **64 Transfer of licence after death etc of licensee**

- (1) If probate of the will of a deceased licensee is, or letters of administration of the deceased licensee's estate are, granted, the executor or administrator must, as soon as practicable, apply to the Authority for the transfer of the licence to the executor or administrator, or to a person nominated by the executor or administrator, as transferee.
- (2) A trustee referred to in section 62(4) who holds office in relation to the business of a licensee may apply under section 60 as transferor for the transfer of the licence to a person nominated by the trustee.
- (3) If section 62(5) applies in relation to a licensee, the NSW Trustee and Guardian may apply under section 60 as transferor for the transfer of the licence to a person nominated by the NSW Trustee and Guardian.

- (4) If a licence is transferred under an application authorised by this section, any endorsement of the licence under section 63 ceases to have effect.

## **Division 4 Special provisions relating to corporate licensees**

### **65 Application of Division**

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

### **66 Appointment of managers**

- (1) A licensee (other than a registered club)—
- (a) must appoint a manager approved by the Authority under this Division for the licensed premises, and
  - (b) must not cause or permit the conduct of business under the licence for a period of more than 28 days except under the personal supervision and management of a person so approved.

Maximum penalty—50 penalty units.

- (2) A registered club that has more than one set of premises—
- (a) must appoint a different manager, approved by the Authority under this Division, for each set of premises of the club at which the secretary of the club is not in attendance, and
  - (b) must not cause or permit the conduct of business on any such premises for a period of more than 2 months except under the management of a person so approved.

Maximum penalty—50 penalty units.

- (3) Subsection (2) does not apply to a registered club—
- (a) that has no more than 2 sets of premises and the premises concerned—
    - (i) are, in the case where the main premises of the club are situated in a metropolitan area, within 10 kilometres of the other premises of the club or are, in the case where the main premises of the club are not situated in a metropolitan area, within 50 kilometres of the other premises of the club, or
    - (ii) are staffed by less than 5 full-time employees, or
  - (b) in such other circumstances as are prescribed by the regulations.
- (4) Despite subsection (2), a registered club may appoint a person to act as a manager of any of the club's premises for the purposes of that subsection even though the person

has not been approved by the Authority, but only if an application for the approval of the person to manage licensed premises has been made under section 68.

(5) A person's authorisation to be appointed under subsection (4) to act as manager of club premises expires on the determination by the Authority of the relevant application for approval.

(6) In this section—

**metropolitan area** means an area described by the regulations as a metropolitan area.

### **67 Restrictions on who may be appointed as manager**

(1) The following provisions apply to the appointment under section 66 of a manager of licensed premises—

(a) a person may not be appointed as the manager of licensed premises unless the person is approved by the Authority to manage licensed premises and the approval applies to the premises or class of premises concerned,

(b) only an individual may be appointed to manage licensed premises,

(c) a person cannot be appointed as the manager of licensed premises if at the time of the appointment the person already holds an appointment as the manager of other licensed premises.

(2) Subsection (1)(c) does not apply in the case of a registered club referred to in section 66(3).

(3) Subject to section 66(4), an appointment in contravention of this section is void for the purposes of this Act.

### **68 Approval of persons to manage licensed premises**

(1) An application for the Authority's approval of a person to manage licensed premises must be in the form and manner approved by the Authority and be accompanied by the fee prescribed by the regulations.

(2) The Authority may grant any such application or refuse to grant the application.

(3) In determining an application for approval of a person to manage licensed premises, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence.

(4) The Authority's approval may not be given unless the Authority is satisfied that the person concerned—

(a) is a fit and proper person to manage licensed premises, and

- (b) understands the person's responsibilities in relation to, and is capable of implementing, practices in place at licensed premises for ensuring the responsible sale, supply and service of alcohol and the prevention of intoxication, and
  - (c) if the Authority has required the person to attend a course of training or instruction approved by the Secretary—has completed the course to the standard required by the Authority.
- (4A) Without limiting subsection (4)(a), a person is not a fit and proper person to manage licensed premises if the Authority has reasonable grounds to believe from information provided by the Commissioner of Police in relation to the person—
- (a) that the person—
    - (i) is a member of, or
    - (ii) is a close associate of, or
    - (iii) regularly associates with one or more members of,  
  
a declared organisation within the meaning of the *Crimes (Criminal Organisations Control) Act 2012*, and
  - (b) that the nature and circumstances of the person's relationship with the organisation or its members are such that it could reasonably be inferred that improper conduct that would further the criminal activities of the declared organisation is likely to occur if the person is granted an approval.
- (4B) The Authority is not, under this or any other Act or law, required to give any reasons for not granting an approval because of subsection (4A) to the extent that the giving of those reasons would disclose any criminal intelligence.
- (4C) Without limiting subsection (4)(a), in determining whether a person is a fit and proper person to manage licensed premises the Authority is to consider whether the person—
- (a) is of good repute, having regard to character, honesty and integrity, and
  - (b) is competent to manage licensed premises.
- (5) If the Authority is satisfied that there is nothing that might preclude the Authority from approving of the person to manage licensed premises, but requires more information before making a final decision, the Authority may give a provisional approval of the person to be such a manager.
- (6) A provisional approval is sufficient to authorise the appointment of the person, in accordance with section 69, as manager of the licensed premises until such time as the Authority confirms the approval of the person.

- (7) An approval or provisional approval of a person to manage licensed premises may be given so as to apply in relation to any particular licensed premises, to all licensed premises of a specified class or to all licensed premises, as the Authority thinks fit.

## **69 Notice of appointments**

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

Maximum penalty—20 penalty units.

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

## **70 Liability of licensee for contravention by manager**

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

- (a) did not authorise or knowingly permit the contravention by the manager, and

- (b) maintained control over and supervision of the activities of the manager of the licensed premises in an effort to prevent any such contravention occurring.

**71 Liability of directors etc for offences by corporation—accessory to the commission of the offences**

- (1) For the purposes of this section, a **corporate offence** is an offence against this Act or the regulations that is capable of being committed by a corporation (including a licensee that is a corporation).
- (2) A person commits an offence against this section if—
  - (a) a corporation commits a corporate offence, and
  - (b) the person is—
    - (i) a director of the corporation, or
    - (ii) an individual who is involved in the management of the corporation and who is in a position to influence the conduct of the corporation in relation to the commission of the corporate offence, and
  - (c) the person—
    - (i) aids, abets, counsels or procures the commission of the corporate offence, or
    - (ii) induces, whether by threats or promises or otherwise, the commission of the corporate offence, or
    - (iii) conspires with others to effect the commission of the corporate offence, or
    - (iv) is in any other way, whether by act or omission, knowingly concerned in, or party to, the commission of the corporate offence.

Maximum penalty—The maximum penalty for the corporate offence if committed by an individual.

- (3) The prosecution bears the legal burden of proving the elements of the offence against this section.
- (4) The offence against this section can only be prosecuted by a person who can bring a prosecution for the corporate offence.
- (5) This section does not affect the liability of the corporation for the corporate offence, and applies whether or not the corporation is prosecuted for, or convicted of, the corporate offence.
- (6) This section does not affect the application of any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation)



who are concerned in, or party to, the commission of the corporate offence.

### **71A Evidence as to state of mind of corporation**

- (1) 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 state of mind, is evidence that the corporation had that state of mind.
- (2) In this section, the **state of mind** of a person includes—
  - (a) the knowledge, intention, opinion, belief or purpose of the person, and
  - (b) the person's reasons for the intention, opinion, belief or purpose.

### **72 Corporate licences—interpretative provisions**

- (1) A reference in this Act to a **position of authority** in a corporation is a reference to the position of chief executive officer, director or secretary of the corporation.
- (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.

## **Division 5 Cumulative impact assessments**

### **72A Definitions**

In this Division—

**published cumulative impact assessment** means a cumulative impact assessment published under section 72E.

**related authorisation** means an extended trading authorisation for a relevant licence.

**relevant licence** means a licence of a type prescribed by the regulations for this Division.

**relevant stakeholders**, for a cumulative impact assessment, means the following—

- (a) the local consent authority,

- (b) the local police,
- (c) the Secretary of the Ministry of Health,
- (d) another person the Authority considers representative of—
  - (i) holders of the type of relevant licence to which the assessment applies, or
  - (ii) businesses and residents in the area to which the assessment relates,
- (e) another person, or class of persons, prescribed by the regulations.

**social impact duty**, for the Authority, means the duty under section 48(5) to ensure that the overall social impact of the granting of a licence or authorisation will not be detrimental to the well-being of the local or broader community.

### **72B Preparation of cumulative impact assessment**

- (1) This section applies if, because of the number of relevant licences or related authorisations in force for an area, the Authority considers that granting any further relevant licences or related authorisations for premises in the area is likely to be inconsistent with the Authority's social impact duty.

**Note—**

See section 59(3) which provides that an application for approval to remove a licence to other premises is to be dealt with and decided by the Authority as if it were an application for the granting of a licence for the other premises.

- (2) The Authority may prepare a document (a **cumulative impact assessment**) in relation to the cumulative impact of the granting of licences or authorisations for premises in that area.

- (3) In this section—

**area** means a local government area, or part of a local government area, prescribed by the regulations.

### **72C Contents of cumulative impact assessment**

- (1) A cumulative impact assessment must include the following—
  - (a) the reasons the Authority considers that granting any further relevant licences or related authorisations for premises in the area is likely to be inconsistent with the Authority's duty under section 48(5) to ensure that the overall social impact of the granting of a licence or authorisation will not be detrimental to the well-being of the local or broader community,
  - (b) details of the evidence on which the Authority has formed that opinion,
  - (c) a map showing the area the subject of the assessment,

- (d) any other information prescribed by the regulations.
- (2) A cumulative impact assessment may relate to—
- (a) all relevant licences and related authorisations for premises in an area, or
  - (b) only relevant licences or related authorisations, or classes of relevant licences or related authorisations, specified in the assessment, or
  - (c) only classes of premises specified in the assessment.
- (3) A cumulative impact assessment may also include guidance about other types of approvals in relation to an existing relevant licence that it considers are likely to have an overall social impact in the area to which the assessment applies that is detrimental to the well-being of the local or broader community, including—
- (a) approval of changes to the specified boundaries of the licensed premises, within the meaning of section 94, if the change in boundaries would increase the floor space of the licensed premises, or
  - (b) approval of a variation to the conditions of the licence if the variation would extend the trading hours of the licensed premises.

#### **72D Consultation with relevant stakeholders**

After preparing a draft cumulative impact assessment, the Authority must—

- (a) consult about the draft assessment with relevant stakeholders for the assessment, and
- (b) give the stakeholders a reasonable period in which to provide feedback about the assessment.

#### **72E Publication of cumulative impact assessment**

If, after consulting with relevant stakeholders, the Authority still considers the cumulative impact assessment is necessary the Authority must publish it on a publicly accessible government website.

#### **72F Review of cumulative impact assessment**

- (1) The Authority must, at least every 2 years, review each cumulative impact assessment that is in force.
- (2) The first review of a cumulative impact assessment must be completed not later than 12 months after the assessment is published.
- (3) A review of a cumulative impact assessment must include consultation with relevant stakeholders for the assessment.

## **72G Variation of cumulative impact assessments**

- (1) The Authority may, at any time, vary a cumulative impact assessment.
- (2) However, the Authority may vary a cumulative impact assessment in relation to a matter mentioned in section 72C(1) only if the Authority has—
  - (a) consulted with relevant stakeholders for the assessment about the proposed variation, and
  - (b) given the stakeholders a statement explaining the reasons for the proposed variation, and
  - (c) given the stakeholders a reasonable period in which to provide feedback about the proposed variation.
- (3) If the Authority varies a cumulative impact assessment it must publish, on a publicly accessible government website—
  - (a) a copy of the assessment as varied, and
  - (b) if a statement was prepared explaining the reasons for the variation—the statement.

## **72H Revocation of cumulative impact assessments**

- (1) The Authority may revoke a cumulative impact assessment if the Authority no longer considers that granting further relevant licences or related authorisations for premises in the area to which the assessment applies is likely to be detrimental to the well-being of the local or broader community.
- (2) However, before revoking the cumulative impact assessment the Authority must consult with relevant stakeholders for the assessment.
- (3) If, after considering the views of relevant stakeholders, the Authority revokes the cumulative impact assessment it must publish, on a publicly accessible government website, a statement—
  - (a) that the assessment has been revoked, and
  - (b) that includes information about why the assessment is no longer necessary.

# **Part 5 Regulation and control of licensed premises**

## **Division 1 Conduct on licensed premises**

### **73 Prevention of excessive consumption of alcohol on licensed premises**

- (1) A licensee must not permit—

- (a) intoxication, or
  - (b) any indecent, violent or quarrelsome conduct,
- on the licensed premises.

Maximum penalty—100 penalty units.

- (2) A licensee or an employee or agent of a licensee must not, on the licensed premises, sell or supply liquor to an intoxicated person.

Maximum penalty—100 penalty units.

- (3) A person (other than a licensee or an employee or agent of a licensee) must not, on licensed premises, supply liquor to an intoxicated person.

Maximum penalty—10 penalty units.

- (4) If an intoxicated person is on licensed premises other than a vessel, the licensee is taken to have permitted intoxication on the licensed premises unless the licensee proves that—

- (a) the licensee, and the licensee's employees or agents—

(i) refused to serve the person liquor after becoming aware the person was intoxicated, and

(ii) asked the person to leave the premises, and

(iii) if the person did not leave the premises immediately after being asked to leave or refused to leave—contacted, or attempted to contact, a police officer for help in removing the person from the premises, or

- (b) the licensee, and the licensee's employees and agents, took the steps to prevent intoxication on the licensed premises set out in the guidelines issued under subsection (5A), or

- (c) the intoxicated person did not consume liquor on the licensed premises.

- (5) If an intoxicated person is on a vessel to which an on-premises licence relates, the licensee is taken to have permitted intoxication on the vessel unless—

- (a) the licensee proves that—

(i) the person was not intoxicated when the person boarded the vessel, and

(ii) the licensee, and the licensee's employees and agents, refused to serve the person liquor after becoming aware the person was intoxicated, and

(iii) the licensee, or the licensee's employee or agent, contacted, or attempted to

- contact, a police officer for help in removing the person from the vessel, and
- (iv) if the licensee, or the licensee's employee or agent, contacted a police officer, the licensee and the licensee's employees and agents followed the police officer's instructions, or
  - (b) the licensee proves that the licensee, and the licensee's employees and agents, took the steps set out in the guidelines issued under subsection (5A) to prevent intoxication on the vessel, or
  - (c) the licensee proves that the intoxicated person did not consume liquor on the vessel.

(5A) The Secretary is to issue guidelines relating to the prevention of intoxication on licensed premises. Such guidelines are to be made publicly available in such manner as the Secretary considers appropriate.

(6) In the application of this section to an on-premises licence that relates to a catering service, a reference to licensed premises does not include private domestic premises except for the purposes of subsection (2).

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

- (1) A licensee must not permit the licensed premises to be used for the sale of—
- (a) any goods that the licensee suspects of being stolen, or
  - (b) any substance that the licensee suspects of being a prohibited plant or a prohibited drug.

Maximum penalty—100 penalty units.

- (2) A licensee must not permit the possession or use on the licensed premises of any substance that the licensee suspects of being a prohibited plant or a prohibited drug.

Maximum penalty—100 penalty units.

- (3) An employee or agent of a licensee or a person (other than the licensee) in charge of licensed premises must not permit the licensed premises to be used for the sale of—

- (a) any goods that the employee, agent or person suspects of being stolen, or
- (b) any substance that the employee, agent or person suspects of being a prohibited plant or a prohibited drug.

Maximum penalty—100 penalty units.

- (4) An employee or agent of a licensee or a person (other than the licensee) in charge of licensed premises must not permit the possession or use on the licensed premises of

any substance that the employee, agent or person suspects of being a prohibited plant or a prohibited drug.

Maximum penalty—100 penalty units.

- (5) It is a defence to a prosecution for an offence under this section if it is proved that the goods concerned were not stolen or that the substance concerned was not a prohibited plant or a prohibited drug.

**75 Secretary, police officers and marine authorities may issue improvement notices to licensees and staff of licensed premises**

- (1) The Secretary, a police officer or a marine authority may give a relevant person for licensed premises a written notice (an **improvement notice**)—
- (a) for the Secretary—
    - (i) if the Secretary reasonably believes there has been a contravention of this Act or the regulations on, or in relation to, the licensed premises, or
    - (ii) about any other matter relating to the licensed premises, including any conduct on the licensed premises, or
  - (b) for a police officer—if the police officer reasonably believes noise is being emitted from the licensed premises in contravention of—
    - (i) this Act or the regulations, or
    - (ii) any noise or noise-related condition applying to the licence for the licensed premises, or
  - (c) for a marine authority—if the marine authority reasonably believes noise is being emitted in navigable waters from licensed premises that are a vessel in contravention of—
    - (i) this Act or the regulations, or
    - (ii) any noise or noise-related condition applying to the licence for the licensed premises.
- (2) An improvement notice must not be issued in relation to a demerit offence under Part 9A.
- (2A) An improvement notice must be in the form approved by the Secretary and include—
- (a) for an improvement notice issued by the Secretary—
    - (i) if the notice relates to a contravention of this Act or the regulations—the provision of the Act or regulations that is being contravened, and

- (ii) a direction about the action that must be taken by the relevant person to rectify the contravention, and
    - (iii) a direction about the date by which the rectification must occur, or
  - (b) for an improvement notice issued by a police officer—
    - (i) a direction that a person whom the police officer believes to be a person who caused the emission of the noise to cease the noise, or
    - (ii) a direction that a person whom the police officer believes to be making, or contributing to the making, of the noise to cease making or contributing to the noise, or
  - (c) for an improvement notice issued by a marine authority—
    - (i) a direction that a person whom the marine authority believes to be a person who caused the emission of the noise to cease the noise, or
    - (ii) a direction that a person whom the marine authority believes to be making, or contributing to the making, of the noise to cease making or contributing to the noise.
- (2B) An improvement notice takes effect on the later of the following—
- (a) when the notice is given to the relevant person,
  - (b) a date specified in the notice.
- (3) A relevant person who, without reasonable excuse, fails to comply with an improvement notice under this section is guilty of an offence.
- Maximum penalty—100 penalty units.
- (4) The power conferred by this section includes a power to issue an improvement notice giving a direction to adopt, vary, cease or refrain from any practice on or in respect of the licensed premises.
- (5) The Secretary may revoke or vary an improvement notice given under this section.
- (6) An improvement notice under this section must not be inconsistent with this Act and the authorisation conferred by the licence concerned.
- (7) A police officer or marine authority who issues an improvement notice under this section may make a complaint to the Secretary under section 79B about the emission of noise from the licensed premises the subject of the improvement notice.
- (8) In this section—
- relevant person** means the following—



- (a) a licensee,
- (b) an employee of a licensee,
- (c) an agent of a licensee.

## **Division 2 Exclusion of persons from licensed premises**

### **76 Self-exclusion of patrons from licensed premises**

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

section, to or in respect of the participant concerned, or

(b) if the participant enters or remains on the licensed premises to which the agreement relates.

(7A) This section does not limit or otherwise affect the civil liability of a person for negligence that causes personal injury to a person or the death of a person.

(8) This section does not affect the operation of any self-exclusion scheme under section 49 of the *Gaming Machines Act 2001*.

## **77 Non-voluntary exclusion of persons from licensed premises**

(1) In this section—

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

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

**vicinity** of licensed premises means any place less than 50 metres from any point on the boundary of the premises.

(2) An authorised person may refuse to admit to, or may turn out of, licensed premises any person—

(a) who is at the time intoxicated, violent, quarrelsome or disorderly, or

(b) whose presence on the licensed premises renders the licensee liable to a penalty under this Act, or

(c) who smokes, within the meaning of the *Smoke-free Environment Act 2000*, while on any part of the licensed premises that is a smoke-free area within the meaning of that Act, or

(d) who uses, or has in his or her possession, while on the premises any substance that the authorised person suspects of being a prohibited plant or a prohibited drug, or

(e) whom the authorised person, under the conditions of the licence or according to a term (of the kind referred to in section 134 or 136D) of a liquor accord, is authorised or required to refuse access to the licensed premises.

(3) If, under subsection (2), a person has been refused admission to, or has been turned out of, licensed premises, an authorised person may, at any time, refuse to admit that person to the licensed premises or may turn the person out of the licensed premises.

(4) If a person in respect of whom an authorised person is, under subsection (2) or (3),

entitled to refuse admission to the licensed premises is on the premises, the person must, on being required so to do by an authorised person, leave the premises.

Maximum penalty—50 penalty units.

- (5) For the purposes of this section, such reasonable degree of force as may be necessary may be used to turn a person out of licensed premises.
- (6) A person who has been refused admission to, or turned out of, licensed premises in accordance with this section must not re-enter or attempt to re-enter the premises within 24 hours of being refused admission or being turned out.

Maximum penalty—50 penalty units.

- (7) After the 24-hour period ends in relation to any such person, an authorised person is not prevented from exercising the powers under subsection (3) in relation to the person.
- (8) A person who has been refused admission to, or turned out of, licensed premises in accordance with this section must not, without reasonable excuse—
- (a) remain in the vicinity of the premises, or
  - (b) re-enter the vicinity of the premises within 6 hours of being refused admission or being turned out.

Maximum penalty—50 penalty units.

- (9) Without limiting subsection (8), a person has a reasonable excuse for remaining in, or re-entering, the vicinity of the licensed premises if—
- (a) the person reasonably fears for his or her safety if he or she does not remain in, or re-enter, the vicinity of the premises, or
  - (b) the person needs to remain in, or re-enter, the vicinity of the premises in order to obtain transport, or
  - (c) the person resides in the vicinity of the premises.
- (10) In the prosecution for an offence under subsection (8), the burden of proving that a person had a reasonable excuse for remaining in, or re-entering, the vicinity of the licensed premises concerned is on the person charged.
- (11) The functions that may be exercised under this section by an authorised person who is a licensee or employee or agent of a licensee may only be exercised in relation to the licensed premises to which the licensee's licence relates.
- (12) A reference in this section to turning a person out of licensed premises includes a reference to causing the person to be turned out.

- (13) Nothing in this or any other section of this Act operates to limit any other right a person has to refuse to admit a person to, or to turn a person out of, licensed premises.

## **78 Banning orders**

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

Maximum penalty—50 penalty units.

## **Division 3 Disturbance of quiet and good order of neighbourhood**

### **79 Making of complaint**

- (1) A person may complain to the Secretary that the quiet and good order of the neighbourhood of licensed premises are being unduly disturbed because of—
- (a) the manner in which the business of the licensed premises is conducted, or
  - (b) the behaviour of persons after they leave the licensed premises (including, but not

limited to, the incidence of anti-social behaviour or alcohol-related violence).

- (2) Such a complaint must be in writing and be made or verified by statutory declaration.
- (3) A complaint under this section may only be made by any of the following persons (referred to in this Division as **the complainant**)—
  - (a) a person authorised in writing by 3 or more persons residing in the neighbourhood of the licensed premises or a person who is such a resident and is authorised in writing by 2 or more other such residents,
  - (b) the Commissioner of Police,
  - (c) a person authorised by the local consent authority in relation to the licensed premises,
  - (d) a person who satisfies the Secretary that his or her interests, financial or other, are adversely affected by the undue disturbance to which the person's complaint relates.
- (4) A complaint may relate to more than one licensed premises.
- (5) In the application of this Division to an on-premises licence that relates to a catering service—
  - (a) a reference to licensed premises does not include private domestic premises, and
  - (b) a reference to the business of the licensed premises is a reference to the business of providing catering services on licensed premises (other than private domestic premises) under the licence.
- (6) This section does not apply to a complaint if—
  - (a) it is a complaint of a type prescribed by the regulations, and
  - (b) the local consent authority for the licensed premises has—
    - (i) a local plan to deal with complaints of that type, and
    - (ii) has, by written notice given to the Secretary, notified the Secretary that it will be dealing with complaints of that type.

## **80 Dealing with complaints**

- (1) The Secretary may, after receiving a complaint under section 79, decide—
  - (a) to deal with the complaint in accordance with this Division, or
  - (b) to take no further action under this Division in relation to the complaint.
- (2) If the Secretary decides to deal with the complaint, the Secretary may—

- (a) convene a conference to hear submissions in relation to the complaint, or
  - (b) invite written submissions from the licensee for the licensed premises to which the complaint relates, and from such other persons as the Secretary considers appropriate, and make a decision in relation to the complaint without convening a conference.
- (3) A conference, if convened, may deal with more than one complaint.
- (4) A complaint in relation to licensed premises that is being dealt with by the Secretary under this section may be extended to include other licensed premises if the Secretary 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.
- (5) Any licensed premises in respect of which a complaint is extended as referred to in subsection (4) is, for the purposes of this Division, taken to be the subject of a complaint under this Division.
- (6) If, in relation to any such extended complaint, a conference is not convened, the Secretary must invite written submissions from the licensee for the licensed premises that are the subject of the extended complaint before making a decision in relation to the complaint.
- (7) If a conference is convened in relation to a complaint—
- (a) notice of the time and place of the conference is to be given to all complainants and the licensee or licensees as specified by the Secretary, and
  - (b) the Secretary is not to make a decision in relation to the complaint unless each complainant and licensee who is present at the conference is given a reasonable opportunity to be heard.
- (8) A conference under this section is to be presided over by the Secretary and the procedure at the conference is to be determined by the Secretary.
- (9) Nothing in this section prevents the Secretary from taking other action in relation to a complaint under this Division or in relation to licensed premises that are the subject of a complaint under this Division.

## **81 Decision by Secretary in relation to complaint**

- (1) The Secretary may, after dealing with a complaint in accordance with section 80,

decide to do any one or more of the following—

- (a) impose a condition on the licence for the licensed premises the subject of the complaint,
  - (b) vary or revoke a condition to which the licence is subject,
  - (c) if a conference has been convened in relation to the complaint—adjourn the conference subject to implementation and continuation of undertakings given by the licensee,
  - (d) issue a warning to the licensee,
  - (e) take no further action in relation to the complaint.
- (2) The conditions that may be imposed on a licence include, but are not limited to, conditions relating to any one or more of the following—
- (a) noise abatement,
  - (b) prohibition of the sale or supply of liquor before 10 am and after 11 pm,
  - (c) prohibition of, or restriction on, activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption),
  - (d) restricting the trading hours of, and public access to, the licensed premises,
  - (e) requiring the licensee to participate in, and to comply with, a liquor accord.
- (3) The Secretary is to take the following matters into consideration before making a decision under this section—
- (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.
- (4) For the purposes of subsection (3), **complainant** does not include a complainant who is the Commissioner of Police or a person authorised by the local consent authority.

## **Division 4 Closure orders**

### **82 Short-term closure of licensed premises**

- (1) An authorised officer or the Authority may, by notice served on a licensee or a person apparently in charge of licensed premises, order the licensee to close the licensed

premises from a time specified in the order until a later specified time.

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

### **83 Urgent application for short-term closure order**

- (1) An application under section 82 may be made by telephone.
- (2) An authorised officer or the Authority must not issue an order under section 82 on an application made by telephone unless the officer or the Authority (as the case requires) is satisfied that the order is required urgently and that it is not practicable for the application to be made in person.
- (3) An application under this section must be made by facsimile if the facilities to do so are readily available for that purpose.
- (4) An authorised officer or member of the Authority who issues an order under section 82 on an application made by telephone must—



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

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

- (1) The Authority may, on the application of the Secretary or the Commissioner of Police, order a licensee to close the licensed premises from a time specified in the order until a later specified time.
- (2) The Authority may not make an order under this section unless—
- (a) the licensee or manager of the licensed premises is the subject of an investigation by the Secretary under section 138 or an investigation by the NSW Police Force, or the licensed premises are the subject of a complaint under Division 3, or disciplinary action under Part 9 has been (or is proposed to be) taken by the Authority against the licensee or manager or a close associate of the licensee, and
  - (b) the licensee has been given notice of the application for closure of the licensed premises and has been given a reasonable opportunity to make submissions to the Authority in relation to the application, and
  - (c) the Authority is satisfied that a serious breach of this Act has occurred, or is likely to occur, on the licensed premises and that the closure of the premises is

necessary to prevent or reduce a significant threat or risk to the public interest.

- (3) Without limiting the generality of subsection (2), circumstances in which there may be a significant threat or risk to the public interest include circumstances in which there is—
  - (a) a threat to public health or safety, or
  - (b) a risk of substantial damage to property, or
  - (c) a significant threat to the environment, or
  - (d) a risk of serious offences (having a maximum penalty of not less than 2 years imprisonment) being committed on the premises.
- (4) An order ceases to have effect at the time specified or when a complaint concerning the licensee or manager of the premises is determined under this Act, whichever is the earlier.
- (5) An order may not require the closure of premises for a period longer than the period prescribed by the regulations.
- (6) An order may require the closure of premises until specified conditions are met but must not require closure for a period longer than that permitted under subsection (5).
- (7) A licensee must comply with an order made under this section.

Maximum penalty—

  - (a) for an individual—50 penalty units or imprisonment for 6 months (or both), or
  - (b) for a corporation—250 penalty units.
- (8) The regulations may make provision for or with respect to an application for an order under this section, including the procedure to be followed at or in connection with the hearing and determination of any such application.

## **85 Further long-term closure orders**

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

## **86 Breach of the peace**

- (1) The Local Court may, on application by any person, order a licensee to close the licensed premises for a period of time specified in the order if the Court is satisfied that there is, or is likely to be, a breach of the peace in the neighbourhood of the licensed premises.

- (2) A licensee must comply with an order made under this section.

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

## **Division 5 Late hour entry declarations**

### **87 Secretary may make late hour entry declaration**

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

### **88 Effect of late hour entry declaration**

- (1) The licensee of any licensed premises to which a late hour entry declaration applies must not permit patrons to enter the licensed premises during the time the declaration applies.

Maximum penalty—50 penalty units.

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

### **89 Provisions relating to making of late hour entry declaration**

- (1) The Secretary must give written notice of a proposed late hour entry declaration—
- (a) to each licensee whose licensed premises are the subject of the proposed declaration, and

(b) to the local consent authority for those premises.

- (2) Any such licensee or the local consent authority may, within 21 days after the notice is given to the licensee or the authority (as the case requires), make a written submission to the Secretary in relation to the proposed declaration.
- (3) The Secretary must, before deciding whether to make a late hour entry declaration, take into consideration any submissions received by the Secretary under subsection (2).
- (4) The regulations may prescribe other requirements that the Secretary must comply with before making a late hour entry declaration.

#### **90 Secretary may vary or revoke late hour entry declaration**

- (1) The Secretary may, in accordance with this section, vary or revoke a late hour entry declaration.
- (2) The Secretary must give written notice of a proposed variation or revocation of a late hour entry declaration—
  - (a) to each licensee whose licensed premises are subject to the declaration, and
  - (b) to the local consent authority for those premises.
- (3) Any such licensee or the local consent authority may, within 21 days after the notice is given to the licensee or the authority (as the case requires), make a written submission to the Secretary in relation to the proposed variation or revocation.
- (4) The Secretary must, before deciding whether to vary or revoke a late hour entry declaration, take into consideration any submissions received by the Secretary under subsection (3).

### **Division 6 General provisions relating to licensed premises**

#### **91 Responsibilities and liabilities in relation to licensed premises**

- (1) The following persons are, subject to this Act, responsible at all times for the personal supervision and management of the conduct of the business of the licensed premises under the licence—
  - (a) if the licensee is an individual—the licensee,
  - (b) if the licensee is a corporation—the manager of the licensed premises.
- (1A) An approved manager (as referred to in section 116I(2)(i)) is responsible for the personal supervision and management of the conduct of the business of the licensed premises under the licence at the times the manager is required to be present on 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) or (1A), responsible for the offence as though that person were also the licensee and is liable for the offence accordingly.
- (3) This section does not affect any liability of a licensee for a contravention by the licensee of a provision of this Act or the regulations.

## **92 Control of business conducted on licensed premises**

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

Maximum penalty—50 penalty units.

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

Maximum penalty—50 penalty units.

- (3) This section does not prevent a person who—
  - (a) is the licensee of any premises that are situated in a shopping centre, and
  - (b) is the owner of each of the premises comprising the shopping centre,from leasing or subleasing, with the approval of the Authority, any part of the licensed premises on which liquor is sold or supplied for consumption on the premises.

- (4) The person to whom any such part of the licensed premises is leased or subleased in accordance with subsection (3) is, for the purposes of this Act, taken to be an agent of the licensee.

### **93 Cessation of trade**

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

Maximum penalty—50 penalty units.

- (2) This section does not apply in relation to limited licences.

### **94 Boundaries of licensed premises**

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

### **94A Boundaries of licensed premises—applications for temporary boundary changes for outdoor spaces**

- (1) Section 94(3) and (4) do not apply to an application for a temporary change to the boundaries of licensed premises if the application meets the requirements set out in this section.
- (2) The applicant must be the owner, or the licensee, of premises to which 1 of the

following licences relates—

- (a) hotel licence,
- (b) club licence that relates to a registered club,
- (c) small bar licence,
- (d) on-premises licence that relates to a public entertainment venue,
- (e) on-premises licence that relates to a restaurant,
- (f) producer/wholesaler licence endorsed with a drink on-premises authorisation.

(3) The application must relate to the following land (the **relevant land**)—

- (a) part of a footway that is—
  - (i) adjacent to the licensed premises, and
  - (ii) subject to an approval, or an application for approval, under the [Roads Act 1993](#), section 125 to use the land for the purposes of food or drink premises in relation to the licensed premises,
- (b) community land that is subject to an approval, or an application for approval, under the [Local Government Act 1993](#), section 68 to engage in a trade or business on the land in relation to the licensed premises,
- (c) part of a public road that is subject to consent, or an application for consent, under the [Roads Act 1993](#), Part 9, Division 3 to erect a structure or carry out work in, on or over the land in relation to the licensed premises,
- (d) a pathway, public open space, road or other premises that is subject to a decision by the local council under section 166 to temporarily allow use of the land for a purpose mentioned in section 166(1)(a) in relation to the licensed premises.

(4) The application may only apply to the sale or supply of liquor on the relevant land—

- (a) between 10am and midnight, or
- (b) a shorter period—
  - (i) determined in the approval or consent to use, or notice to allow the use of, the relevant land, or
  - (ii) authorised by the licensee's licence.

(5) (Repealed)

(6) The change of boundary proposed in the application must be intended to incorporate the relevant land within the boundary of the premises.

(7) In this section—

**community land** has the same meaning as in the [Local Government Act 1993](#).

**footway** has the same meaning as in the [Roads Act 1993](#).

**public road** has the same meaning as in the [Roads Act 1993](#).

#### **94B Boundaries of licensed premises—applications for permanent boundary changes for outdoor spaces**

(1) Section 94(3) does not apply to a proposed permanent change to the boundaries of licensed premises, whether on the Authority's own initiative or on application, if the change—

- (a) is substantially the same as a temporary change of boundary that is, or has been, in force following an application to which a relevant provision applies, and
- (b) is not inconsistent with the requirements set out in the relevant provision in relation to the temporary change.

(2) For the purposes of subsection (1)(b), if the relevant provision means the [Liquor Regulation 2018](#), clause 130B, as in force immediately before its substitution by the [Customer Service Legislation Amendment Act 2021](#), the requirement set out in the provision, subclause (7) does not apply.

(3) In this section—

**relevant provision** means—

- (a) section 94A, or
- (b) the [Liquor Regulation 2018](#), clause 130B, as in force immediately before its substitution by the [Customer Service Legislation Amendment Act 2021](#).

#### **95 Name of licensed premises**

(1) A licensee must cause to appear and be maintained on the front of the licensed premises, in accordance with the regulations, a sign that specifies—

- (a) a name for the licensed premises (not being a name that is a prohibited name for the licensed premises under this section), and
- (b) the type of licence for the premises, and
- (c) any other particulars prescribed by the regulations.

Maximum penalty—5 penalty units.

(2) A licensee must not alter the name referred to in subsection (1)(a) unless the



Authority has, on payment of such fee as may be prescribed by the regulations—

- (a) approved in writing of the proposed new name, and
- (b) endorsed the change of name on the licence.

Maximum penalty—5 penalty units.

(3) The Authority may not approve an alteration of the name of licensed premises if the name as proposed to be altered is a prohibited name for the licensed premises under this section.

(4) A licensee must not cause or permit the use on any sign displayed on the exterior of the licensed premises or in any advertising with respect to the licensed premises of a name that is a prohibited name for the licensed premises under this section.

Maximum penalty—5 penalty units.

(5) A name is a prohibited name for licensed premises under this section if—

- (a) it is a name or a name of a kind, or contains words or words of a kind, prescribed by the regulations as prohibited, either in relation to all licensed premises or in relation to the particular class of licensed premises of which the licensed premises form part, or
- (b) it is a name that the Authority has notified the licensee in writing is prohibited as being objectionable, inappropriate or misleading.

(6) A regulation for the purposes of subsection (5) may be made so as to apply to licensed premises generally or so as to apply only to a specified class or specified classes of licensed premises.

(7) A name may not be prohibited in respect of licensed premises by notification under this section if the regulations provide that the name is permitted for use in relation to the licensed premises concerned or in relation to the particular class of licensed premises concerned.

(8) It is a defence to a prosecution for an offence under this section if it is proved that—

- (a) the licensee had taken all reasonable precautions to avoid commission of the alleged offence, and
- (b) at the time of the alleged offence, the licensee did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.

(9) This section does not apply in relation to a limited licence or an on-premises licence that relates to a catering service.

## 96 Temporary premises

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

## 97 Breath analysis equipment

- (1) Evidence of the results of a test indicating the presence or concentration of alcohol in the breath or blood of a person by means of a breath analysing instrument installed on licensed premises is not admissible—
  - (a) in any civil proceedings against the licensee of the licensed premises (subject to subsection (2)), or
  - (b) in any criminal proceedings.
- (2) This section does not prevent the admission into evidence in civil proceedings of the results of a test if it is established that at the time of the test—
  - (a) the breath analysing instrument concerned did not comply with the relevant Australian Standard (as in force at the date of the manufacture of the instrument), or
  - (b) the licensee was aware or should have been aware that the instrument was not operating correctly, or
  - (c) subsection (4) was being contravened in respect of the breath analysing instrument concerned.
- (3) For the purposes of this section, a **breath analysing instrument** is an instrument that is designed to ascertain by analysis of a person's breath the concentration of alcohol present in the person's breath or blood, being an instrument of a type specified in AS 3547—1997: *Breath alcohol testing devices for personal use*, published by Standards Australia. That standard, as in force from time to time, is the relevant

Australian Standard for the purposes of this section.

- (4) At all times that a breath analysing instrument installed on licensed premises is available for use by patrons on those premises there must be prominently displayed on or in close proximity to the instrument a sign that complies with the requirements prescribed by the regulations.
- (5) If subsection (4) is contravened, the licensee of the licensed premises is guilty of an offence.

Maximum penalty—20 penalty units.

### **98 Work carried out on licensed premises**

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

## **Part 6 Miscellaneous offences and regulatory controls**

### **Division 1 General**

#### **99 Responsible sale, supply, service or promotion of liquor**

- (1) The regulations may make provision for or with respect to requiring or encouraging the adoption of responsible practices in the sale, supply, service and promotion of liquor.
- (2) In particular, the regulations may make provision for or with respect to the following—
  - (a) restricting or prohibiting the conduct of promotions or other activities (including the discounting or supply of liquor free of charge) that could result in misuse or abuse of liquor, such as binge drinking or excessive consumption,
  - (b) the standards to be observed on licensed premises in the sale and service of liquor, for the purpose of preventing misuse or abuse of liquor,
  - (c) requirements for licensees, managers and other persons engaged in the sale, supply, service or promotion of liquor or other related activities to undergo courses of training or otherwise demonstrate the necessary knowledge to promote responsible practices in engaging in the activities,
  - (d) specifying the circumstances in which the Secretary may, in accordance with the regulations, require promotions or advertisements that involve the discounting of liquor to be accompanied by messages that encourage the responsible

consumption of alcohol.

- (3) Without limiting subsection (2), the regulations may adopt with or without modification the standards contained in an industry code of practice as standards to be observed on licensed premises in the sale, supply, service and promotion of liquor.
- (4) (Repealed)

#### **100 Regulations may declare undesirable liquor products**

- (1) The regulations may declare a specified liquor product (or class of liquor products) to be an undesirable liquor product.
- (2) A licensee must not sell or supply any such liquor product that is declared to be an undesirable liquor product.  
Maximum penalty—50 penalty units.
- (3) The Minister may recommend the making of a regulation under this section only if, in the opinion of the Minister—
  - (a) the name of the liquor product, or its design or packaging, is indecent or offensive, or
  - (b) the name of the liquor product, or its design or packaging, encourages irresponsible, rapid or excessive consumption of the product, or
  - (c) the name of the liquor product, or its design or packaging, is likely to be attractive to minors, or
  - (d) the liquor product is likely, for any reason, to be confused with soft drinks or confectionery, or
  - (e) the liquor product is, for any other reason, likely to have a special appeal to minors, or
  - (f) it is otherwise in the public interest to declare the liquor product to be an undesirable liquor product.
- (4) The Minister must, before recommending the making of a regulation under this section, consult with relevant liquor industry representatives and the manufacturer of any liquor product proposed to be prescribed by the regulations (where the manufacturer is known to the Minister).
- (5) The validity of a regulation under this section is not affected by any failure to comply with subsection (3) or (4).

**101 Secretary may restrict or prohibit sale or supply of undesirable liquor products**

- (1) The Secretary may, by notice in writing given to a licensee, restrict or prohibit the licensee selling or supplying a liquor product specified in the notice.
  - (2) The Secretary may restrict or prohibit the sale or supply of any such specified liquor product by notice under this section only if the Secretary is satisfied that—
    - (a) the name of the liquor product, or its design or packaging, is indecent or offensive, or
    - (b) the name of the liquor product, or its design or packaging, encourages irresponsible, rapid or excessive consumption of the product, or
    - (c) the name of the liquor product, or its design or packaging, is likely to be attractive to minors, or
    - (d) the liquor product is likely, for any reason, to be confused with soft drinks or confectionery, or
    - (e) the liquor product is, for any other reason, likely to have a special appeal to minors, or
    - (f) it is otherwise in the public interest to restrict or prohibit the licensee selling or supplying the liquor product.
  - (3) The Secretary must not give a notice under this section unless the Secretary is satisfied that the liquor product is being sold on the licensed premises to which the proposed notice relates.
  - (4) The Secretary must not give a notice under this section to a licensee unless the Secretary has—
    - (a) provided the licensee with a reasonable opportunity to make submissions in relation to the proposed restriction or prohibition, and
    - (b) taken any such submissions into consideration in deciding whether to give the notice.
  - (5) The regulations may prescribe other requirements that the Secretary must comply with in relation to a notice under this section.
  - (6) A notice under this section may, but need not, relate to a liquor product that is declared to be an undesirable liquor product under section 100.
  - (7) A licensee must comply with a notice given to the licensee under this section.
- Maximum penalty—50 penalty units.

## **102 Secretary may restrict or prohibit undesirable promotion of liquor**

- (1) The Secretary may, by notice in writing given to a licensee or other person, restrict or prohibit the licensee or other person carrying on, or being involved in, an activity that—
  - (a) promotes the sale or supply of liquor, and
  - (b) is specified or described in the notice.
- (2) The Secretary may restrict or prohibit any such activity only if the Secretary is of the opinion that—
  - (a) the promotion is likely to have a special appeal to minors because of the use of designs, names, motifs or characters in the promotion that are, or are likely to be, attractive to minors or for any other reason, or
  - (b) the promotion is indecent or offensive, or
  - (c) the promotion involves the provision of liquor in non-standard measures or the use of emotive descriptions or advertising that encourages irresponsible drinking and is likely to result in intoxication, or
  - (d) the promotion involves the provision of free drinks, or extreme discounts or discounts of a limited duration, that creates an incentive for patrons to consume liquor more rapidly than they otherwise might, or
  - (e) the promotion otherwise encourages irresponsible, rapid or excessive consumption of liquor, or
  - (f) the restriction or prohibition is otherwise in the public interest.
- (3) A licensee or other person must comply with a notice given to the licensee or other person under this section.

Maximum penalty—50 penalty units.

- (4) The Secretary must not give a notice under this section unless the Secretary has issued publicly available guidelines that indicate the kinds of activities or promotions that the Secretary would consider being the subject of a notice under this section.
- (5) For this section, **liquor** includes a beverage, substance or other thing that is not referred to in section 4(1), definition of **liquor**, paragraph (a) or (c) but, for the purposes of sale, is held out to be beer, spirits or wine.

## **102A Secretary may restrict or prohibit activities that encourage misuse or abuse of liquor**

- (1) The Secretary may, by notice in writing given to a licensee, restrict or prohibit the

licensee carrying on, or permitting on the licensed premises, any activity specified or described in the notice that, in the opinion of the Secretary, is likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption).

- (2) A licensee who, without reasonable excuse, fails to comply with a notice under this section is guilty of an offence.

Maximum penalty—50 penalty units.

### **103 Closing of certain hotel and bottle shop areas**

- (1) A hotelier must—

- (a) at any time when the hotel is not authorised to be open for the sale or supply of liquor, and
- (b) at any time when the sale or supply of liquor is permitted only for consumption in a specified part of the hotel,

close and keep closed to the public every bar area of the hotel, and every other part of the hotel in which liquor is ordinarily sold or supplied to the public, except a bar area or other part open in accordance with the conditions of the licence in a part of the hotel referred to in paragraph (b) or a bar area permitted by the regulations to be used solely for purposes other than the sale or supply of alcoholic drinks at that time.

- (2) The holder of a packaged liquor licence must, at any time when the licensed premises are not authorised to be open for the sale of liquor, close and keep closed to the public that part of any counter or place at or in which liquor is usually sold or supplied under the licence.

Maximum penalty—20 penalty units.

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

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

### **105 Carrying liquor away from licensed premises outside trading hours**

- (1) If liquor is authorised to be sold or supplied on licensed premises for consumption away from the premises, a person must not carry liquor away from the premises at a time when the licensee is not authorised to sell or supply liquor for consumption away from the premises.
- Maximum penalty—5 penalty units.
- (2) A person does not commit an offence under subsection (1) if—
- (a) the person—
    - (i) has purchased the liquor from licensed premises at a time when the liquor was authorised to be sold for consumption away from the licensed premises, and
    - (ii) is carrying the liquor away from the licensed premises not later than 30



minutes after the licensee last ceased to be authorised to sell or supply liquor for consumption away from the premises, or

(b) the person is—

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

and is carrying away from the licensed premises liquor that is reasonably required for consumption by the licensee, employee or resident on the day on which it is carried away.

(3) This section does not apply in relation to a minor.

**Note—**

Section 118(1)(d) makes it an offence for a minor to carry liquor away from licensed premises.

### **106 Delivery of liquor from unlicensed premises**

(1) A person must not—

- (a) indicate or state, by way of an advertisement or any other manner, that the person will, or is prepared to, accept orders from, or act as agent for, another person for the purchase, supply or delivery of liquor, and
- (b) deliver liquor ordered by another person, or obtained by the person as agent for another person, from premises that are not licensed premises.

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

(2) A person does not commit an offence under this section if the person is the subject of an order in writing by the Authority exempting the person from the operation of this section.

### **107 Production of licence on licensed premises**

(1) A responsible person for licensed premises must, if requested to do so by a police officer or inspector while on the licensed premises, produce the licence to the officer or inspector.

Maximum penalty—5 penalty units.

(2) A person does not commit an offence under subsection (1) if the person is an employee or agent of the licensee (otherwise than in the capacity as manager of the licensed premises).

### **108 Prohibition on providing money or extending credit for gambling**

- (1) A responsible person for licensed premises must not do either of the following for the purpose of enabling another person to gamble on the licensed premises—
  - (a) provide money, as part of a transaction involving a credit card or debit card, to the other person,
  - (b) extend another form of credit to the other person.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply to the extension of a cash advance in the form of a prize or bonus provided as referred to in section 17(1) or 20(1)(b).

### **108A Requirement to record credit transactions and extensions**

- (1) This section applies if a responsible person for licensed premises—
  - (a) provides money as part of a transaction involving a credit card or debit card, or
  - (b) extends another form of credit to another person on the licensed premises.
- (2) The responsible person must make a record, in the form and way approved by the Secretary, of the transaction or other credit extension.

Maximum penalty for subsection (2)—100 penalty units.

### **109 Misrepresentation or misdescription of credit transactions**

- (1) A responsible person for licensed premises must not, in any credit transaction, describe or represent money provided to another person who the responsible person knows, or could reasonably be expected to know, intends to use the money to gamble on the licensed premises to be a payment for goods or services lawfully provided on the licensed premises or elsewhere.

Maximum penalty—100 penalty units.

- (2) In subsection (1), **credit transaction** means any transaction involving a payment to licensed premises by means of a credit facility provided by a financial institution.

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

- (1) A person must not, by means of a notice, sign or otherwise, indicate—
  - (a) that liquor is available for sale or supply on or from premises if the premises are not licensed premises, or
  - (b) that premises are licensed premises under a particular kind of licence if the premises are not such licensed premises, or

- (c) that a person is authorised to sell or supply liquor if the person is not so authorised.

Maximum penalty—50 penalty units.

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

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

- (1) A person must not carry away any liquor from the premises to which an on-premises licence relates.

Maximum penalty—5 penalty units.

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

### **112 Obtaining liquor by false representation**

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

- (a) is a resident of the premises or a guest of a resident of the premises, or
- (b) is intending to eat, or has eaten, a meal on the premises, or

- (c) is intending to purchase, or make use of, a product or service provided or supplied on the premises, or
- (d) is attending a function on the premises, or
- (e) is an employee or agent of the licensee.

Maximum penalty—5 penalty units.

### **113 Carrying liquor for sale**

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

Maximum penalty—20 penalty units.

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

### **114 Sale of liquor through internet or by other communication media**

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

Maximum penalty—20 penalty units.

- (2) A licensee who sells liquor through an internet site or by other electronic means must ensure that the licence number is prominently displayed on the site or by other electronic means 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 or by other electronic means—
- (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—in accordance with the customer's instructions, or
    - (iv) if the order was sold through an internet site or by other electronic means—to another adult person nominated by the person who placed the order.

Maximum penalty—20 penalty units.

- (4) If delivery of any liquor sold in a manner described in this section is taken by a minor—
- (a) the delivery is taken to constitute a supply to which section 117(2) applies, and
  - (b) the licensee, and any person by whom the liquor was delivered on the licensee's behalf, are each taken to have supplied the liquor contrary to section 117(2).
- (5) A licensee who, in accordance with subsection (4), is prosecuted for an offence under section 117(2) has a defence under this subsection if it is proved that the licensee—
- (a) complied with the requirements of subsection (3) in relation to the supply concerned, and
  - (b) at the time of the alleged offence did not know, and could not reasonably be expected to have known, that the alleged offence was committed, and
  - (c) for a licensee who was a same day delivery provider in relation to the supply of the liquor—had, before the supply occurred, complied with section 114P in relation to the person responsible for delivery of the liquor.
- (6) A person (not being a licensee) who, in accordance with subsection (4), is prosecuted for an offence under section 117(2) has a defence under this subsection if it is proved that—

- (a) the person to whom the liquor was delivered was of or above the age of 14 years and, before the liquor was delivered, there was produced to the defendant an evidence of age document that may reasonably be accepted as applying to the person and as proving that the person was of or above the age of 18 years, and
- (b) at the time of the alleged offence the defendant did not know, and could not reasonably be expected to have known, that the alleged offence was committed, and
- (c) for a person who was a same day delivery provider in relation to the supply of the liquor—had, before the supply occurred, complied with section 114P in relation to the person responsible for delivery of the liquor.

- (7) A minor must not take delivery of any liquor sold in a manner described in this section unless the minor was ordered or requested by his or her parent or guardian to take delivery of the liquor.

Maximum penalty—20 penalty units.

- (8) A person must not order or request a minor to take delivery of liquor sold in a manner described in this section.

Maximum penalty—30 penalty units.

- (9) This section does not apply to or in respect of the sale of liquor to persons authorised to sell liquor.

## **Division 1A Responsible service of alcohol training courses**

### **114A Definitions**

In this Division—

***approved training course*** means a training course provided—

- (a) by an approved training provider approved by the Secretary in accordance with the regulations in relation to the course, or
- (b) by or on behalf of the Secretary.

***approved training provider*** means a training provider approved by the Secretary in accordance with the regulations to provide training courses.

***interim certificate*** means a certificate (in hard copy or electronic form) granted to a person by the Secretary, or by an approved training provider on behalf of the Secretary, following the person's successful completion of an approved training course, for use by the person in obtaining a recognised competency card.

***recognised certification*** means an interim certificate or a recognised competency card.

**recognised competency card** means a card issued to a person in accordance with the regulations that certifies as to the matters prescribed by the regulations and provides for the expiry of the card in accordance with the regulations.

**training course** means a training course prescribed by the regulations for the purposes of section 99(2)(c).

#### **114B Conditions of approval to conduct training courses**

An approved training provider must comply with such conditions as may be imposed by or under the regulations on the provider's approval to conduct training courses.

Maximum penalty—

- (a) for an individual—50 penalty units, or
- (b) for a corporation—250 penalty units.

#### **114C Prohibition on granting interim certificates to unqualified persons**

An approved training provider must not grant an interim certificate on behalf of the Secretary to any person who has not successfully completed an approved training course conducted by the training provider.

Maximum penalty—

- (a) for an individual—50 penalty units, or
- (b) for a corporation—250 penalty units.

#### **114D Prohibition on providing training courses without approval**

A person must not—

- (a) provide or offer to provide any training course that is held out, whether directly or indirectly, to be a course that will satisfy the requirements imposed by or under the Act for issue of recognised certification, or
- (b) advertise, state or imply in any way that the person is qualified to provide any such course,

unless the person is the Secretary, a person who provides an approved training course on behalf of the Secretary or an approved training provider.

Maximum penalty—

- (a) for an individual—50 penalty units, or
- (b) for a corporation—250 penalty units.

### **Division 1B Same day liquor deliveries**

#### **114E Definitions**

In this Division—

**same day delivery**—see section 114F.

**same day delivery provider**—see section 114G.

#### **114F Meaning of “same day delivery”**

- (1) In this Division, a **same day delivery** means the delivery of packaged liquor, under a commercial arrangement, to a person in New South Wales on the same day it is purchased by retail, irrespective of the State or Territory in which the sale is made.
- (2) The regulations may prescribe circumstances in which a delivery of packaged liquor is not a same day delivery.

#### **114G Meaning of “same day delivery provider”**

- (1) In this Division, a **same day delivery provider** means a licensee or other person conducting a business or undertaking who, as part of that business or undertaking—
  - (a) states or otherwise indicates, whether by way of advertisement or otherwise, that the licensee or other person will supply liquor for same day delivery in New South Wales, and
  - (b) either—
    - (i) supplies the liquor by way of same day delivery, or
    - (ii) engages an employee or agent to supply the liquor by way of same day delivery.
- (2) The regulations may prescribe circumstances in which a licensee or other person is not a same day delivery provider.

#### **114H Restrictions on same day deliveries**

A same day delivery provider must not, as part of a same day delivery, supply liquor if the liquor—

- (a) is stored for sale at premises within New South Wales, and
- (b) is not sold under a licence.

Maximum penalty—100 penalty units.

#### **Note—**

The operation of this provision does not affect the operation of other provisions in this Act that may require a person to obtain a liquor licence to sell liquor in New South Wales.



**114HA Age to be verified when agreement made for same day delivery**

- (1) A same day delivery provider must, at the time the agreement for the same day liquor delivery is entered into—
  - (a) use an accredited identity service provider to verify the person entering into the agreement is at least 18 years of age if it is the first time the person has entered into an agreement with the provider, or
  - (b) use another process, that meets at least the minimum standard prescribed by the regulations, to verify the person's age.

Maximum penalty—50 penalty units.

- (2) For a second or subsequent occasion on which a person intends to enter into an agreement with a same day delivery provider for the delivery of liquor, the provider must, before entering into the agreement, require the person to undergo a form of authentication prescribed by the regulations.

Maximum penalty—50 penalty units.

- (3) In this section—

**accredited identity service provider** means an identity service provider who has been accredited under the Trusted Digital Identity Framework published by the Digital Transformation Agency on behalf of the Commonwealth.

**114I Evidence of identity and age required for same day deliveries**

- (1) A same day delivery provider must not make a same day delivery to a person, or permit an employee or agent to make a same day delivery for the provider, unless the person produces evidence of the person's identity and age in a way that complies with the requirements prescribed by the regulations.

Maximum penalty—50 penalty units.

- (2) The regulations may prescribe requirements in relation to the making and keeping of records about evidence of a person's identity and age produced under subsection (1).

**114J Liquor not to be supplied to intoxicated person**

- (1) A person must not, as part of a liquor delivery, supply liquor to an intoxicated person.

Maximum penalty—100 penalty units.

- (2) It is a defence to a prosecution under subsection (1) for the person who delivered the liquor if it is proved that at the time of the alleged offence the person did not know, and could not reasonably be expected to have known, that the person was delivering liquor.

**Example—**

A courier delivers a package on behalf of an interstate retailer and is unaware the delivery includes liquor.

(3) In this section—

**liquor delivery** means—

- (a) a same day delivery, or
- (b) another delivery of packaged liquor, under a commercial arrangement, to a person in New South Wales after it is purchased by retail, irrespective of the State or Territory in which the sale is made.

**114K Liquor not to be supplied in alcohol-free zones, alcohol prohibited areas or restricted alcohol areas**

- (1) A person must not, as part of a same day delivery, supply liquor in a public place within—
- (a) an alcohol-free zone, or
  - (b) an alcohol prohibited area, or
  - (c) a restricted alcohol area.

Maximum penalty—30 penalty units.

**Note—**

This subsection does not prevent liquor being supplied as part of a same day delivery to a person in residential or commercial premises in a zone or area mentioned in paragraph (a)–(c).

(2) In this section—

**alcohol-free zone** has the same meaning as in the [Local Government Act 1993](#).

**alcohol prohibited area** means an area declared to be an alcohol prohibited area under section 632A of the [Local Government Act 1993](#).

**restricted alcohol area** means an area declared to be a restricted alcohol area under Division 2.

**114L Cut-off time for deliveries**

- (1) A person must not deliver liquor that has been advertised for same day delivery during the period—
- (a) starting at—
    - (i) on a Sunday—11 pm, and

(ii) on any other day of the week—midnight, and

(b) ending at 9 am.

Maximum penalty—100 penalty units.

(2) The regulations may prescribe deliveries of packaged liquor to which this section does not apply.

**114M Records to be kept about refusal to deliver liquor**

(1) A same day delivery provider must keep a record of a same day delivery that the provider, or an employee or agent of the provider, refuses to make on the grounds that—

(a) by making the delivery the provider, employee or agent would be—

(i) selling or supplying liquor to a minor in contravention of section 117, or

(ii) supplying liquor to an intoxicated person in contravention of section 114J, or

(b) at the time of the delivery, the provider, employee or agent was unable to verify the person proposing to accept the delivery was the adult person specified to receive the delivery in the written instructions given by the licensee under section 114(3).

Maximum penalty—30 penalty units.

(2) A same day delivery provider must, if asked by a police officer or inspector—

(a) make a record kept under subsection (1) available for inspection by the police officer or inspector, and

(b) allow the police officer or inspector to take a copy of the record.

Maximum penalty—30 penalty units.

(3) A same day delivery provider must keep a record mentioned in subsection (1) for at least 1 year after the day on which the delivery to which the record relates was to have been made.

Maximum penalty—30 penalty units.

**114N Employees and agents not to be penalised for refusal to deliver in particular circumstances**

(1) This section applies to an employee or agent of a same day delivery provider who makes same day deliveries on behalf of the provider.

(2) The same day delivery provider must ensure the employee or agent does not suffer

any financial penalty for refusing to make a same day delivery on the grounds that—

- (a) by making the delivery the provider, employee or agent would be—
  - (i) selling or supplying liquor to a minor in contravention of section 117, or
  - (ii) supplying liquor to an intoxicated person in contravention of section 114J, or
- (b) at the time of the delivery, the employee or agent was unable to verify the person proposing to accept the delivery was the adult person specified to receive the delivery in the written instructions given by the licensee under section 114(3).

Maximum penalty—50 penalty units.

- (3) It is a defence to a prosecution for an offence under this section if it is proved that—
  - (a) a direction or agreement under which the employee or agent makes same day deliveries on behalf of the same day delivery provider sets out an alternative place for delivery of the liquor, and
  - (b) the employee or agent did not take reasonable steps to deliver the liquor to that place.

- (4) In this section—

**financial penalty** includes any action that has a financial impact including, for example, withholding or delaying payment or a loss of hours of employment.

#### **1140 Self-exclusion**

- (1) A person (the **participant**) may ask a same day delivery provider to enter into an agreement (a **self-exclusion agreement**) with the participant under which the participant agrees to be prevented from having liquor delivered by the same day delivery provider to the participant.
- (2) A self-exclusion agreement must comply with the requirements prescribed by the regulations.
- (3) The same day delivery provider must—
  - (a) enter into a self-exclusion agreement with the participant, and
  - (b) comply with the agreement.

Maximum penalty—30 penalty units.

- (4) If a same day delivery provider sells or advertises liquor through an internet site or by other electronic means for same day delivery, the provider must ensure that—
  - (a) the internet site or other electronic means provides a way for a person to enter

into a self-exclusion agreement with the provider, and

- (b) any person accessing the internet site or other electronic means would reasonably be expected to be alerted to the ability to enter into a self-exclusion agreement.

Maximum penalty—30 penalty units.

- (5) No civil or criminal liability is incurred by the same day delivery provider for an act done, or omitted to be done, in good faith and in accordance with this section, in relation to the participant.

#### **114P Training of persons making same day deliveries**

- (1) A same day delivery provider must not make a same day delivery, or permit an employee or agent to make a same day delivery for the provider, unless the provider, employee or agent has the training, that is reasonably practicable, to ensure liquor delivered by the provider, employee or agent as part of a same day delivery is supplied responsibly.

Maximum penalty—50 penalty units.

- (2) Without limiting subsection (1), a same day delivery provider may—
  - (a) provide an employee or agent of the provider with the training, or
  - (b) confirm the employee or agent has been provided with the training by another person.
- (3) For the purposes of subsection (1), training to ensure liquor delivered by same day delivery providers, and employees and agents, is supplied responsibly must include information that is part of a training program that—
  - (a) is developed and approved by the Secretary and published on a publicly accessible Government website, and
  - (b) complies with any minimum requirements for the training prescribed by the regulations under subsection (4)(a).
- (4) The regulations may provide for further matters relating to the training of same day delivery providers and providers' employees or agents, including, for example—
  - (a) the minimum requirements for the training, and
  - (b) requirements about testing knowledge of information that is part of the training, and
  - (c) the provision by the Secretary of training for the purposes of this section.
- (5) In this section—

**training** includes information, instruction and supervision.

**114Q Same day delivery providers liable for acts of employees and agents**

- (1) This section applies if an employee or agent of a same day delivery provider contravenes—
  - (a) this Division, or
  - (b) a regulation made for the purposes of this Division.
- (2) The same day delivery provider is taken to have also contravened the provision and is liable to the penalty for a contravention of that provision.
- (3) Subsection (1) does not apply if the same day delivery provider has—
  - (a) ensured the employee or agent has the training referred to in section 114P, and
  - (b) kept records that demonstrate the provider has complied with paragraph (a).

**114R Review of regulation of liquor deliveries**

- (1) The Minister is to review the operation of this Act in relation to the following—
  - (a) same day deliveries,
  - (b) other liquor deliveries,
  - (c) the requirement to provide evidence of age and identity for same day deliveries and other liquor deliveries.
- (2) The review under subsection (1)(a) must include consideration of whether—
  - (a) the policy objectives of the Act in relation to same day deliveries, including rapid delivery, remain valid, and
  - (b) the terms of this Division remain appropriate for securing the objectives.
- (3) The review under subsection (1)(b) must include consideration of—
  - (a) emerging trends and technologies relevant to liquor deliveries that are not same day deliveries, and
  - (b) any additional harm minimisation measures that may be appropriate for the liquor deliveries, and
  - (c) the use of direct and social media marketing and the collection of consumer data to target vulnerable communities.
- (4) The review under subsection (1)(c) must include consideration of whether additional evidence of age requirements are needed for liquor deliveries that are not same day

deliveries.

- (5) A review under this section is to be undertaken as soon as practicable after—
  - (a) for a review under subsection (1)(a) and (b)—2 years after the commencement of this section, and
  - (b) for a review under subsection (1)(c)—1 year after the commencement of this section.
- (6) A report on the outcome of a review under this section is to be tabled in each House of Parliament within—
  - (a) for a review under subsection (1)(a) and (b)—6 months after the end of the period of 2 years, and
  - (b) for a review under subsection (1)(c)—6 months after the end of the period of 1 year.

## **Division 2 Restricted alcohol areas**

### **115 Declaration of restricted alcohol area**

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

## **116 Provisions relating to making of regulations declaring restricted alcohol areas**

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

## **Division 3**

### **116AA-116A (Repealed)**

## **Division 4 Prescribed precincts**

### **116B Interpretation**

- (1) In this Division—



**high risk venue**—see subsection (2).

**licensee ban** means the exercise by a licensee of premises in a prescribed precinct of a right referred to in section 77(13) to refuse to admit, or turn out, any person from the premises.

**long-term banning order** means an order under section 116G.

**temporary banning order** means an order under section 116F.

- (2) A **high risk venue** is a venue situated in a prescribed precinct comprising—
- (a) licensed premises—
    - (i) on which liquor may be sold for consumption on the premises, and
    - (ii) that are authorised to trade after midnight at least once a week on a regular basis, and
    - (iii) that have a patron capacity (as determined by the Secretary) of more than 120 patrons, or
  - (b) licensed premises specified by, or of a class specified by, the regulations, or
  - (c) licensed premises that are designated by the Secretary under subsection (4).
- (3) The regulations may create exceptions to subsection (2)(a).
- (4) The Secretary may, with the concurrence of the Commissioner of Police, designate any specified licensed premises (or licensed premises of a specified class) in a prescribed precinct as a high risk venue if the Secretary is satisfied that there is a significant degree of alcohol-related violence or other anti-social behaviour associated with the premises.
- (4A) However, the Secretary, when designating premises as a high risk venue, must not take into account the presence of a dance floor or area ordinarily used by patrons for dancing.
- (5) The designation of licensed premises as a high risk venue is to be made by order in writing given to the licensee. Any such order takes effect on the date specified in the order (being a date that is not earlier than 6 weeks from the date the order is given).

**Note—**

A decision of the Secretary to designate licensed premises as a high risk venue is reviewable by the Independent Liquor and Gaming Authority under the [Gaming and Liquor Administration Act 2007](#)—see section 36A of that Act.

## **116C Prescribed precincts**

- (1) The regulations may declare an area described in the regulations to be a **prescribed**

**precinct** for the purposes of this Act.

- (2) (Repealed)
- (3) A reference in this Act to premises situated in a prescribed precinct includes a reference to premises—
  - (a) that front or back onto, or abut, any street or part of a street within the prescribed precinct, or
  - (b) that can be entered from any such street or part, or
  - (c) that the regulations declare to be situated in the prescribed precinct.
- (4) Except in the case of the Kings Cross precinct, an area may be declared to be a prescribed precinct by reference to a map signed by the Minister and deposited in Liquor and Gaming NSW, Department of Enterprise, Investment and Trade.
- (5) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.

**116D, 116E (Repealed)**

**116F Temporary banning orders—licensed premises in prescribed precinct and adjacent precincts**

- (1) A police officer may, in the circumstances described in subsection (2), by order in writing given to a person who is in a prescribed precinct (a **temporary banning order**) prohibit the person from entering or remaining on any licensed premises in the prescribed precinct and in any other adjacent precinct specified in the order, for the period (not exceeding 48 hours) specified in the order.
- (2) A temporary banning order may be made as soon as practicable after the person—
  - (a) refuses or fails to comply with a direction under section 198 of the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#) to leave licensed premises in the prescribed precinct or a public place in the vicinity of such licensed premises, or
  - (b) fails to leave licensed premises in the prescribed precinct after being required to do so under section 77(4) because the person is intoxicated, violent, quarrelsome or disorderly, or
  - (c) contravenes section 77(6) or (8) in relation to licensed premises in the prescribed precinct.
- (3) A police officer must not give a person a temporary banning order unless the officer is satisfied that the conduct of the person which resulted in the person being required to leave (or being refused admission to) the licensed premises or other public place

concerned is likely to continue and cause a public nuisance or risk to public safety in the prescribed precinct and in any other adjacent precinct specified in the order.

(4) A temporary banning order—

(a) does not have effect unless it is given by, or given with the approval of, a police officer of or above the rank of sergeant, and

(b) must specify the grounds on which it is given.

(5) A person who is the subject of a temporary banning order must not enter or attempt to enter or remain on any licensed premises in the prescribed precinct or any other adjacent precinct specified in the order during the period specified in the order.

Maximum penalty—50 penalty units.

(6) A reference in this section to licensed premises does not include a reference to a licensed restaurant that is not authorised to trade after midnight on any day of the week unless it is a high risk venue.

#### **116G Long-term banning orders—high risk venues**

(1) The Authority may, by order in writing (a **long-term banning order**), prohibit a person from entering or remaining on any high risk venue for such period (not exceeding 12 months) as is specified in the order.

(2) A long-term banning order may only be made on application by the Commissioner of Police in the manner approved by the Authority.

(3) The Authority may make a long-term banning order only if the Authority is satisfied that the person the subject of the proposed order—

(a) has been charged with, or found guilty of, a serious indictable offence involving violence that was committed by the person in a public place or on relevant premises while the person or any victim of the offence was affected by alcohol, or

(a1) has been charged with, or found guilty of, a serious indictable offence involving violence that was committed by the person on or in the vicinity of licensed premises and the person was, at the time of the offence—

(i) the licensee or manager of the premises, or

(ii) working or performing services of any kind on the premises in the course of any employment (whether paid or unpaid) or in a volunteer capacity, being work or services related to the business carried on under the licence, or

(b) has been given 3 temporary banning orders during a period of 12 consecutive months.

- (4) The Authority may not make a long-term banning order unless the person the subject of the proposed order has been given notice of the application for the order and has been given a reasonable opportunity to make submissions to the Authority in relation to the application.
- (5) In deciding whether to make a long-term banning order on the ground that a person has been given 3 temporary banning orders, the Authority may take into consideration the circumstances that resulted in the person being given those orders.
- (6) A long-term banning order takes effect on the date specified by the Authority in the order. Notice of the making of the order is to be given to the person who is the subject of the order, but failure to give notice does not affect the operation of the order if a reasonable attempt has been made to notify the person.
- (7) As soon as practicable after the Authority makes a long-term banning order, the Authority is to provide such persons or bodies (if any) as are prescribed by the regulations with the following information—
- (a) the name and address of the person who is the subject of the order,
  - (b) the period that the order is in force.
- (7A) A long-term banning order made on the ground that a person has been charged with, or found guilty of, a serious indictable offence is revoked if the charge is withdrawn or dismissed or the finding is overturned on appeal.
- (8) A person who is the subject of a long-term banning order must not enter or attempt to enter or remain on any high risk venue during the period specified in the order.
- Maximum penalty—100 penalty units.

- (9) In subsection (3)(a)—

**public place** includes a place—

- (a) of public resort open to or used by the public as of right, or
- (b) for the time being—
  - (i) used for a public purpose, or
  - (ii) open to access by the public,whether on payment or otherwise, or
- (c) open to access by the public by the express or implied permission of the owner of the place, whether the place is or is not always open to the public.

**relevant premises** means any of the following—

- (a) licensed premises,
- (b) premises declared under section 3 of the *Restricted Premises Act 1943* to be premises to which Part 2 of that Act applies,
- (c) premises on which the activities of a criminal group (within the meaning of Division 5 of Part 3A of the *Crimes Act 1900*) are carried out.

(10) A reference in subsection (3) to a serious indictable offence includes a reference to an offence under the law of another State or Territory that would, had it occurred in New South Wales, have been a serious indictable offence for the purposes of that subsection.

**116H Administrative review by Civil and Administrative Tribunal of long-term banning orders**

- (1) A person who is the subject of a long-term banning order may apply to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of the Authority's decision to make the order.
- (2) Section 53 of the *Administrative Decisions Review Act 1997* does not apply in relation to the Authority's decision to make a long-term banning order.

**116I Regulatory controls for licensed premises in prescribed precincts**

- (1) The regulations may prescribe conditions to which a licence relating to premises situated in a prescribed precinct is subject.
- (2) Without limiting the matters to which any such conditions may relate, the conditions prescribed by the regulations under this section may—
  - (a) prohibit or restrict the use of glass or other breakable containers on the licensed premises, or
  - (b) prohibit or restrict the sale or supply of certain types of liquor on the licensed premises (including liquor with a high alcohol content or liquor that is intended to be consumed rapidly such as a shot), or
  - (c) prohibit or restrict the sale or supply of liquor on the licensed premises in certain circumstances or at certain times (including in circumstances or at times otherwise permitted by or under this Act), or
  - (d) prohibit patrons from entering the licensed premises at certain times, or
  - (e) require the implementation of security or public safety measures in respect of the licensed premises, or
  - (f) require incident registers to be kept, or

- (g) require the exclusion from licensed premises of persons of a specified class (including persons who are wearing any clothing or article displaying the name of, or other matter associated with, a particular organisation), or
  - (h) require the licensee of any premises situated in the prescribed precinct to contribute towards the costs associated with measures to minimise or prevent alcohol-related violence or anti-social behaviour or other alcohol-related harm in the precinct, or
  - (i) require the appointment of a person, as approved by the Secretary, who is to be present in a high risk venue during such periods, or in such circumstances, as may be specified or determined by the regulations (an **approved manager**), or
  - (j) require records to be kept of the times when an approved manager is present in a high risk venue, or
  - (k) require records to be kept of the amount of liquor sold or supplied on the licensed premises and require the production of such information.
- (3) The conditions that may be prescribed by the regulations under this section may, without limitation, apply to a specified class of licensed premises or to specified licensed premises.
- (4) The regulations may authorise the Secretary to exempt the licensee of any premises situated in a prescribed precinct from any of the conditions prescribed by the regulations under this section. The regulations may also provide that any such exemption is subject to conditions specified in the exemption.
- (4A) The regulations may also authorise the Secretary to declare, by order in writing, any specified part of licensed premises situated in a prescribed precinct to be premises to which the conditions prescribed by the regulations under this section apply.
- (5) In approving a person to be present in a high risk venue as required by licence conditions imposed by the regulations under subsection (2)(i), the Secretary must, after obtaining the consent of the person concerned, conduct a criminal record check in relation to the person and be satisfied that the person has the experience and capacity to have responsibility for the high risk venue during the relevant periods. It is the duty of the Commissioner of Police to assist in any such criminal record check.
- (6) Any conditions prescribed by the regulations under this section are in addition to any other conditions to which a licence relating to premises in the prescribed precinct may be subject.
- (7) Regulations may be made under this section regardless of whether any licensee who is likely to be affected by the regulation has been given an opportunity to make submissions in relation to the proposed regulation.

## **Part 7 Special provisions relating to minors**

### **Division 1 Underage drinking**

#### **117 Offences relating to sale or supply of liquor to minors**

- (1) **Selling liquor to minors** A person must not sell liquor to a minor.
- Maximum penalty—100 penalty units or 12 months imprisonment (or both).
- (2) **Supplying liquor to minors on licensed premises** A person must not supply liquor to a minor on licensed premises.
- Maximum penalty—100 penalty units or 12 months imprisonment (or both).
- (3) It is a defence to a prosecution for an offence under subsection (1) or (2) if it is proved that—
- (a) the person to whom the liquor was sold or supplied was of or above the age of 14 years, and
  - (b) before the liquor was sold or supplied to the person the defendant was provided with an evidence of age document that may reasonably be accepted as applying to the person and as proving that the person was of or above the age of 18 years.
- (4) **Supplying liquor to minors on other premises** A person must not supply liquor to a minor on any premises other than licensed premises unless—
- (a) the person is a parent or guardian of the minor or is authorised to supply liquor to the minor by a parent or guardian of the minor, and
  - (b) the supply is consistent with the responsible supervision of the minor.
- Maximum penalty—100 penalty units or 12 months imprisonment (or both).
- (5) The matters that are considered to be relevant in determining whether the supply of liquor is consistent with the responsible supervision of a minor for the purposes of subsection (4) include the following—
- (a) the age of the minor,
  - (b) whether the person supplying the liquor to the minor is intoxicated,
  - (c) whether the minor is consuming the liquor with food,
  - (d) whether the person supplying the liquor is responsibly supervising the minor's consumption of the liquor,
  - (e) the quantity and type of liquor supplied and the period of time over which it is supplied,

(f) such other matters as may be prescribed by the regulations.

(5A) The supply of liquor to a minor who is intoxicated is not, in any circumstances, consistent with the responsible supervision of the minor for the purposes of subsection (4).

(5B) Despite subsection (4), a licensee or another person who is delivering packaged liquor on behalf of a licensee or other person that has sold the liquor by retail, irrespective of the State or Territory in which the sale is made, must not supply the packaged liquor to a minor.

Maximum penalty—100 penalty units or 12 months imprisonment or both.

(5C) It is a defence to a prosecution under subsection (5B) if it is proved that—

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

(5D) It is also a defence to a prosecution under subsection (5B) for the person who delivered the liquor if it is proved that at the time of the alleged offence the person did not know, and could not reasonably be expected to have known, that the person was delivering liquor.

**Example—**

A courier delivers a package on behalf of an interstate retailer and is unaware the delivery includes liquor.

(6) **Obtaining liquor for minors from licensed premises** A person must not obtain liquor from licensed premises on behalf of a minor unless the person is the parent or guardian of the minor.

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

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

(8) **Allowing liquor to be sold or supplied to minors on licensed premises** A licensee must not, on licensed premises, allow liquor to be sold or supplied to a minor.

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

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



- (10) **Burden of proof** In the prosecution for an offence under this section, the burden of proving that a person was a parent or guardian of a minor, or was authorised by a parent or guardian of a minor, is on the person charged.
- (11) In the application of this section to an on-premises licence that relates to a catering service, a reference to licensed premises does not include any private domestic premises.
- (12) For the purposes of this section, **supply** of liquor includes serving liquor to a person.

### **118 Offences relating to consumption etc of liquor by minor**

- (1) **Minor not to obtain, consume or carry away liquor** A minor must not—
- (a) consume liquor on licensed premises, or
  - (b) consume liquor on the premises of an unlicensed restaurant unless the minor consumes the liquor in the company of, and with the permission of, his or her parent or guardian, or
  - (c) obtain, or attempt to obtain, liquor for consumption on licensed premises, or
  - (d) carry liquor away, or attempt to carry liquor away, from licensed premises unless the minor was ordered or requested by another person to carry the liquor away from the licensed premises.

Maximum penalty—20 penalty units.

- (2) **Person not to send, order or request minor to obtain liquor** A person must not—
- (a) send a minor to licensed premises, or
  - (b) order or request a minor to go to licensed premises,
- for the purpose of obtaining liquor.

Maximum penalty—30 penalty units.

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

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

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

Maximum penalty—50 penalty units.

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

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

Maximum penalty—30 penalty units.

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

## **Division 2 Minors on licensed premises**

### **121 Minors in hotels in company of responsible adult**

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

**Note—**

Section 51 applies to a minors area authorisation.

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

### **122 Functions for minors in hotels and public entertainment venues**

- (1) In this section—

**licensed premises** means a hotel or a licensed public entertainment venue.

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

**Note—**

Section 51 applies to a minors functions authorisation.

- (3) A minors functions authorisation is to designate function areas (that is, each part of the licensed premises on which the functions concerned are permitted to be held) and access areas (that is, each part of the licensed premises through or by means of which persons attending those functions are to be permitted to obtain entry to or to depart from a function area).
- (4) Without limiting section 51, a minors functions authorisation is subject to the following conditions—
  - (a) at least 7 days notice must be given to the local police before any function is held,

- (b) the notice must specify the name and nature of the function, the number of minors attending, the number of adult supervisors, details of the security arrangements and such other particulars as may be prescribed by the regulations,
  - (c) the licensee and person conducting the function must comply with any directions given by the local police or the Authority with respect to the conduct of functions for minors,
  - (d) liquor must not be sold, supplied, disposed of or consumed in the area in which a function is held,
  - (e) gaming machines and tobacco vending machines must not be located in the area in which a function is held and any area of the licensed premises in which gaming machines or tobacco vending machines are located must not be accessible to any minor attending the function,
  - (f) such other conditions as may be prescribed by the regulations.
- (5) A licensee is guilty of an offence if any conditions of a minors functions authorisation held by the licensee are contravened.
- Maximum penalty—20 penalty units.
- (6) Nothing in this section prevents a minors functions authorisation from applying to the whole of the licensed premises concerned.
- (7) For the purposes of this section, **function** includes, but is not limited to, a function as defined in section 4(1).

#### **122A Minors in small bars**

- (1) The Authority may, on application by the holder of a small bar licence, grant an authorisation (a **minors authorisation**) to enable minors to enter and remain in a small bar.
- (2) A minors authorisation for a small bar authorises minors to enter and remain in the small bar—
  - (a) for the purpose, or in the circumstances, decided by the Authority and stated in the authorisation, and

**Note—**

The Authority may require minors to be in the company of a responsible adult at all times, or during certain times, as a condition of a minors authorisation.

- (b) between—
  - (i) opening time, and
  - (ii) the time, not later than midnight, decided by the Authority and stated in the

minors authorisation.

- (3) An application for a minors authorisation must—
- (a) be made in the form and manner approved by the Authority, and
  - (b) be accompanied by—
    - (i) the fee, if any, prescribed by the regulations, and
    - (ii) any information or particulars prescribed by the regulations, and
  - (c) comply with any other requirements prescribed by the regulations or imposed by the Authority.
- (4) In deciding the application, the Authority must—
- (a) have regard to any relevant matters prescribed by the regulations, and
  - (b) refuse to grant the minors authorisation if a mandatory ground for refusing the application prescribed by the regulations applies to the application.

### **123 Minor not to enter or remain in certain licensed premises**

- (1) A minor must not—
- (a) enter or remain in the bar area of a hotel or club premises, or
  - (b) enter or remain in a part of a hotel to which a minors area authorisation relates unless the minor is in the company of a responsible adult, or
  - (b1) enter or remain in a small bar between 10 am and 10 pm—
    - (i) unless—
      - (A) the minor is in the company of a responsible adult, and
      - (B) meals are regularly provided on the licensed premises at times between opening time and 10 pm when liquor is sold or supplied, and
      - (C) any other requirements prescribed by the regulations are being complied with, or
    - (ii) unless—
      - (A) there is a minors authorisation in force for the small bar, and
      - (B) the minor is in the small bar during the times, and for the purposes or in the circumstances, stated in the authorisation, or
  - (b2) enter or remain in a small bar between 10 pm and midnight unless—

- (i) there is a minors authorisation in force for the small bar, and
  - (ii) the minor is in the small bar during the times, and for the purposes or in the circumstances, stated in the authorisation, or
- (b3) enter or remain in a small bar—
- (i) during any period of extended trading between midnight and 5 am on any day of the week, or
  - (ii) during any time that the Authority, by written order given to the licensee, has declared the small bar off-limits to minors, or
- (c) enter or remain in a licensed public entertainment venue unless—
- (i) the minor is in the company of a responsible adult, or
  - (ii) a function is being held in the venue in accordance with a minors functions authorisation, or
- (d) enter or remain in the following areas of licensed premises unless the minor is in the company of a responsible adult—
- (i) an area related to a packaged liquor licence,
  - (ii) an area dedicated to the sale of liquor by retail in sealed containers on the licensed premises for consumption away from the licensed premises.

Maximum penalty—20 penalty units.

- (2) A minor does not commit an offence under subsection (1) if—
- (a) the minor is an apprentice or trainee (within the meaning of the [Apprenticeship and Traineeship Act 2001](#)) and has entered, or is on, the licensed premises concerned for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee, or
  - (b) the minor has entered, or is on, the licensed premises concerned for the purpose only of receiving training and instruction in respect of the servicing, repair or maintenance of gaming machines under the supervision of the holder of a technician's licence within the meaning of the [Gaming Machines Act 2001](#), or
  - (c) the minor has entered, or is on, the licensed premises for a purpose, or in circumstances, approved by the Authority and specified in the licence under section 124(3)(c).
- (3) A minor does not commit an offence under subsection (1)(a) if the minor—
- (a) is present in the bar area only for so long as is reasonably necessary to pass through the area in order to conveniently gain access to another area of the hotel

or club premises that the minor may enter without contravening this Act, or

(b) is performing in a show or other live entertainment performance held in the bar area,

and is in the company of a responsible adult while in the bar area.

- (4) A minor does not commit an offence under subsection (1)(a) in relation to being in the bar area of club premises if—
- (a) a reception is being held in the bar area in association with the wedding of a member of the club or of a person who is a child or parent of a member of the club or for whose maintenance a member of the club is or has been responsible, and
  - (b) the minor has been invited to the reception by a person entitled to issue the invitation.
- (5) It is a defence to a prosecution for an offence under subsection (1)(a) or (c) if it is proved that the defendant believed on reasonable grounds that a minors functions authorisation was in force at the relevant time to enable minors to attend a function in a bar area of the hotel or in the public entertainment venue.
- (5A) It is a defence to a prosecution for an offence under subsection (1)(b1) if it is proved that the defendant believed on reasonable grounds that a minors authorisation was in force at the relevant time to enable minors to enter or remain in the small bar without being in the company of a responsible adult.
- (5B) Subsection (1)(d) does not apply to an area of licensed premises in which liquor is sold for takeaway or home delivery under a packaged liquor licence that does not authorise the licensee to make walk-up sales.
- (5C) A minor does not commit an offence under subsection (1)(d) if the minor—
- (a) enters or remains in the area of the licensed premises in the minor's capacity as an employee, and
  - (b) is not involved in the sale or supply of liquor.
- (5D) Also, a minor does not commit an offence under subsection (1)(d) if the minor leaves the licensed premises within a reasonable period after being informed by a responsible person that the minor must not be within the area.
- (5E) It is a defence to a prosecution for an offence under subsection (1)(d) if it is proved that at the time of the alleged offence the minor did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.

**Example—**

A minor is unaccompanied in a bottle shop but is unaware unaccompanied minor must not be within the area.

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

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

- (1) If a minor—

- (a) enters a bar area of a hotel or club premises, or
- (b) enters a part of a hotel to which a minors area authorisation is in force, but is not in the company of a responsible adult, or
- (b1) enters a small bar between 10 am and 10 pm and—
  - (i) there is not a minors authorisation in force for the small bar and—
    - (A) the minor is not in the company of a responsible adult, or
    - (B) meals are not regularly provided on the licensed premises at times between opening time and 10 pm when liquor is sold or supplied, or
    - (C) any other requirements prescribed by the regulations are not complied with, or
  - (ii) there is a minors authorisation in force for the small bar but the minor is in the small bar other than during the times, and for the purposes or in the circumstances, stated in the authorisation, or
- (b2) enters a small bar between 10 pm and midnight and—
  - (i) there is not a minors authorisation in force for the small bar, or
  - (ii) there is a minors authorisation in force for the small bar but the minor is in the small bar other than during the times, and for the purposes or in the circumstances, stated in the authorisation, or
- (b3) enters a small bar—
  - (i) during any period of extended trading between midnight and 5 am on any day of the week, or
  - (ii) during any time that the Authority, by written order given to the licensee, has declared the small bar off-limits to minors, or
- (c) enters a licensed public entertainment venue, but is not in the company of a responsible adult, or
- (d) enters or remains in the following areas of licensed premises and is not in the company of a responsible adult—

- (i) an area related to a packaged liquor licence,
- (ii) an area dedicated to the sale of liquor by retail in sealed containers on the licensed premises for consumption away from the licensed premises,

the licensee is guilty of an offence.

Maximum penalty—50 penalty units.

(2) If a minor—

- (a) is in a bar area of a hotel or club premises, or
- (b) is in a part of a hotel to which a minors area authorisation is in force, but is not in the company of a responsible adult, or
- (b1) is in a small bar between 10 am and 10 pm and—
  - (i) there is not a minors authorisation in force for the small bar and—
    - (A) the minor is not in the company of a responsible adult, or
    - (B) meals are not regularly provided on the licensed premises at times between opening time and 10 pm when liquor is sold or supplied, or
    - (C) any other requirements prescribed by the regulations are not complied with, or
  - (ii) there is a minors authorisation in force for the small bar but the minor is in the small bar other than during the times, and for the purposes or in the circumstances, stated in the authorisation, or
- (b2) is in a small bar between 10 pm and midnight and—
  - (i) there is not a minors authorisation in force for the small bar, or
  - (ii) there is a minors authorisation in force for the small bar but the minor is in the small bar other than during the times, and for the purposes or in the circumstances, stated in the authorisation, or
- (b3) is in a small bar—
  - (i) during any period of extended trading between midnight and 5 am on any day of the week, or
  - (ii) during any time that the Authority, by written order given to the licensee, has declared the small bar off-limits to minors, or
- (c) is in a licensed public entertainment venue, but is not in the company of a responsible adult, or



(d) is in the following areas of licensed premises and is not in the company of a responsible adult—

- (i) an area related to a packaged liquor licence,
- (ii) an area dedicated to the sale of liquor by retail in sealed containers on the licensed premises for consumption away from the licensed premises,

the licensee is guilty of an offence unless the minor is immediately removed from the area or premises concerned.

Maximum penalty—50 penalty units.

(3) A licensee does not commit an offence under this section if the minor—

- (a) is at least 14 years of age and produces to the licensee (or an employee or agent of the licensee) an evidence of age document that may reasonably be accepted as applying to the minor and as proving that the minor is of or above the age of 18 years, or
- (b) is an apprentice or trainee (within the meaning of the [Apprenticeship and Traineeship Act 2001](#)) who has entered, or is on, the licensed premises concerned for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee, or
- (c) has entered, or is on, the licensed premises concerned for such purposes, or in such circumstances, as may be approved by the Authority and are specified in the licence concerned.

(3A) The regulations may prescribe purposes for which, or circumstances in which, the Authority must refuse to grant an approval under subsection (3)(c).

(4) A licensee does not commit an offence under this section in relation to a minor entering, or being or remaining in, a bar area of a hotel or club premises if the minor—

- (a) is present in the bar area only for so long as is reasonably necessary to pass through the area in order to conveniently gain access to another area of the hotel or club premises that the minor may enter without contravening this Act, and
- (b) is in the company of a responsible adult while in the bar area.

(5) A licensee does not commit an offence under this section in relation to a minor being in the bar area of club premises if—

- (a) a reception is being held in that area in association with the wedding of a member of the club or of a person who is a child or parent of a member of the club or for whose maintenance a member of the club is or has been responsible, and
- (b) the minor has been invited to the reception by a person entitled to issue the

invitation.

- (6) A licensee does not commit an offence under this section in relation to a minor being in a licensed public entertainment venue if a function is being held in the venue in accordance with a minors functions authorisation.
- (6A) It is a defence to a prosecution for an offence under subsection (2)(d) if it is proved that, at the time of the alleged offence, the licensee had taken all reasonable precautions to avoid commission of the alleged offence.
- (7) In the prosecution for an offence under this section, the defendant has the burden of proving that a particular person was the responsible adult in relation to a minor at the relevant time.

### **125 Responsible adult not to leave minor unaccompanied on licensed premises**

- (1) If, under this Act, a minor is required to be accompanied by a responsible adult while in a hotel, small bar, licensed public entertainment venue or packaged liquor premises, the responsible adult who is accompanying the minor must not leave the minor unaccompanied on the licensed premises, or part of the licensed premises, without first informing the licensee or an employee or agent of the licensee.

Maximum penalty—30 penalty units.

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

***packaged liquor premises*** means an area of licensed premises—

- (a) related to a packaged liquor licence, or
- (b) dedicated to the sale of liquor by retail in sealed containers on the licensed premises for consumption away from the licensed premises.

### **126 Minors must be refused entry to licensed premises**

If—

- (a) a responsible person for a hotel, club premises, small bar or licensed public entertainment venue is aware that a person (***the relevant person***) who may reasonably be suspected of being under the age of 18 years is attempting to enter the licensed premises, and
- (b) the presence of the relevant person on the licensed premises would, if the relevant person were under the age of 18 years, be an offence under this Act,

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

Maximum penalty—50 penalty units.

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

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

## **Division 3 Other provisions relating to minors**

### **128 Minor required to provide information**

- (1) An authorised person may require a person (***the relevant person***) who is reasonably suspected of being a minor and who, if a minor, would be committing an offence under this Act—
  - (a) to state the relevant person's full name, residential address and date of birth, and
  - (b) to produce then, or at a police station within a reasonable time, an evidence of age document for the person.
- (2) A person who is the subject of a requirement under subsection (1) must not—
  - (a) refuse or fail to state his or her full name, residential address and date of birth, or
  - (b) without reasonable excuse, refuse or fail to produce an evidence of age document that may reasonably be accepted as applying to the person.

Maximum penalty—20 penalty units.

- (3) In this section—

***authorised person*** means a licensee, an employee or agent of a licensee, a police

officer or an inspector.

### **129 Minor must not use false evidence of age**

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

Maximum penalty—20 penalty units.

### **130 Minors not to be detained**

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

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

## **Division 4**

### **130A-130F (Repealed)**

## **Part 8 Liquor accords**

### **Division 1 Local liquor accords**

#### **131 Definitions**

For the purposes of this Act—

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

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

#### **132 Eligible parties to local liquor accord**

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

- (a) a licensee,
- (b) the Secretary,

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

### **133 Establishing local liquor accord**

- (1) Any 2 or more eligible parties (at least one of whom is a licensee) may enter into a local liquor accord.
- (2) A local liquor accord must include—
  - (a) the names of the parties to the accord, and
  - (b) the name and address of the coordinator of the accord (being a party to the accord or the representative of a party), and
  - (c) the area to which the accord applies, and
  - (d) any other matter that may be prescribed by the regulations.
- (3) The Secretary is to endeavour to ensure that local liquor accords are prepared for, and apply to, all areas of the State.

### **134 Terms of local liquor accords**

- (1) Without limiting the terms that may be included in a local liquor accord, an accord may make provision for or with respect to any one or more of the following—
  - (a) authorising or requiring any licensee who is a party to the accord—
    - (i) to cease to serve liquor (including take-away liquor) on the licensed premises, or
    - (ii) to restrict the public's access to the licensed premises in a manner and to the extent provided by the accord,or both, from a time of day that is earlier than the time at which, as required by the relevant licence, trading must cease,
  - (b) authorising or requiring any licensee who is a party to the accord—

- (i) to restrict the use of glass containers, or
  - (ii) to maintain an incident register, or
  - (iii) to install and operate closed-circuit television or any other security device, or
  - (iv) to provide security staff, or
  - (v) to do any other thing that may be prescribed by the regulations in order to minimise alcohol-related harm.
- (2) Entry by any person into a local liquor accord, and any conduct on the part of any person for the purpose of promoting or giving effect to the terms of a local liquor accord, are specifically authorised by this Act for the purposes of the *Competition and Consumer Act 2010* 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 *Competition and Consumer Act 2010* of the Commonwealth or the *Competition Code of New South Wales*.

### **135 Registration and termination of local liquor accord**

- (1) A local liquor accord takes effect when it is registered by the Secretary.
- (2) A local liquor accord may be terminated by the parties to the accord.
- (3) The termination takes effect when notice in writing of the termination is given by the coordinator of the accord to the Secretary.

### **136 Requirement to contribute to costs of implementing local liquor accord**

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

## **Division 2 Precinct liquor accords and community event liquor accords**

### **136A General provisions**

- (1) For the purposes of this Act, a ***precinct liquor accord*** or a ***community event liquor accord*** is a set of measures, approved by the Secretary under this Division, that aim to do either or both of the following—

- (a) to minimise or prevent alcohol-related violence or anti-social behaviour, or other alcohol-related harm, in the precinct or area to which the relevant liquor accord applies,
  - (b) to protect and support the good order or amenity of any such precinct or area in connection with issues arising from the presence of, or any proposed increase in the number of, licensed premises in that precinct or area.
- (2) Each of the following persons or bodies may, in accordance with arrangements established by the Secretary, participate in a precinct liquor accord or community event liquor accord (including the development of a proposed liquor accord)—
- (a) the licensee for any licensed premises situated in the precinct or area to which the accord applies or is to apply,
  - (b) the Commissioner of Police,
  - (c) a local council,
  - (d) persons who are running businesses or commercial operations in the precinct or area to which the accord applies or is to apply,
  - (e) a community representative (as approved by the Secretary) for the precinct or area to which the accord applies or is to apply,
  - (f) such other persons or bodies as the Secretary considers appropriate.

**Note—**

Licensees can be required to participate in a liquor accord. See section 136E.

- (3) A precinct liquor accord or community event liquor accord does not require the agreement of the accord participants to the measures provided for by the accord.

**136B Secretary may approve liquor accords for designated precincts**

- (1) The Secretary may—
- (a) designate a precinct as being a precinct to which a proposed precinct liquor accord is to apply, and
  - (b) approve a precinct liquor accord for the designated precinct, and
  - (c) vary, at any time, the terms of a precinct liquor accord.
- (2) The designated precinct to which a precinct liquor accord applies or is to apply must be shown on a map that is made publicly available in such manner as the Secretary considers appropriate.
- (3) The Secretary may approve a precinct liquor accord for a designated precinct only if

the Secretary is satisfied that—

- (a) in the precinct there is, or there is a potential for, a significant risk of harm to members of the public associated with the misuse and abuse of liquor (including harm arising from violence or other anti-social behaviour), and
  - (b) the measures to be provided for by the accord are necessary—
    - (i) to prevent harm to members of the public associated with the misuse and abuse of liquor in the precinct (including harm arising from violence or other anti-social behaviour), or
    - (ii) to protect and support the good order or amenity of the precinct in connection with issues arising from the presence of, or any proposed increase in the number of, licensed premises in the precinct.
- (4) The Secretary may terminate a precinct liquor accord at any time by notice in writing given to the persons or bodies participating in the accord.

**136C Secretary may approve liquor accords for community events**

- (1) The Secretary may—
- (a) designate a community event as being an event to which a proposed community event liquor accord is to apply, and
  - (b) approve a community event liquor accord for that designated event, and
  - (c) vary, at any time, the terms of a community event liquor accord.
- (2) A community event liquor accord applies during the period, and to the area, specified in the accord. Any such period may include a period before or after the designated community event takes place and the area to which the accord applies may comprise more than one specified area (whether or not those areas are contiguous).
- (3) In approving a community event liquor accord, the Secretary is to make publicly available, in such manner as the Secretary considers appropriate, each of the following—
- (a) the name or description of the community event to which the accord relates,
  - (b) the period during which the accord is to apply,
  - (c) a map showing the area to which the accord is to apply.
- (4) The Secretary may approve a community event liquor accord for a community event only if the Secretary is satisfied that—
- (a) in the area in which the accord is to apply there is, or there is a potential for, a significant risk of harm to members of the public associated with the misuse and



abuse of liquor (including harm arising from violence or other anti-social behaviour), and

- (b) the measures to be provided for by the accord are necessary—
  - (i) to prevent harm to members of the public associated with the misuse and abuse of liquor in the area in which the accord is to apply (including harm arising from violence or other anti-social behaviour), or
  - (ii) to protect and support the good order or amenity of that area in connection with issues arising from the presence of, or proposed increase in the number of, licensed premises in that area.

### **136D Content of precinct and community event liquor accords**

- (1) A precinct liquor accord or community event liquor accord may include such measures as the Secretary considers are necessary—
  - (a) to minimise or prevent alcohol-related violence or anti-social behaviour or other alcohol-related harm in the precinct or area to which the accord applies, or
  - (b) to protect and support the good order or amenity of any such precinct or area in connection with issues arising from the presence of, or proposed increase in the number of, licensed premises in the precinct or area concerned.
- (2) The Secretary must give notice of the terms of a precinct liquor accord or community event liquor accord, and of any variation to the terms of such an accord—
  - (a) to each licensee who is required to participate in the accord, and
  - (b) to such other participants in the accord as the Secretary considers appropriate.
- (3) Without limiting the measures that may be included in a precinct liquor accord or community event liquor accord, any such accord may include measures requiring a licensee to do any one or more of the following—
  - (a) to cease serving liquor (including take-away liquor) on the licensed premises during such times as are specified in the accord,
  - (b) to restrict the public's access to the licensed premises in a manner and to the extent provided by the accord,
  - (c) to restrict the use of glass containers on the licensed premises,
  - (d) to maintain an incident register,
  - (e) to install and operate closed-circuit television or any other security device on the licensed premises,

(f) to provide security staff in or about the licensed premises.

- (4) The provisions of section 134(2) and (3) apply to or in respect of a precinct liquor accord or community event liquor accord in the same way as those provisions apply to or in respect of a local liquor accord (except that section 134(2) applies as if the reference to a person entering into a local liquor accord were a reference to a person or body participating in a precinct liquor accord or community event liquor accord).

**136E Requirement to participate in precinct or community event liquor accord**

- (1) The Secretary may, in the case of licensed premises situated wholly or partly in the precinct to which a precinct liquor accord applies or in the area to which a community event liquor accord applies, impose conditions on the licence, by notice in writing to the licensee, requiring the licensee to participate in the liquor accord for that precinct or area.

- (2) Without limiting subsection (1), if—

- (a) the sale or supply of liquor after midnight on licensed premises is authorised at least once a week on a regular basis, and
- (b) the licensed premises are situated wholly or partly in the precinct to which a precinct liquor accord applies or in the area to which a community event liquor accord applies,

it is a condition of the licence that the licensee, on being notified in writing by the Secretary, participate in the liquor accord for that precinct or area.

- (3) For the purposes of this section, **participate** in a liquor accord means participate in the development, implementation and operation of the accord and, without limitation, includes any of the following—

- (a) developing the measures to be provided for by the accord,
- (b) complying with those measures to the extent that they apply to the licensee,
- (c) developing and maintaining the mechanisms and processes that support the operation of the accord,
- (d) participating in any committee established under the accord.

- (4) Subsection (2) does not, however, operate to require a licensee to participate in a committee established under a liquor accord.

- (5) A reference in this section to a liquor accord includes a reference to a proposed liquor accord and a reference to the precinct or area to which a liquor accord applies includes a reference to the proposed precinct or area to which the accord is to apply.

- (6) Subsection (2) does not apply in relation to a limited licence.

### **136F Precinct liquor accord contributions and fund**

- (1) The Secretary may, by direction in writing to any licensee who is required under this Division to participate in a precinct liquor accord, require the licensee to pay a contribution towards the costs associated with the operation of the accord (including any projects or initiatives carried out under the accord).
- (2) The amount of any such contribution is to be determined by the Secretary in accordance with the terms of the accord.
- (3) Any money paid to the Secretary under this section is to be paid into a Precinct Liquor Accord Fund established in the Special Deposits Account. A separate account in that Fund is to be kept for the purposes of each precinct liquor accord.
- (4) The Secretary has the control and management of the Precinct Liquor Accord Fund.
- (5) Money held in any separate account of the Precinct Liquor Accord Fund is to be applied only for the purposes of funding the carrying out of projects and activities under the precinct liquor accord in respect of which the separate account is kept.
- (6) Any amount required to be paid to the Secretary under this section may, if the amount is not paid within the time specified by the Secretary in the direction to the licensee concerned, be recovered by the Secretary from the licensee as a debt due to the Crown for payment into the Precinct Liquor Accord Fund.

**Note—**

Failure to comply with a direction under this section may also constitute grounds for taking disciplinary action against the licensee under Part 9.

## **Part 9 Disciplinary action**

### **137 Interpretation**

- (1) In this Part, a reference—
  - (a) to a licensee includes a reference to a former licensee and, in the case of a limited licence, includes a reference to the non-proprietary association on whose behalf the licence is held, and
  - (b) to a manager includes a reference to a former manager, and
  - (c) to a conviction for an offence under this Act or the regulations does not include a reference to a conviction for an offence prescribed by the regulations for the purposes of this section.
- (2) Without limiting the grounds on which disciplinary action may be taken under this Part, the grounds for taking any such action may relate to conduct occurring before the commencement of this Part.

- (3) For the purposes of this Part, a person is **interested** in the business, or in the conduct or profits of the business, carried on under a licence if the person—
- (a) is named in the written statement referred to in section 41 that accompanied the application for the licence, or
  - (b) is a person referred to in section 55 who has become interested in the business, or the conduct of the business, carried out on the licensed premises concerned, or
  - (c) in the case of a licence held by a corporation—is an individual who occupies a position of authority in the corporation that holds the licence, or
  - (d) in the case where the person referred to in paragraph (a) or (b) is a proprietary company—
    - (i) is a director of, or shareholder in, the proprietary company, or
    - (ii) is a director of, or shareholder in, a corporation that, within the meaning of the [Corporations Act 2001](#) of the Commonwealth, is a related body corporate of the proprietary company.

**138 Secretary may carry out inquiries and investigations in relation to complaints and proposed complaints**

- (1) The Secretary may carry out such investigations and inquiries as the Secretary considers necessary in connection with a complaint, or proposed complaint, under this Part in relation to—
- (a) a licensee, or
  - (b) a manager, or
  - (c) a close associate of a licensee.
- (2) The Commissioner of Police may inquire into, and report to the Secretary on, such matters as the Secretary may request concerning the licensee, manager or close associate to whom the complaint, or proposed complaint, relates.
- (3) The Secretary may, by notice in writing, require a licensee, manager or close associate who is the subject of an investigation under this section to do one or more of the following things—
- (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as, in the opinion of the Secretary, is relevant to the investigation and is specified in the notice,
  - (b) produce, in accordance with directions in the notice, such records as, in the opinion of the Secretary, 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 Secretary such authorisations and consents as the Secretary requires for the purpose of enabling the Secretary to obtain information (including financial and other confidential information) from other persons concerning the person under investigation and the person's associates.
- (4) A person who complies with a requirement of a notice under subsection (3) does not on that account incur a liability to another person.
- (5) A person must not fail to comply with a requirement of the Secretary contained in a notice under subsection (3).

Maximum penalty—20 penalty units.

### **139 Grounds for making complaint**

- (1) A complaint in relation to a licensee, manager or close associate of a licensee may be made to the Authority by any of the following persons (referred to in this Part as **the complainant**)—
- (a) the Secretary,
  - (b) the Commissioner of Police,
  - (c) a person authorised by the regulations to make a complaint under this Part.
- (2) A complaint must be in writing and specify the grounds on which it is made.
- (3) The grounds on which a complaint in relation to a licensee, manager or close associate may be made are as follows—
- (a) that the licensee or manager has, while holding a licence or managing licensed premises, been convicted of an offence under this Act or the regulations (or under the former Act) or of an offence prescribed by the regulations,
  - (b) that the licensee or manager has failed to comply with any of the conditions to which the licence is subject,
  - (c) that the licensee has failed to comply with any of the conditions to which any authorisation or approval held by the licensee under this Act is subject,
  - (c1) that the licensee has failed to comply with an enforceable undertaking under section 144ZJ,
  - (d) that the licensee or manager has failed to comply with any other requirement under this Act or the regulations (or under the former Act), relating to the licence or the licensed premises,

- (e) that the licensee or manager has failed to comply with a direction or other requirement of the Authority, the Secretary or the Commissioner of Police under this Act (or of the Secretary or the Commissioner under the former Act),
- (f) that the licensee or manager has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption),
- (g) that intoxicated persons have frequently been on the licensed premises or have frequently been seen to leave those premises,
- (h) that acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises,
- (ha) that 2 or more serious indictable offences involving violence have been committed within a 12-month period—
  - (i) by persons on the licensed premises, or
  - (ii) near the licensed premises by persons who have been on the licensed premises within a reasonable time before the act occurred, or
  - (iii) near the licensed premises by persons attempting to enter, or who have been refused entry to, the licensed premises within a reasonable time before the act occurred,
- (hb) that 2 or more incidents posing a serious risk to the health or safety of persons have occurred within a 12-month period—
  - (i) involving persons on the licensed premises, or
  - (ii) near the licensed premises involving persons who have been on the licensed premises within a reasonable time before the incident occurred, or
  - (iii) near the licensed premises involving persons attempting to enter, or who have been refused entry to, the licensed premises within a reasonable time before the incident occurred,
- (i) that the licensee is not a fit and proper person to be the holder of a licence (whether for the same reason as that set out in section 45(5) or otherwise) or the manager is not a fit and proper person to be the manager of the licensed premises (whether for the same reason as that set out in section 68(4A) or otherwise),
- (j) that the close associate is not a fit and proper person to be a close associate of a licensee,
- (k) that a complaint against a licensee under this section has been made and that—

- (i) the close associate knew or ought reasonably to have known that the licensee was engaging (or was likely to engage) in conduct of the kind to which the complaint relates, and
  - (ii) the close associate failed to take all reasonable steps to prevent the licensee from engaging in conduct of that kind,
- (l) that the close associate is (or has become) a close associate of a licensee while disqualified by the Authority from being a close associate,
- (m) that a person who is interested in the business, or in the conduct or profits of the business, carried on under the licence is not a fit and proper person to be so interested,
- (n) that a person is (or has become) a person who is interested in the business, or in the conduct or profits of the business, carried on under a licence while disqualified by the Authority under this Part from being a person so interested,
- (o) in the case of a limited licence—that the licensee has not exercised proper control and supervision over a function held under the licence,
- (p) in the case of a limited licence—it is not in the public interest for liquor to be sold or supplied at functions held by or under the auspices of the non-proprietary association on whose behalf the licence is held,
- (q) in the case of a licence held by a corporation—that a person who occupies a position of authority in the corporation is not a fit and proper person to occupy such a position in a corporation that is the holder of a licence,
- (r) that public entertainment has been conducted on the licensed premises otherwise than in accordance with any requirements under the *Environmental Planning and Assessment Act 1979* relating to the use of the premises for public entertainment,
- (s) that the licence has not been exercised in the public interest,
- (t) that the continuation of the licence is not in the public interest.
- (4) In subsection (3), **former Act** means the *Liquor Act 1982* or the regulations made under that Act and includes, in the case of a licensee that is a registered club, the *Registered Clubs Act 1976* as in force immediately before the repeal of section 9 of that Act by Schedule 2 to the *Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007*.
- (5) For the purposes of subsection (3)(ha), a person commits a serious indictable offence if a court convicts the person for the offence, whether or not it imposes any penalty.

#### **140 Procedure for taking disciplinary action**

- (1) If a complaint in relation to a licensee, manager or close associate is made under this Part, the Authority must, before taking any disciplinary action against the licensee, manager or close associate, notify the licensee, manager or close associate in writing of the grounds on which the Authority is proposing to take disciplinary action.
- (2) Any such notice is to invite the licensee, manager or close associate to show cause, by way of a written submission, as to why the Authority should not take disciplinary action against the licensee, manager or close associate.
- (3) The Authority must also, before taking disciplinary action against a licensee, invite written submissions from the following persons—
  - (a) if the licensee occupies the licensed premises under a lease—the lessor,
  - (b) each person named in the written statement referred to in section 41 that accompanied the application for the licence,
  - (c) each person named in the information provided to the Authority (as required by section 55) who has become interested in the business, or the conduct of the business, carried out on the licensed premises concerned,
  - (d) if the grounds for taking the proposed disciplinary action relate to a person (other than the licensee) not being a fit and proper person—that person.
- (4) The Authority may specify—
  - (a) the time within which a submission under this section may be made, and
  - (b) any other requirements that must be complied with in relation to the making of any such submission.
- (5) If any written submission is made in accordance with this section, the Authority must take the submission into consideration in deciding whether or not to take disciplinary action against the licensee, manager or close associate concerned.
- (6) Subsection (1) does not require the Authority to disclose any criminal intelligence.

#### **141 Disciplinary powers of Authority**

- (1) The Authority may deal with and determine a complaint that is made to it under this Part.
- (1A) If the Authority is satisfied that the criminal organisation associate ground applies in relation to a licensee, the Authority must do one or both of the following—
  - (a) disqualify the licensee from holding a licence for such period as the Authority thinks fit,



(b) cancel the licence.

(1B) If the Authority is satisfied that the criminal organisation associate ground applies in relation to a manager, the Authority must do one or both of the following—

(a) disqualify the manager from being the manager of licensed premises for such period as the Authority thinks fit,

(b) withdraw the manager's approval to manage licensed premises.

(2) If the Authority is satisfied that any of the grounds (other than a criminal organisation associate ground) on which the complaint was made apply in relation to the licensee, manager or close associate, the Authority may decide not to take any action or may do any one or more of the following—

(a) cancel the licence,

(b) suspend the licence for such period not exceeding 12 months (or, if circumstances of aggravation exist in relation to the complaint, not exceeding 24 months) as the Authority thinks fit,

(c) order the licensee or manager to pay, within such time as is specified in the order—

(i) a monetary penalty not exceeding 500 penalty units (in the case of a corporation) or 200 penalty units (in the case of an individual), or

(ii) if circumstances of aggravation exist in relation to the complaint—a monetary penalty not exceeding 1,000 penalty units (in the case of a corporation) or 400 penalty units (in the case of an individual),

(d) suspend or cancel any authorisation or other approval (other than the licence itself) held by the licensee under this Act,

(e) impose a condition to which the licence, or any authorisation or approval held by the licensee under this Act, is to be subject or revoke or vary a condition to which the licence or any such authorisation or approval is subject,

(f) disqualify the licensee from holding a licence, or from being the manager of licensed premises or the close associate of a licensee, for such period as the Authority thinks fit,

(g) withdraw the manager's approval to manage licensed premises,

(h) disqualify the manager from being the manager of licensed premises, or from holding a licence or being the close associate of a licensee, for such period as the Authority thinks fit,

(i) in the case of a limited licence held on behalf of a non-proprietary

association—order that a limited licence is not, for a period of not more than 3 years from the date on which the decision takes effect, to be granted to any person on behalf of the non-proprietary association,

- (j) disqualify the close associate from being a close associate of a licensee or the manager of licensed premises for such period as the Authority thinks fit,
- (k) disqualify the close associate from holding a licence for such period as the Authority thinks fit,
- (l) order the licensee, manager or close associate to pay the amount of any costs incurred by—
  - (i) the Secretary in carrying out any investigation or inquiry under section 138 in relation to the licensee, manager or close associate, or
  - (ii) the Authority in connection with the taking of disciplinary action against the licensee, manager or close associate under this section,
- (m) reprimand the licensee, manager or close associate.

(2A) Any monetary penalty or costs ordered to be paid under subsection (2) are payable to the Secretary.

(3) If the Authority orders a licensee or manager to pay a monetary penalty under this section and the penalty is not paid within the time specified in the order, the Authority may—

- (a) cancel the licence, or
- (b) suspend the licence until such time as the penalty is paid (or for such other period as the Authority thinks fit).

(4) While a person is disqualified by the Authority from being a close associate of a licensee, the person is conclusively presumed for the purposes of this Act to be a person who is not a fit and proper person to be a close associate of a licensee.

(5) **Action against other interested persons** In deciding whether to take disciplinary action under this section against a licensee in relation to a complaint, the Authority may take disciplinary action against a person who is interested in the business, or in the conduct or profits of the business, carried on under the licence (regardless of whether the Authority takes any disciplinary action under this section against the licensee concerned).

(6) If the Authority decides to take disciplinary action against any such interested person, the Authority may do any one or more of the following—

- (a) disqualify the person, for a period commencing on a specified day, from being a

person interested in the business, or in the conduct or profits of the business, carried on under a licence,

(b) reprimand the person.

(7) **Circumstances of aggravation** For the purposes of this section, circumstances of aggravation exist in relation to a complaint if (and only if) each of the following paragraphs applies—

(a) the complaint concerns a contravention or alleged contravention of section 73 or 74,

(b) the complaint alleges that for the reasons specified in the complaint the matter of the complaint is so serious as to warrant the taking of action that is available to the Authority when circumstances of aggravation exist,

(c) the Authority, in finding that the matter of the complaint has been made out, is of the opinion (having regard to any matter such as the number of contraventions of the Act involved, the seriousness of the contravention involved, the number of people involved in the contravention or the seriousness of the outcome of the contravention, or any other relevant consideration) that the matter of the complaint is so serious as to warrant the taking of action that is available to the Authority when circumstances of aggravation exist.

(8) In this section—

***criminal organisation associate ground*** means—

(a) in relation to a licensee—that the licensee is not a fit and proper person to be the holder of a licence for the same reason as that set out in section 45(5), or

(b) in relation to a manager—that the manager is not a fit and proper person to be the manager of the licensed premises for the same reason as that set out in section 68(4A).

#### **142 Procedure for implementing disciplinary action**

(1) If the Authority decides to take disciplinary action against or in relation to a licensee, manager, close associate or other person under this Part, the Authority is required to serve on the licensee, manager, close associate or person a notice informing the person of the Authority's decision.

(2) The notice must include the reasons for the Authority's decision.

(2A) Subsection (2) does not require the Authority to disclose any criminal intelligence.

(3) Any disciplinary action under this Part takes effect when notice of the action is served on the licensee, manager, close associate or person concerned (or on such later date

as may be specified in the notice).

- (4) The Authority may, by serving a further notice on the licensee, manager, close associate or person concerned, cancel a notice under this section before the notice takes effect.
- (5) The Authority is not prevented from taking disciplinary action under this Part merely because the licensee, manager, close associate or person concerned is subject to criminal or civil proceedings that relate to the same matters or incident to which the disciplinary action relates.
- (6) If a licensee is disqualified from holding a licence under this Part, the Authority, may, on application by—
  - (a) the spouse or de facto partner of the licensee, or
  - (b) a member of the family of the licensee who is of or above the age of 18 years, or
  - (c) the owner of the licensed premises, or
  - (d) a person directly or indirectly interested in the business, or the conduct of the business, carried out on the licensed premises,transfer the licence to that spouse, de facto partner or member of the family or to some other person approved by the Authority.

#### **143 Requirement for legal member of Authority to be present**

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

#### **144 Administrative review by NCAT of decisions by Authority under this Part**

- (1) Each of the following persons may apply to the Civil and Administrative Tribunal for an administrative review under the [Administrative Decisions Review Act 1997](#) of a decision by the Authority in relation to a complaint under this Part—
  - (a) the person against whom any disciplinary action is taken by the Authority in relation to the complaint,
  - (b) the complainant.
- (2) Part 2 of Chapter 3 of the [Administrative Decisions Review Act 1997](#) does not apply to an application to the Civil and Administrative Tribunal for an administrative review of a decision by the Authority under this Part.

- (3) In determining an application for a review of any decision by the Authority under section 141(1A) or (1B), the Civil and Administrative Tribunal (and any Appeal Panel of the Tribunal in determining any internal appeal against such a review under the *Civil and Administrative Tribunal Act 2013*)—
- (a) is to ensure that it does not, in the reasons for its decision or otherwise, disclose any criminal intelligence without the approval of the Commissioner of Police, and
  - (b) in order to prevent the disclosure of any criminal intelligence, is to receive evidence and hear argument in the absence of the public, the applicant for the administrative review, the applicant's representative and any other interested party, unless the Commissioner of Police approves otherwise.

## **Part 9A Demerit points scheme**

### **Division 1 Preliminary**

#### **144A Part 9 not affected**

This Part does not limit the operation of Part 9.

#### **144B Definitions**

In this Part—

**demerit points register**—see section 144D.

**prescribed complaint**, for Subdivision 2 of Division 3—see section 144K.

**relevant demerit point**, for Subdivision 2 of Division 4—see section 144S.

**remedial action** means any action the Authority is authorised to take under Division 4.

**reviewable decision** means any of the following decisions—

- (a) a decision by the Authority to take remedial action in relation to a person or licence,
- (b) a decision by the Authority to refuse to remove a demerit point under section 144ZE(1)(b).

**submission period**, in relation to a notice given under section 144M or 144Z, means the period of 21 days after the day on which the notice is given.

#### **144C Committing demerit offence**

- (1) For the purposes of this Part, a person commits a demerit offence if the act or circumstance giving rise to the offence occurred or existed on or after the commencement of this Part and—
- (a) a court convicts the person for the offence, whether or not it imposes any penalty,

or

- (b) an amount is paid under a penalty notice in relation to the offence, or
- (c) a penalty notice enforcement order under the *Fines Act 1996* is made against the person in respect of the offence.

(2) However, any demerit point under this Part that is based on the conviction, penalty notice or penalty notice enforcement order is revoked and any remedial action taken as the result of the demerit point ceases to have effect if—

- (a) the conviction is overturned on appeal, or
- (b) the person elects, after an amount is paid under the penalty notice, to have the offence dealt with by a court, or
- (c) the penalty notice, or the penalty notice enforcement order to the extent that it applies to the penalty notice, is withdrawn or annulled.

(3) Demerit offences committed in relation to a particular licence or licensed premises are taken, for the purposes of this part, to be a single demerit offence if the acts or circumstances giving rise to the offences occurred or existed within a single 24-hour period.

## Division 2 Demerit points register

### 144D Demerit points register

- (1) The Secretary must maintain a register of demerit points (the ***demerit points register***) in accordance with this Part and the regulations.
- (2) The Secretary must record in the demerit points register the following details for each licensee or manager of licensed premises, or each club licence, in relation to whom 1 or more demerit points are in force—
  - (a) the details of the licensee, manager or club licence,
  - (b) for demerit points incurred or imposed against a licensee or manager of licensed premises—the details of the licence for the licensed premises,
  - (c) the total number of demerit points in force for the licensee, manager or club licence from time to time,
  - (d) the day on which each demerit point was incurred or imposed,
  - (e) the day on which each demerit point expires (unless earlier removed),
  - (f) any other details prescribed by the regulations for the purpose of this section.

**144E Secretary to record demerit points incurred or imposed**

- (1) If demerit points are incurred or imposed against a licensee, manager or club licence under section 144H, 144I or 144N(1)(b), the Secretary must record the number of demerit points incurred or imposed in respect of the licensee, manager or licence in the demerit points register.
- (2) Demerit points incurred against a licensee, manager or club licence as a result of the commission of a demerit offence must be recorded in the demerit points register in respect of the day on which the demerit offence was committed.
- (3) Demerit points imposed against a licensee, manager or club licence under section 144N(1)(b) must be recorded in the demerit points register in respect of the day on which the demerit points were imposed by the Authority.
- (4) To avoid doubt, the Secretary must not record demerit points incurred against a licensee, manager or club licence in respect of a demerit offence if the court makes an order under section 10 of the *Crimes (Sentencing Procedure) Act 1999* in respect of the offence.
- (5) Without limiting any other provision of this Division, the Secretary may correct any mistake, error or omission in the demerit points register, subject to any requirements of the regulations.

**144F Secretary may publish details from demerit points register**

The Secretary may publish any of the information contained in the demerit points register on a public website maintained by the Department of Enterprise, Investment and Trade.

**144G When demerit points come into force or expire**

- (1) A demerit point incurred or imposed against a licensee, manager or club licence comes into force—
  - (a) for a demerit point incurred under section 144H or 144I—on the day on which the demerit offence in relation to which the demerit point is incurred was committed, or
  - (b) for a demerit point imposed under section 144N(1)(b)—on the day the demerit point is imposed by the Authority.
- (2) A demerit point expires on the earlier of the following days—
  - (a) the day that is 3 years after the day on which the demerit point comes into force,
  - (b) if the demerit point is removed under section 144ZE(1)(a)—the day the demerit point is removed.
- (3) The expiration or removal of a demerit point does not affect the continued operation

of any remedial action taken as a result of the demerit point being incurred or imposed.

### **Division 3 Incurring and imposition of demerit points**

#### **Subdivision 1 Demerit points incurred for demerit offences**

##### **144H Demerit points incurred for demerit offences—licensed premises other than club premises**

If the licensee or manager of a licensed premises other than a club premises commits a demerit offence, the following number of demerit points are incurred against the licensee or manager—

- (a) if the demerit offence is a category 2 demerit offence—2 demerit points,
- (b) otherwise—1 demerit point.

##### **144I Demerit points incurred for demerit offences—club premises**

If the manager of a club premises commits a demerit offence, the following number of demerit points are incurred against the club licence for the club premises—

- (a) if the demerit offence is a category 2 demerit offence—2 demerit points,
- (b) otherwise—1 demerit point.

##### **144J Notice of demerit points incurred**

(1) If a demerit point is incurred against a licensee, manager of licensed premises or club licence under section 144H or 144I, the Secretary must give written notice about the demerit point to the following—

- (a) for a demerit point incurred against a licensee—the licensee,
- (b) for a demerit point incurred against a manager of licensed premises—
  - (i) the manager, and
  - (ii) the licensee for the licensed premises,
- (c) for a demerit point incurred against a club licence—
  - (i) the manager of the registered club to which the club licence relates, and
  - (ii) the secretary of the registered club to which the club licence relates.

(2) The notice must specify the following information—

- (a) the details of the licensee or manager against whom, or the club licence against which, the demerit point was incurred,



- (b) the details of the demerit offence in relation to which the demerit point was incurred,
- (c) the date on which the demerit point came into force,
- (d) the date on which the demerit point will expire, if not removed earlier,
- (e) the total number of demerit points in force for the licensee, manager or club licence after the incurring of the demerit point,
- (f) if, because of the total number of demerit points in force in relation to the licensee, manager or club licence, the Authority may take remedial action—the remedial action that the Authority may take,
- (g) any other matter prescribed by the regulations for the purposes of this section.

## **Subdivision 2 Demerit points imposed for prescribed complaints**

### **144K Definition**

In this Subdivision—

***prescribed complaint*** means a complaint in relation to a licensee or manager of licensed premises made to the Authority by the Secretary or Commissioner of Police under Part 9—

- (a) on a ground stated in section 139(3)(f), (g), (h), (ha) or (hb), and
- (b) relating to conduct or activities engaged in, circumstances existing, acts committed, or incidents occurring on or after the commencement of this Part.

### **144L Authority may impose demerit points in relation to prescribed complaints**

- (1) After dealing with and determining a prescribed complaint under Part 9, the Authority may, in addition to taking any disciplinary action under that Part, decide to impose 1 or 2 demerit points against—
  - (a) if the complaint relates to a licensee—the licensee, or
  - (b) if the complaint relates to the manager of licensed premises other than club premises—the manager, or
  - (c) if the complaint relates to the licensee or manager of club premises—the licence for the club premises.
- (2) In deciding whether to impose demerit points against the licensee, manager or licence, the Authority—
  - (a) must consider the following—

- (i) the nature and seriousness of the grounds for the prescribed complaint,
  - (ii) the nature and seriousness of any outcome of the acts or circumstances forming the grounds for the prescribed complaint,
  - (iii) the size and patron capacity of the licensed premises and any impact those factors have on the ability of the licensee or manager to prevent or manage the acts or circumstances forming the grounds for the prescribed complaint,
  - (iv) any demerit points incurred against the licensee, manager or licence under Subdivision 1 for a demerit offence arising from the conduct or activity, circumstances, act, or incident on which the prescribed complaint is based,
  - (v) any disciplinary action taken under Part 9 by the Authority in relation to the prescribed complaint, and
- (b) may take into account any other matter the Authority considers relevant.

**144M Notice of proposed demerit points**

- (1) If the Authority proposes to impose a demerit point under section 144L(1), the Authority must give written notice about the proposed demerit point to the following—
- (a) if the Authority proposes to impose a demerit point against a licensee—the licensee,
  - (b) if the Authority proposes to impose a demerit point against a manager—
    - (i) the manager, and
    - (ii) the licensee for the licensed premises,
  - (c) if the Authority proposes to impose a demerit point against a club licence—
    - (i) the manager of the club premises to which the club licence relates, and
    - (ii) the secretary of the registered club to which the club licence relates.
- (2) The notice must specify the following information—
- (a) the number of demerit points proposed to be imposed against the licensee, manager or club licence,
  - (b) that any person given notice under this section may, within the submission period for the notice, make written submissions to the Authority about why the proposed demerit points should not be imposed.

**144N Decision about imposition of demerit points**

- (1) After considering any submissions made by a licensee, manager or secretary of a

registered club, the Authority must decide to either—

- (a) take no further action under this Subdivision, or
- (b) impose 1 or 2 demerit points against the licensee, manager or club licence.

(2) If the Authority decides to impose demerit points under subsection (1)(b), the Authority must not impose more than the number of demerit points stated in the notice given under section 144M.

#### **144O Authority to give notice of decision**

- (1) The Authority must give written notice of the Authority's decision to each person to whom the Authority gave notice under section 144M(1).
- (2) If the Authority decides to impose demerit points against the licensee, manager or club licence, the notice must state the following details—
  - (a) the details of the licensee, manager or club licence,
  - (b) the number of demerit points imposed against the licensee, manager or club licence,
  - (c) the date on which the demerit points come into force,
  - (d) the date on which the demerit points will expire, if not removed earlier,
  - (e) the total number of demerit points in force for the licensee, manager or club licence after the imposition of the demerit points,
  - (f) if, because of the total number of demerit points in force in relation to the licensee, manager or club licence, the Authority may take remedial action—the remedial action that the Authority may take,
  - (g) any other matter prescribed by the regulations for the purposes of this section.

### **Division 4 Remedial action for accumulation of demerit points**

#### **Subdivision 1 Remedial action for accumulation of demerit points—licensees or managers of licensed premises**

##### **144P Remedial action—accumulation of 2-3 demerit points**

- (1) This section applies if, during any 3-year period, at least 2, but not more than 3, demerit points are in force for a licensee or manager of licensed premises.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may—
  - (a) reprimand the licensee or manager, or

- (b) require the licensee or manager to undertake the courses of training or instruction as the Authority considers appropriate.

**144Q Remedial action—accumulation of 4-5 demerit points**

- (1) This section applies if, during any 3-year period, at least 4, but not more than 5, demerit points are in force for a licensee or manager of licensed premises.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
  - (a) reprimand the licensee or manager,
  - (b) require the licensee or manager to undertake the courses of training or instruction the Authority considers appropriate,
  - (c) disqualify the licensee or manager for a specified period.

**144R Remedial action—accumulation of 6 or more demerit points**

- (1) This section applies if, during any 3-year period, 6 or more demerit points are in force for a licensee or manager of licensed premises.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
  - (a) reprimand the licensee or manager,
  - (b) require the licensee or manager to undertake the courses of training or instruction the Authority considers appropriate,
  - (c) disqualify the licensee or manager for a specified period,
  - (d) permanently disqualify the licensee or manager.

**Subdivision 2 Remedial action for accumulation of demerit points—licences other than club licences**

**144S Definition**

In this Subdivision—

**relevant demerit point**, in relation to a licensed premises, means a demerit point—

- (a) incurred under Subdivision 1 of Division 3 for a demerit offence committed on or in relation to the licensed premises, or
- (b) imposed under Subdivision 2 of Division 3 in relation to a prescribed complaint based on conduct or activities engaged in, circumstances existing, acts committed, or incidents occurring on or in relation to the licensed premises.

**144T Remedial action—accumulation of 2-3 demerit points**

- (1) This section applies if, during any 3-year period, at least 2, but not more than 3, relevant demerit points are in force for a licensee or manager, or former licensee or manager, of a licensed premises other than club premises.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may impose any condition on the licence the Authority considers necessary to address—
  - (a) the risk of a demerit offence being committed, or
  - (b) the likelihood of a prescribed complaint being made in relation to the licensee or manager.

**144U Remedial action—accumulation of 4-5 demerit points**

- (1) This section applies if, during any 3-year period, at least 4, but not more than 5, relevant demerit points are in force for a licensee or manager, or former licensee or manager, of a licensed premises other than club premises.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
  - (a) suspend the licence for the licensed premises for a period of up to 7 days,
  - (b) impose any condition on the licence for the licensed premises the Authority considers necessary to address—
    - (i) the risk of a demerit offence being committed, or
    - (ii) the likelihood of a prescribed complaint being made in relation to the licensee or manager.

**144V Remedial action—accumulation of 6 or more demerit points**

- (1) This section applies if, during any 3-year period, 6 or more relevant demerit points are in force for a licensee or manager, or former licensee or manager, of a licensed premises other than club premises.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
  - (a) suspend the licence for a period of up to 14 days,
  - (b) impose any condition on the licence the Authority considers necessary to address—
    - (i) the risk of a demerit offence being committed, or

- (ii) the likelihood of a prescribed complaint being made in relation to the licensee or manager.

### **Subdivision 3 Remedial action for accumulation of demerit points—club licences**

#### **144W Remedial action—accumulation of 2-3 demerit points**

- (1) This section applies if, during any 3-year period, at least 2, but not more than 3, demerit points are in force for a club licence.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
  - (a) reprimand the manager of the club premises,
  - (b) reprimand the secretary of the club to which the club licence relates,
  - (c) require any one or more of the following persons to undertake the courses of training or instruction the Authority considers appropriate—
    - (i) the manager of the club premises,
    - (ii) the secretary of the club to which the club licence relates,
    - (iii) any member of the governing body of the club to which the club licence relates,
  - (d) impose any condition on the club licence the Authority considers necessary to address—
    - (i) the risk of a demerit offence being committed, or
    - (ii) the likelihood of a prescribed complaint being made in relation to the licensee or manager of the club premises.

#### **144X Remedial action—accumulation of 4-5 demerit points**

- (1) This section applies if, during any 3-year period, at least 4, but not more than 5, demerit points are in force for a club licence.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
  - (a) reprimand, or disqualify for a specified period, the manager of the club premises,
  - (b) reprimand, or disqualify for a specified period, the secretary of the club to which the club licence relates,
  - (c) require any one or more of the following persons to undertake the courses of

training or instruction the Authority considers appropriate—

- (i) the manager of the club premises,
  - (ii) the secretary of the club to which the club licence relates,
  - (iii) any member of the governing body of the club to which the club licence relates,
- (d) impose any condition on the club licence the Authority considers necessary to address—
- (i) the risk of a demerit offence being committed, or
  - (ii) the likelihood of a prescribed complaint being made in relation to the licensee or manager of the club premises.

**144Y Remedial action—accumulation of 6 or more demerit points**

- (1) This section applies if, during any 3-year period, 6 or more demerit points are in force for a club licence.
- (2) If the Authority is satisfied that it is appropriate in the circumstances, the Authority may do any of the following—
- (a) reprimand, or disqualify either permanently or for a specified period, the manager of the club premises,
  - (b) either or both of the following—
    - (i) reprimand, or disqualify either permanently or for a specified period, the secretary of the club to which the club licence relates,
    - (ii) reprimand, or disqualify for a specified period, another member of the club's governing body,
  - (c) require any one or more of the following persons to undertake the courses of training or instruction the Authority considers appropriate—
    - (i) the manager of the club premises,
    - (ii) the secretary of the club to which the club licence relates,
    - (iii) any member of the governing body of the club to which the club licence relates,
  - (d) impose any condition on the club licence the Authority considers necessary to address—
    - (i) the risk of a demerit offence being committed, or

- (ii) the likelihood of a prescribed complaint being made in relation to the licensee or manager of the club premises.

## **Subdivision 4 General provisions**

### **144Z Notice of proposed remedial action**

- (1) Before taking remedial action under this Subdivision, the Authority must give the following persons written notice of the proposed remedial action—
  - (a) if the Authority proposes to take remedial action in relation to a licensee or manager of licensed premises other than club premises—
    - (i) the licensee or manager against whom remedial action is proposed to be taken, and
    - (ii) if the Authority proposes to take remedial action against a manager of licensed premises—the licensee for the licensed premises, and
    - (iii) the owner of the licensed premises, and
    - (iv) each person who is interested in the business, or in the conduct or profits of the business, carried on under the licence and whose name has been given to the Authority under section 41 or 55, and
    - (v) any other person prescribed by the regulations for the purposes of this section,
  - (b) if the Authority proposes to take remedial action in relation to a licence other than a club licence—
    - (i) the licensee for the licence, and
    - (ii) the manager of the licensed premises, and
    - (iii) the owner of the licensed premises to which the licence relates, and
    - (iv) each person who is interested in the business, or in the conduct or profits of the business, carried on under the licence and whose name has been given to the Authority under section 41 or 55, and
    - (v) any other person prescribed by the regulations for the purposes of this section, or
  - (c) if the Authority proposes to take remedial action in relation to a club licence—
    - (i) the secretary of the registered club to which the club licence relates, and
    - (ii) the manager of the club premises to which the club licence relates, and



(iii) if the Authority proposes to reprimand or disqualify a member of the club's governing body—the member, and

(iv) any other person prescribed by the regulations for the purposes of this section.

(2) The notice must specify the following information—

(a) the number of demerit points in force in relation to the licensee, manager or licence,

(b) the following details of the proposed remedial action—

(i) the period of any proposed suspension of the licence,

(ii) the details of any proposed reprimand of a person,

(iii) the period of any proposed disqualification of a person,

(iv) the date on which any proposed suspension or disqualification starts,

(v) the date on which any proposed suspension or disqualification ends,

(vi) the details of any conditions proposed to be imposed on the licence,

(vii) any other details prescribed by the regulations for the purposes of this section,

(c) that the person may, within the submission period for the notice, make submissions to the Authority about the proposed remedial action.

#### **144ZA Requirements for deciding to take remedial action**

(1) In deciding whether to take remedial action under this Division, the Authority—

(a) must take into account the following—

(i) any submissions made by the following persons—

(A) a person specified in section 144Z(1),

(B) the NSW Police Force,

(C) the local consent authority for the licensed premises,

(D) the Secretary,

(ii) to the extent that the Authority considers it to be relevant to the decision—

(A) the size and patron capacity of the licensed premises and any impact those factors have on the ability of the licensee or manager of the licensed

premises to prevent a demerit offence being committed or another prescribed complaint being made in relation to the licensee or manager of the licensed premises, and

- (B) the history and nature of the commission of demerit offences by the licensee or manager, and
- (C) the history and nature of prescribed complaints that have been made in relation to the licensee or manager, and
- (D) whether other action would be preferable, and
- (E) whether there have been changes to the persons who are the licensee, manager of the licensed premises, or owner of the business carried on under the licence, and
- (F) whether there have been changes to the business practices in respect of the business carried on under the licence, and
- (G) any other matter prescribed by the regulations for the purposes of this section, and

(b) may take into account any other matter the Authority considers relevant.

(2) The Authority must, as soon as practicable after making the decision, give each person stated in section 144Z(1) written notice of the following—

- (a) the decision,
- (b) the reasons for the decision,
- (c) any right of review in respect of the decision.

(3) The regulations may prescribe guidelines setting out how the matters referred to in subsection (1)(a)(ii) are to be taken into account by the Authority.

**144ZB Provisions relating to conditions imposed on licences under Subdivision 2 or 3**

(1) In imposing a condition on a licence under Subdivision 2 or 3, the Authority may, but is not required to, specify a period for which the condition is to apply.

(2) The Authority may, at any time, vary or revoke a condition imposed on a licence under Subdivision 2 or 3.

(3) In varying or revoking a condition under subsection (2), the Authority must comply with sections 144Z and 144ZA as if—

- (a) a reference to taking remedial action in relation to a licence in those sections were a reference to varying or revoking a condition of the licence, and

(b) a reference to proposed remedial action in those sections were a reference to the proposed variation or revocation.

(4) If a period for which a condition imposed on a licence under this Subdivision is to apply is not specified, the condition remains in force until revoked by the Authority.

## **Division 5 Removal and reinstatement of demerit points**

### **144ZC Application by licensee or manager of licensed premises to remove a category 1 demerit point**

(1) This section applies in relation to a licensee or manager of licensed premises other than club premises, or the secretary of a registered club, if—

(a) there is not more than 1 demerit point in force in relation to the licensee or manager, or the club licence for the registered club, and

(b) the demerit point is a category 1 demerit point.

(2) The licensee, manager or secretary may apply to the Authority to remove the category 1 demerit point if, in the 10-year period immediately preceding the making of the application—

(a) for a demerit point in force in relation to a licensee or manager—the licensee or manager has not committed a demerit offence other than the demerit offence, if any, in respect of which the demerit point was incurred, and

(b) for a demerit point in force in relation to a club licence—the manager of the club premises has not committed a demerit offence other than the demerit offence, if any, in respect of which the demerit point was incurred, and

(c) no other demerit points have been incurred or imposed against the licensee or manager, or the club licence.

(3) The application must—

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

(b) be accompanied by—

(i) the fee (if any) prescribed by the regulations, and

(ii) any information or particulars prescribed by the regulations, and

(c) comply with any other requirements approved by the Authority or prescribed by the regulations.

(4) In this section—

***category 1 demerit point***—

- (a) in relation to a person, means a demerit point incurred against the person as a result of the person having committed a category 1 demerit offence, or
- (b) in relation to a club licence, means a demerit point incurred against the club licence as a result of the manager of the club premises having committed a category 1 demerit offence.

**144ZD Application to remove demerit points**

- (1) The following persons may apply to the Authority to remove a demerit point that is in force in relation to a licensee, manager of licensed premises or club licence—
  - (a) if the demerit point is in force in relation to a licensee—the licensee,
  - (b) if the demerit point is in force in relation to a manager of licensed premises—the manager,
  - (c) if the demerit point is in force in relation to a club licence—the secretary of the registered club that holds the club licence.
- (2) However, a person may not apply under this section to remove a demerit point within the period of 12 months immediately after the demerit point was incurred or imposed.
- (3) The regulations may prescribe other circumstances in which an application may not be made under this section.
- (4) The application must—
  - (a) be in the form and manner approved by the Authority, and
  - (b) be accompanied by—
    - (i) the fee (if any) prescribed by the regulations, and
    - (ii) any information or particulars prescribed by the regulations, and
  - (c) comply with any other requirements approved by the Authority or prescribed by the regulations.
- (5) The Authority must—
  - (a) give a copy of the application to each person prescribed by the regulations for the purposes of this subsection, and
  - (b) give each person a reasonable opportunity to make submissions in relation to the application.

**144ZE Deciding application to remove demerit points**

- (1) In deciding an application made under this Division, the Authority may—

- (a) remove the demerit point, or
  - (b) refuse to remove the demerit point.
- (2) The Authority may decide to remove the demerit point only if the Authority is satisfied that—
- (a) for an application made under section 144ZC(2)—
    - (i) the Secretary or the Authority have not taken any action in relation to the licensee or manager of the licensed premises, or the licence for the licensed premises, under any provision of this Act in relation to—
      - (A) the demerit point, or
      - (B) the act or circumstances that were the basis of the demerit offence in respect of which the demerit point was incurred, and
    - (ii) the act or circumstances that were the basis of the demerit offence in respect of which the demerit point was incurred did not result in serious harm to any person, and
    - (iii) the licensee or manager of the licensed premises has implemented measures, or undertaken a course of training or instruction, to manage or reduce the risks that contributed to the commission of the demerit offence in respect of which the demerit point was incurred, and
    - (iv) the provisions of this Act or the regulations referred to in the definitions of **category 1 demerit offence** and **category 2 demerit offence** have not, since the demerit point was incurred or imposed, been contravened—
      - (A) by the person who committed the demerit offence in relation to which the demerit point was incurred, or
      - (B) for a demerit point incurred against a club licence—by a manager of the club premises, or
  - (b) for an application made under section 144ZD(1)—
    - (i) any remedial action taken by the Authority under Division 4 of this Part in relation to the demerit point has been complied with, and
    - (ii) the licensee or manager of the licensed premises has implemented measures, or undertaken a course of training or instruction, to manage or reduce the risks that contributed to—
      - (A) the commission of the demerit offence in respect of which the demerit point was incurred, or

- (B) the prescribed complaint in respect of which the demerit point was imposed, and
  - (iii) the provisions of this Act or the regulations referred to in the definitions of **category 1 demerit offence** and **category 2 demerit offence** have not, since the demerit point was incurred or imposed, been contravened—
    - (A) by the person who committed the demerit offence in relation to which the demerit point was incurred, or
    - (B) for a demerit point incurred against a club licence—by a manager of the club premises.
- (3) For the purposes of subsections (2)(a)(iii) and (b)(ii), the Authority must not take into account a measure or course of training or instruction the licensee or manager is required to implement or undertake under a provision of this Act or regulations.
- (4) The regulations may also prescribe—
- (a) any matters the Authority must consider in deciding the application, and
  - (b) any mandatory or discretionary grounds for refusing to grant the application.
- (5) The Authority must, as soon as practicable after making the decision, give the applicant written notice of the following—
- (a) the decision,
  - (b) the reasons for the decision,
  - (c) any right of review in relation to the decision.
- (6) If a demerit point is removed by the Authority under this section, any remedial action taken as a result of the demerit point continues to have effect despite the removal unless the Authority decides otherwise.

#### **144ZF Reinstatement of demerit points**

- (1) This section applies if the Authority is satisfied a demerit point was removed under section 144ZE(1)(a) on the basis of false, misleading, inaccurate or incomplete information provided by a licensee, manager of licensed premises or secretary of a registered club.
- (2) The Authority may reinstate the demerit point against the licensee, manager of licensed premises or licence from against which the demerit point was removed.
- (3) A demerit point reinstated under subsection (2)—
  - (a) is taken not to have been removed, and

- (b) must be reinstated in the demerit points register—
  - (i) against the licensee, manager of licensed premises or licence, and
  - (ii) in relation to the day that the demerit point was originally recorded under section 144E(2) or (3).
- (4) If a demerit point is reinstated under this section—
  - (a) any remedial action taken in relation to the licence or person as a result of the demerit point before the removal applies as if the demerit point had not been removed, and
  - (b) any condition imposed on the licence as a result of the demerit point immediately before the removal of the demerit point applies as if the demerit point had not been removed.

## **Division 6 General provisions**

### **144ZG Submissions not to be used for prosecuting offences**

A submission made to the Authority under this Part may not be used for the purposes of prosecuting an offence under this Act.

### **144ZH Administrative review by NCAT**

- (1) A person required to be given notice of a reviewable decision under section 144ZA(2) or 144ZE(5) may apply to the Civil and Administrative Tribunal for an administrative review under the [Administrative Decisions Review Act 1997](#) of the decision.
- (2) The application must be made no later than 21 days after the person receives the notice.
- (3) Part 2 of Chapter 3 of the [Administrative Decisions Review Act 1997](#) does not apply to the application.
- (4) If the reviewable decision is a decision by the Authority to take remedial action, the application operates to stay the reviewable decision unless the Civil and Administrative Tribunal otherwise directs.
- (5) The operation of any remedial action taken by the Authority is suspended during any time the decision is stayed.
- (6) In determining the application, the Civil and Administrative Tribunal must take into account any matter that was required to be taken into account in making the reviewable decision.

#### **144ZI Effect of appeals against convictions for demerit offences**

- (1) An appeal against a conviction for a demerit offence does not operate to prevent—
  - (a) a demerit point being incurred as a result of the commission of the offence, or
  - (b) the taking of remedial action in respect of such a demerit point.
- (2) However, an appeal does operate to suspend the operation of any such remedial action until the appeal is determined or withdrawn.

**Note—**

If the appeal is successful and the conviction is overturned, a demerit point based on the conviction is revoked and any remedial action taken as a result of such a demerit point ceases to have effect.

- (3) The Authority may, if satisfied that circumstances have changed during the period that the operation of remedial action is suspended under this section, replace the remedial action with any remedial action that the Authority could have taken had those changed circumstances applied when the relevant demerit point was incurred.

### **Part 9B Enforceable undertakings**

#### **144ZJ Secretary may accept enforceable undertakings**

- (1) The Secretary may require a licensee to give an undertaking (an **enforceable undertaking**) to do, or refrain from doing, something if—
  - (a) the licensee has contravened this Act, or
  - (b) the Secretary reasonably believes the licensee has contravened this Act.
- (2) The Secretary may also invite a licensee to give an enforceable undertaking to prevent a risk of potential harm even if the licensee has not contravened, or allegedly contravened, this Act.
- (3) An enforceable undertaking is an alternative to taking disciplinary action and disciplinary action may not be taken in relation to the contravention or alleged contravention of this Act while an enforceable undertaking is in force.
- (4) An enforceable undertaking may provide for the following—
  - (a) a matter that prevents a contravention of this Act,
  - (b) a matter relating to the mitigation or remediation of a contravention of this Act,
  - (c) a matter relating to the prevention of risks of harm from liquor,
  - (d) another matter the Secretary and the licensee consider relevant.
- (5) An enforceable undertaking may be—



- (a) accepted by the Secretary by written notice given by the Secretary to the licensee, and
  - (b) varied or withdrawn by the Secretary, by written notice given to the licensee—
    - (i) on the Secretary's own initiative, or
    - (ii) at the request of the licensee.
- (6) The Secretary may publish an enforceable undertaking on a NSW Government website, unless the Secretary considers—
- (a) the undertaking includes matters that are commercial in confidence, or
  - (b) the publication of the undertaking would not be in the public interest, or
  - (c) the undertaking includes personal information—
    - (i) that cannot be easily redacted, or
    - (ii) the redaction of which would make the publication meaningless.
- (7) If the Secretary is satisfied a licensee has, without reasonable excuse, failed to comply with an enforceable undertaking, the Secretary may certify the failure to the Supreme Court.
- (8) The Supreme Court may inquire into the case and—
- (a) order the licensee to comply with the enforceable undertaking within a period specified by the Court, or
  - (b) if the Court is satisfied the licensee failed, without reasonable excuse, to comply with the enforceable undertaking—punish the licensee as if the licensee were in contempt of the Court and, if the Court thinks fit, also make an order under paragraph (a).

## **Part 10 Criminal proceedings and related matters**

### **145 Proceedings for offences**

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

### **146 Time within which proceedings for offences may be commenced**

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

commenced within but not later than 3 years after the date on which the offence is alleged to have been committed.

**147 (Repealed)**

**148 Additional penalties may be imposed by court**

- (1) In addition to any other penalty that a court may impose on a licensee or other person for an offence under this Act or the regulations, the court may, if it thinks it appropriate, do any one or more of the following—
- (a) reprimand the licensee or person,
  - (b) impose a condition to which a licence is to be subject,
  - (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 for such period as the court thinks fit,
  - (h) give such directions as to the exercise of the licence as the court thinks fit.
- (2) Any condition imposed on a licence by a court under subsection (1)(b) may be revoked or varied by the court on application by the licensee, the Authority, the Secretary or the Commissioner of Police.

**149 Licensees and managers liable for act of employees etc**

If, in contravention of this Act or the regulations—

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

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

### **149A General defence available to managers of club premises**

- (1) It is a sufficient defence to a prosecution of a manager of club premises for an offence under this Act or the regulations (including any offence for which the manager is liable because of section 91 or 149) if it is proved that—
  - (a) the manager had taken all reasonable precautions to avoid commission of the alleged offence, and
  - (b) at the time of the alleged offence the manager did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.
- (2) However, subsection (1) does not apply in relation to any of the following offences—
  - (a) an offence under section 73(1)(a) (permitting intoxication on licensed premises),
  - (b) an offence under section 75(3) (failure to comply with direction by Secretary),
  - (c) any offence under this Act or the regulations in respect of which a defence is specifically available to the manager of club premises,
  - (d) any other offence under this Act or the regulations that is prescribed by the regulations for the purposes of this subsection.

### **150 Penalty notices**

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.

**Note—**

The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.

- (4) However—
  - (a) section 22A(1) of the *Fines Act 1996* does not apply in relation to disciplinary action under Part 9 or 9A of this Act, and
  - (b) despite section 22A(2) of the *Fines Act 1996*, when an amount is paid under this section in respect of a penalty notice issued to a person, the person is, for the purposes of Part 9 of this Act, taken to have been convicted of the offence to which the penalty notice relates.

- (5) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (6) 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.
- (7) In this section—  
**authorised officer** means a police officer or an inspector.

### **151 Forfeiture and seizure of liquor and other things**

- (1) If a person is found guilty of an offence under section 7, any liquor that was, at the time of the commission of the offence, in the person's possession or apparently under the person's control is forfeited to the Crown.
- (2) If the holder of a producer/wholesaler licence, or an employee or agent of such a licensee, is found guilty of an offence under section 9(1)(b) of selling liquor that is not authorised to be sold under the licence, any liquor (other than liquor the licensee is authorised to sell under the licence) that was, at the time of the commission of the offence, in the licensee's possession or apparently under the licensee's control is forfeited to the Crown.
- (3) If a person is found guilty of an offence under section 113—
  - (a) any liquor to which the offence relates, and
  - (b) any vehicle, boat or other thing in which the liquor was being carried, offered or exposed,is forfeited to the Crown.
- (4) If a licence is cancelled under this Act, any liquor found, not earlier than 7 days after the cancellation takes effect, in the former licensee's possession on the former licensed premises is forfeited to the Crown.
- (5) A police officer or inspector may seize and carry away anything that the officer or inspector reasonably suspects may be liable to forfeiture under this section.
- (6) For the purposes of this section, **liquor** includes any bottle or other container in which the liquor is contained.

### **152 Evidentiary provisions**

- (1) In any proceedings for an offence under this Act or the regulations, any one or more of the following allegations (however expressed) is evidence of the truth of the allegation unless the contrary is proved—

- (a) that a specified person was or was not the holder of a licence or a specified kind of licence at a specified time or during a specified period,
- (b) that a specified licence was or was not subject to a specified condition at a specified time or during a specified period,
- (c) that a specified authorisation to which section 51 applies was or was not in force at a specified time or during a specified period,
- (d) that a specified licence was or was not endorsed with a specified endorsement at a specified time or during a specified period,
- (e) that a specified person was or was not the secretary or an office holder of a specified non-proprietary association at a specified time or during a specified period,
- (f) that a specified licence was or was not held by a specified person on behalf of a specified non-proprietary association at a specified time or during a specified period,
- (g) that a specified body or association was or was not a specified non-proprietary association at a specified time or during a specified period,
- (h) that a specified licence was or was not suspended or cancelled at a specified time or during a specified period,
- (i) that specified premises were or were not licensed premises at a specified time or during a specified period,
- (j) that a specified part of premises was or was not a bar area at a specified time or during a specified period,
- (k) that specified hours were or were not the trading hours of specified licensed premises at a specified time or during a specified period,
- (l) that specified premises were subject to a closure order under this Act at a specified time or during a specified period,
- (m) that a minors area authorisation or minors functions authorisation was or was not in force in respect of a specified part of any premises at a specified time or during a specified period,
- (n) that a specified person has or has not been approved by the Authority as a person who may be appointed as the manager of licensed premises,
- (n1) that a specified person is or was, at a specified time or during a specified period, a staff member of licensed premises situated in a prescribed precinct,

- (n2) that a specified person was, at a specified time or during a specified period, the manager of a high risk venue within the meaning of section 116AA (as in force before its repeal by the *Liquor Amendment (Reviews) Act 2017*) or 116B,
  - (o) that a specified person is or was, at a specified time or during a specified period, the Secretary,
  - (p) that a specified person is or was, at a specified time or during a specified period, a delegate of the Minister, the Commissioner of Police, the Authority or the Secretary to whom a specified function has been delegated under this Act or the *Gaming and Liquor Administration Act 2007*,
  - (q) that a specified person is or was, at a specified time or during a specified period, an inspector,
  - (q1) that a specified person is or was, at a specified time or during a specified period, an authorised person for the purposes of section 77,
  - (r) that a liquid or other substance is liquor.
- (2) In any proceedings for an offence under this Act or the regulations, an allegation that, at a specified time, a person was under the age of 18 years is evidence of the truth of the allegation unless the defendant denies the allegation in the manner prescribed by the regulations.
- (3) In any proceedings for an offence under this Act or the regulations, evidence of delivery or supply of liquor is evidence of a sale of the liquor.
- (4) In any proceedings for an offence under section 9(2), liquor is taken to have been sold or consumed on the licensed premises to which the proceedings relate regardless of whether the licensee took or carried, or caused another person to take or carry, the liquor out of the licensed premises for the purpose of being sold or consumed at another place occupied by the licensee or in a public place.

## **Part 11 Miscellaneous provisions**

### **153 (Repealed)**

### **154 Review of disqualification by Authority**

- (1) A person may, in accordance with the regulations, apply to the Authority for removal of a disqualification of more than 3 years imposed by the Authority under section 141(2).
- (2) The application may be made only after—
  - (a) any minimum period set by the Authority during which the application may not be made has expired, or

(b) if no minimum period has been set, the disqualification has been in force for 3 years.

(3) On application being made for the removal of a disqualification, the Authority may—

(a) remove the disqualification, or

(b) shorten the period of disqualification, or

(c) confirm the disqualification and set a minimum period during which a further application under this section may not be made.

### **155 (Repealed)**

### **156 Report by Authority on liquor licensing matters**

(1) The Authority is to include the following information in the annual reporting information prepared for it under the *Government Sector Finance Act 2018*—

(a) the number of licences in force in each Statistical Local Area determined by the Australian Bureau of Statistics (along with the total State-wide number of licences) during the annual reporting period to which the information relates,

(b) the number of new licences granted by the Authority during that reporting period,

(c) the number of licences suspended or cancelled by the Authority during that reporting period,

(d) the number of authorisations to which section 51 applies granted by the Authority during that reporting period,

(e) the number of licences in respect of which disciplinary action was taken by the Authority during that reporting period and the nature of the disciplinary action taken.

(2) The information provided in relation to licences and authorisations in the annual reporting information is, where relevant, to be categorised according to the different types of licences and authorisations that may be granted and held under this Act.

### **157 Delegations**

(1) An office holder may delegate to a person any function conferred or imposed on the office holder by or under this Act, other than this power of delegation.

#### **Note—**

The power of the Authority to delegate its functions under this Act is contained in the *Gaming and Liquor Administration Act 2007*.

(2) A person to whom a function has been delegated by the Minister or the Commissioner of Police may delegate the function to another person, subject to any conditions to

which the delegation by the Minister or the Commissioner is subject.

(3) In this section—

**office holder** means any of the following—

- (a) the Minister,
- (b) the Commissioner of Police,
- (c) the Secretary.

### **158 Crown not liable for any compensation**

- (1) Damages or compensation are not payable by or on behalf of the Crown because of—
  - (a) the enactment or operation of this Act, or for the consequences of that enactment or operation, or
  - (b) a representation or conduct of any kind about any restrictions or limitations on the sale or supply of liquor on any premises or kind of premises.
- (2) In subsection (1), **the Crown** means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes any employee or agent of the Crown.

### **159 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made for or with respect to the following—
  - (a) the payment of fees for or in connection with any application made under this Act or the regulations,
  - (b) any matter relating to fees payable under this Act or the regulations (including the waiver, discounting or refunding of fees),
  - (c) requiring the keeping of records relating to licences,
  - (d) requiring or authorising the placing of notices or signs in or on licensed premises and the form and content of those notices or signs,
  - (e) the endorsement of licences and their production for endorsement or for any other purpose,
  - (f) requirements in relation to liquor accords,
  - (f1) (Repealed)



- (f2) requirements for licensees, managers and other persons engaged in the sale, supply, service or promotion of liquor or other related activities to undergo courses of training or otherwise demonstrate the necessary knowledge to promote responsible practices in engaging in the activities,
  - (f3) matters relating to same day deliveries of liquor under Division 1B of Part 6,
  - (f4) matters relating to the recording and reporting of data about alcohol sales or deliveries by same day delivery providers, including, for example, requirements relating to—
    - (i) the type of records to be kept, and
    - (ii) the frequency with which providers must provide reports,
  - (f5) conditions of licences in relation to the entertainment that may be provided, or the way in which entertainment may be provided, on licensed premises or areas adjacent to licensed premises, including the revocation of the conditions,
  - (g) any other matter relating to licences and licensed premises.
- (2A) The regulations may provide that a particular type of licence is not to be granted if the Authority is of the opinion that the sale or supply of liquor under the licence would more appropriately be provided under another type of licence.
- (3) The regulations may create offences punishable by a penalty not exceeding 50 penalty units.
- (4) The regulations may exempt specified persons or classes of persons, or specified premises or classes of premises, or specified licences or classes of licences, from any specified provision of this Act.
- (5) A regulation may apply, adopt or incorporate any publication as in force from time to time.

## **160 Savings and transitional provisions**

Schedule 1 has effect.

## **161 Repeals**

The following Acts and regulations are repealed—

- (a) *Liquor Act 1982*,
- (b) *Liquor (Repeals and Savings) Act 1982*,
- (c) *Liquor Regulation 1996*,
- (d) *Liquor (Transitional Provisions) Regulation 1983*.

## 162 Review of Act

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

## 163, 163A (Repealed)

## Part 12 Special provisions relating to COVID-19 pandemic

### 164 Purpose

- (1) The purpose of this Part is to introduce temporary measures during the period of the COVID-19 pandemic to allow local councils to encourage the use of outdoor space for outdoor dining and performance to assist with social distancing measures.
- (2) It is intended that this Part operate in addition to the [Roads Act 1993](#), Part 9, Division 1, which also provides for the use of roads for food or drink premises.
- (3) However, to the extent of any inconsistency between this Part and the [Roads Act 1993](#), Part 9, Division 1, this Part prevails during the period of the COVID-19 pandemic.

### 165 Definitions

In this Part—

**area**, for a local council, means the area for which the local council is constituted.

**classified road** has the same meaning as in the [Roads Act 1993](#).

**footway** has the same meaning as in the [Roads Act 1993](#).

**local council** means a council under the [Local Government Act 1993](#).

**prescribed period** means the period—

- (a) starting on the commencement of this section, and
- (b) ending at the beginning of 11 December 2023.

**public open space** has the same meaning as in the [Roads Act 1993](#).

**roads authority** has the same meaning as in the [Roads Act 1993](#).

## **166 Local councils to have temporary powers to encourage use of outdoor space**

- (1) During the prescribed period—
  - (a) a local council may decide, by notice published on its website—
    - (i) to temporarily allow the use of a footway or public open space associated with any of the following to be used as an outdoor dining area, extension of foyer space or a performance space—
      - (A) licensed premises or other lawful food and drink premises,
      - (B) entertainment, arts or cultural venue, or
    - (ii) to temporarily allow parking spaces within the local council's area to be used as an outdoor dining area, extension of foyer space or performance space, or
    - (iii) to temporarily close a road, for which it is the roads authority, for use as an outdoor dining area, extension of foyer space or performance space, or
    - (iv) to temporarily close a classified road, with the concurrence of Transport for NSW, for use as an outdoor dining area, extension of foyer space or performance space, or
    - (v) to temporarily vary a development consent or a development consent condition to allow outdoor performance, and
  - (b) if the council allows use of pathways, public open space, roads or other premises for a purpose mentioned in paragraph (a), the use is taken to be exempt development specified for the purposes of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- (2) A local council may make a decision referred to in subsection (1) only if the council has—
  - (a) given the Minister at least 7 days notice that the council wants to trial outdoor dining and performance to assist with social distancing measures and invited the Minister to respond to the proposal, and
  - (b) given 7 days notice of its intention to make the decision—
    - (i) by publishing a notice about the proposed decision on the council's website, and
    - (ii) to the following persons—
      - (A) if the proposed decision relates to licensed premises—the Authority and the Commissioner of Police,
      - (B) if the proposed decision relates to a road for which the council is the roads

authority—the Commissioner of Police and Transport for NSW,

(C) if the proposed decision relates to a classified road—the Commissioner of Police and Transport for NSW, and Transport for NSW has agreed to the road closure.

(3) A decision referred to in subsection (1)—

- (a) has effect subject to a provision of an Act, regulation or other instrument that provides for noise attenuation for licensed premises or other premises, and
- (b) has effect for the purposes of sections 126 and 127 of the *Roads Act 1993* as if it were an approval granted under section 125 of that Act, and
- (c) has effect despite any provision of the *Roads Act 1993*, the *Transport Administration Act 1988* or another Act, or a regulation or instrument made under an Act, that requires local councils to submit traffic management plans or consult with local traffic committees.

## **167 Repeal of Part**

This Part is repealed at the beginning of 11 December 2023.

## **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 this Act or any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate—
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

## Part 2 Provisions consequent on enactment of this Act

### Division 1 Preliminary

#### 2 Definitions

In this Part—

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

**former Act** means the *Liquor Act 1982*.

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

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

### Division 2 Existing liquor licences

#### 3 General provisions

- (1) An existing licence is taken to be a licence of the corresponding kind (as determined in accordance with this Division) in force under this Act.

**Note—**

Transitional arrangements dealing with existing certificates of registration for registered clubs, and the continuation of existing trading hours for registered clubs, are contained in Part 20 of Schedule 2 to the *Registered Clubs Act 1976*.

- (2) Any such existing licence may be dealt with under, and is otherwise subject to, the provisions of this Act and the regulations.
- (3) Subject to the regulations, an existing licence is not subject to the conditions or restrictions to which the licence was subject under the former Act other than a condition or restriction imposed by the former Court or the former Board specifically in relation to the existing licence or the licensed premises to which it relates.
- (4) Any such condition or restriction imposed by the former Court or the former Board in relation to an existing licence or the licensed premises to which it relates is taken to be a condition or restriction imposed by the Authority under this Act (and accordingly a reference to the former Court or the former Board in or in relation to any such existing condition or restriction is to be construed as a reference to the Authority). The Authority has such powers as are necessary to continue to give effect to any such condition or restriction and may vary or revoke the condition or restriction in accordance with this Act.
- (5) A reference in any other Act, or in an instrument under any other Act or in any other document, to an existing liquor licence of any kind is to be read as a reference to a

licence of the corresponding kind (as determined in accordance with this Division).

- (6) A reference in this Division to any condition, restriction or authorisation under the former Act is a reference to a condition, restriction or authorisation that had effect (or was otherwise in force) under the former Act immediately before its repeal by this Act.
- (7) In this clause, a reference to the former Act includes a reference to the *Liquor (Repeals and Savings) Act 1982*.

#### **4 Existing hotelier's licence**

- (1) The corresponding licence for an existing hotelier's licence is a hotel licence.
- (2) The standard trading period applies to the licensed premises to which the existing licence relates. If trading outside of the standard trading period was authorised on the licensed premises under the former Act, an extended trading authorisation under this Act that relates to that extended trading period is taken to be in force in relation to the licensed premises.
- (3) Any authority under section 112 of the former Act applying in respect of the licensed premises continues to apply as a minors area authorisation under this Act.

#### **5 Existing nightclub licence**

- (1) The corresponding licence for an existing nightclub licence is—
  - (a) in the case where the licensed premises were only allowed to trade after 8 pm under the former Act—an on-premises licence that relates to a public entertainment venue, or
  - (b) in any other case—an on-premises licence that relates to a public entertainment venue and a restaurant.
- (2) If, in either case, the licensed premises concerned included a motel under the former Act, the corresponding licence for the existing nightclub licence is also an on-premises licence that relates to accommodation premises.
- (3) The following provisions apply in relation to an existing nightclub licence—
  - (a) the standard trading period applies to the licensed premises to which the licence relates,
  - (b) if trading outside of the standard trading period was authorised on the licensed premises under the former Act, an extended trading authorisation that relates to that extended trading period is taken to be in force in relation to the licensed premises,
  - (c) if the existing licence was endorsed with a dine-or-drink authority under the former Act (being an authority in force immediately before the commencement of

this clause), the licence is taken to be endorsed with an authorisation under section 24(3) of this Act allowing liquor to be sold or supplied, in accordance with any conditions of that authorisation, on the licensed premises otherwise than with, or ancillary to, another product or service,

- (d) any minors functions authority under section 111A of the former Act applying in respect of the licensed premises continues to apply as a minors functions authorisation under this Act.

## **6 Existing off-licence (retail)**

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

## **7 Existing restaurant licence**

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

## **8 Other existing on-licences**

- (1) The corresponding licence—
  - (a) for an existing on-licence relating to a motel is an on-premises licence that relates

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



### **8A Restricted trading days—existing on-licences**

- (1) Without limiting clauses 7 and 8, if the licensed premises to which an existing on-premises licence relates were authorised under the former Act to trade between 5 am and noon, or between 10 pm and midnight, on a restricted trading day, an extended trading authorisation that relates to the period concerned is taken to be in force in relation to the licensed premises.
- (2) Except as otherwise provided under this Act, liquor must not be sold for consumption on the licensed premises during any such extended trading period on a restricted trading day unless it is sold with or ancillary to a meal served in a dining area on the licensed premises.

### **9 Existing on-premises licence (function)**

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

### **10 Existing caterer's licence**

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

### **11 Existing vigneron, wholesaler and brewer licences**

The corresponding licence for an existing off-licence—

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

## **12 Existing community liquor licence**

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

## **13 Existing Governor's licence**

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

## **14 Existing special event licence**

- (1) The corresponding licence for an existing special event licence is a limited licence.
- (2) Despite clause 3(3), an existing special event licence is subject to the conditions and

restrictions to which the licence was subject under the former Act.

- (3) The trading hours authorised under the former Act for the licensed premises to which an existing special event licence relates continue to apply until such time as they are varied under this Act.

## 15 Existing Australian wine licence

- (1) This clause applies to a licence (referred to as ***an existing Australian wine licence***) to which Schedule 4 (Special provisions relating to Australian wine licences) to the *Liquor (Repeals and Savings) Act 1982* (***the relevant Act***) applied immediately before the repeal of the relevant Act by this Act.
- (2) The corresponding licence for an existing Australian wine licence referred to in clause 1(2)(a) of Schedule 4 to the relevant Act is a packaged liquor licence.
- (3) The following provisions apply in relation to an existing Australian wine licence that is converted to a packaged liquor licence under subclause (2)—
  - (a) the standard trading period applies to the licensed premises,
  - (b) if trading outside of the standard trading period was authorised on the licensed premises under the former Act, an extended trading authorisation that relates to that extended trading period is taken to be in force in relation to the licensed premises,
  - (c) only wine may be sold or supplied on the licensed premises,
  - (d) the licence cannot be removed to other premises unless the other premises are situated within the same area (as determined in accordance with the regulations) as the licensed premises.
- (4) The corresponding licence for an existing Australian wine licence referred to in clause 1(2)(b) of Schedule 4 to the relevant Act is—
  - (a) an on-premises licence that relates to a wine bar, or
  - (b) if the Authority, within the period of 12 months following the commencement of this clause, determines another type of licence in relation to the existing licence—that type of licence.
- (5) The following provisions apply in relation to an existing Australian wine licence that is converted to an on-premises licence (or other type of licence) under subclause (4)—
  - (a) the trading hours authorised under the former Act for the licensed premises continue to apply until such time as they are varied under this Act,
  - (b) if trading outside of the standard trading period was authorised on the licensed premises under the former Act, an extended trading authorisation that relates to

that extended trading period is taken to be in force in relation to the licensed premises,

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

## **Division 3 Proof of age cards**

### **16 Definition**

In this Division—

***proof of age card*** means—

- (a) an existing RTA proof of age card, or

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

### **17 Phasing-out of existing RTA proof of age cards**

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

### **18 Manufacturing false proof of age cards**

- (1) A person must not make a false document that could reasonably be taken to be a proof of age card with the intent that the document be used by any person as a proof of age card for the purposes of this Act or the [Gaming Machines Act 2001](#).

Maximum penalty—30 penalty units.

- (2) A person (**the offender**) must not give to another person a false document that could reasonably be taken to be a proof of age card with the intent that the document be used by any person as a proof of age card for the purposes of this Act or the [Gaming Machines Act 2001](#) if the offender knows or could reasonably be expected to know that the document is false.

Maximum penalty—30 penalty units.

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

Maximum penalty—50 penalty units.

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

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

### **19 Giving or lending proof of age cards**

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

- (a) as a proof of age card for the purposes of this Act or the [Gaming Machines Act 2001](#)

by the person to whom the card was given or lent, or by any other person, or

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

Maximum penalty—30 penalty units.

## 20 Tampering with proof of age cards

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

Maximum penalty—30 penalty units.

## 21 Confiscation of existing RTA proof of age cards

- (1) An authorised person to whom an existing RTA proof of age card, or thing resembling such an existing RTA proof of age card, is produced by a person representing it to be the person's proof of age card (whether as proof of age or of identity) may, with no authority other than this clause, seize the card or thing if the authorised person reasonably suspects that the card or thing—
- (a) is not the person's proof of age card or contains information that is false or misleading as to that person's name or age, or
  - (b) has been forged or fraudulently altered, or
  - (c) is being used in contravention of any provision of this Act, the [Gaming Machines Act 2001](#) or the [Registered Clubs Act 1976](#).
- (2) A card or thing seized under this clause is to be forwarded to the Commissioner of Police. The Commissioner must cause the card or thing to be returned (by delivery or by post) to the person who produced it unless subclause (3) applies.
- (3) The Commissioner of Police may retain possession of and deal with a proof of age card or thing forwarded to the Commissioner in such manner as the Commissioner thinks fit if satisfied that the card or thing—
- (a) is not the proof of age card of the person from whom it was seized or contains information that is false or misleading as to that person's name or age, or
  - (b) has been forged or fraudulently altered, or
  - (c) is being used in contravention of any provision of this Act, the [Gaming Machines Act 2001](#) or the [Registered Clubs Act 1976](#).
- (4) Each of the following is an **authorised person** for the purposes of this clause—
- (a) any police officer,

- (b) any person while acting in the administration of this Act, the *Gaming Machines Act 2001* or the *Registered Clubs Act 1976*,
- (c) the licensee and any employee or agent of the licensee on the licensed premises concerned, but only on those licensed premises or in a place in the immediate vicinity of those licensed premises.

## **Division 4 Other savings and transitional provisions**

### **22 Definitions**

In this Division—

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

### **23 Abolition of Licensing Court and continuation of judicial office**

- (1) The Licensing Court of New South Wales is abolished on the relevant repeal date.
- (2) A person who, immediately before the relevant repeal date, held office as a Licensing Magistrate under Part 2 of the former Act is, unless the person holds an appointment as Magistrate for at least the remainder of the term for which the person was appointed as a Licensing Magistrate, entitled (without loss of remuneration) to hold office as a Magistrate for the remainder of the term for which the person was appointed as a Licensing Magistrate under Part 2 of the former Act.

**Note—**

See section 56(2) of the *Constitution Act 1902* which provides for the consequences of abolishing a judicial office.

- (3) A reference in this clause to a Licensing Magistrate includes a reference to the Chairperson of the Licensing Court and the Deputy Chairperson of the Licensing Court.

### **24 Abolition of Liquor Administration Board**

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

### **25 Pending applications and proceedings under former Act**

- (1) Any licence, authorisation, approval or other matter granted or determined under a provision of the former Act (as continued by this clause) is taken to have been granted or determined under the corresponding provision of this Act.
- (2) **Proceedings pending before the Licensing Court** If, before the relevant repeal date, proceedings in relation to any matter under the former Act or any other Act were commenced in the former Court but the former Court had not determined the matter—

- (a) the matter may continue to be dealt with and determined by the Local Court as if it were sitting as the former Court, and
- (b) the provisions of the former Act continue to apply, as if they had not been repealed, for the purposes of—
  - (i) the hearing and determination of the matter, and
  - (ii) any appeal against the former Court's determination of the matter.
- (3) In hearing and determining a matter that is the subject of any such pending proceedings, the Local Court has the same jurisdiction as the former Court had immediately before it was abolished.
- (4) **Matters being dealt with by the Liquor Administration Board** If, before the repeal of section 72 of the former Act, any matter was being dealt with by the former Board (including by any person to whom the functions of the Board were delegated under section 75 of the former Act) but had not been determined by the date of that repeal—
  - (a) the former Board (or the person to whom those functions were delegated) is to continue to deal with the matter as if the former Board had not been abolished, and
  - (b) the provisions of the former Act continue to apply in relation to the determination of the matter by the former Board (or by the person to whom those functions were delegated) as if those provisions had not been repealed by this Act.
- (5) If any such pending matter before the former Board is not determined within such period as may be prescribed by the regulations, the Authority may deal with the matter instead under the corresponding provision of this Act.
- (6) The continuation of the provisions of the former Act for the purposes of this clause is subject to such modifications as may be prescribed by the regulations.

**25A Further transitional provisions relating to pending SIAs and other matters under former Act**

- (1) The Authority may determine a pending SIA in accordance with Division 6A of Part 3 of the former Act as if that Division had not been repealed by this Act. For that purpose, a reference in that Division to the Board is taken to include a reference to the Authority.
- (2) If the pending SIA was provided in connection with a matter that is the subject of pending proceedings as referred to in clause 25(2) and (3), that matter may, following the Authority's determination of the pending SIA, be determined as provided by those subclauses.
- (3) If, in any other case, the pending SIA is approved by the Authority, an application for a



licence to which the pending SIA relates may be determined by the Authority in accordance with this Act.

- (4) Sections 40(4)(c) and 48 of this Act, and such other provisions of this Act as may be prescribed by the regulations, do not apply to or in respect of an application referred to in subclause (3).
- (5) Without limiting the operation of subclause (1), if any matter that the former Board was authorised or required to determine under the former Act was not determined as at the commencement of this clause, the matter may, to the extent that it relates to a licence, approval or authorisation that may be granted under this or the former Act, be determined by the Authority.
- (6) In this clause—

**pending SIA** means a social impact assessment under Division 6A of Part 3 of the former Act that was provided to the former Board before the relevant repeal date but that had not been approved or otherwise determined as at the commencement of this clause.

## 26 General savings provision

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

## Part 3 Provisions consequent on enactment of **Criminal Organisations Legislation Amendment Act 2009**

### 27 Grant and cancellation of licences and approvals to manage licensed premises

- (1) In this clause—

**amending Act** means the *Criminal Organisations Legislation Amendment Act 2009*.
- (2) An application for a licence or approval to manage licensed premises made, but not determined, before the commencement of this clause is to be dealt with under this Act as amended by the amending Act.
- (3) Sections 139 and 141, as amended by the amending Act, extend to a licence or approval to manage licensed premises in force immediately before the commencement of this clause.

## Part 4 Provisions consequent on enactment of **Liquor Amendment (Temporary Licence Freeze) Act 2009**

### 28 Definition

In this Part—

**amending Act** means the *Liquor Amendment (Temporary Licence Freeze) Act 2009*.

### 29 Pending liquor-related applications

- (1) Division 1A of Part 4 (as inserted by the amending Act) extends to an application under this Act for any licence or other matter referred to in that Division that was made on or after 25 June 2009 but not granted or otherwise determined as at the commencement of the amending Act.
- (2) However, Division 1A of Part 4 does not apply in relation to any application under this Act for a licence or other matter that was made before 25 June 2009.

### 30 Crown not liable for any compensation

- (1) Damages or compensation are not payable by or on behalf of the Crown—
  - (a) because of the enactment of the amending Act or the operation of the amendments made by the amending Act (including the provisions of this Part), or
  - (b) for the consequences of that enactment or operation, or
  - (c) because of a representation or conduct of any kind about the sale or supply of liquor on any premises or kind of premises.
- (2) In this clause, **the Crown** means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes any employee or agent of the Crown.

## Part 5 Provisions consequent on enactment of **Liquor and Registered Clubs Legislation Amendment Act 2009**

### 31 Disturbance complaints

The amendments made by the *Liquor and Registered Clubs Legislation Amendment Act 2009* (**the amending Act**) to the provisions of Division 3 of Part 5 of this Act extend to complaints made, but not determined, before the commencement of the amending Act.

## Part 6 Provision consequent on enactment of **Liquor Amendment (3 Strikes) Act 2011**

### 32 Offences occurring before commencement of Part 9A

Part 9A does not apply to or in respect of an offence committed before the

commencement of that Part.

## **Part 7 Provision consequent on enactment of [Clubs, Liquor and Gaming Machines Legislation Amendment Act 2011](#)**

### **33 Conditions imposed by Authority to reduce trading hours**

Any condition imposed by the Authority under section 53 that would have been validly imposed had section 53(1A) (as inserted by the [Clubs, Liquor and Gaming Machines Legislation Amendment Act 2011](#)) been in force when the condition was imposed is validated.

## **Part 8 Provisions consequent on enactment of [Statute Law \(Miscellaneous Provisions\) Act 2012](#)**

### **34 Operation of amendments to Part 9A**

- (1) The amendment made by the amending Act to section 144C(1) applies to a penalty notice enforcement order that is made after the commencement of the amending Act whether or not the prescribed offence in respect of which the order is made was committed before or after that commencement.
- (2) Section 144C(2), as substituted by the amending Act, extends to strikes that have been incurred before the commencement of the amending Act.
- (3) In this clause, **amending Act** means the [Statute Law \(Miscellaneous Provisions\) Act 2012](#).

## **Part 9 Provisions consequent on enactment of [Liquor Amendment \(Kings Cross Plan of Management\) Act 2012](#)**

### **35 Definition**

In this Part—

**amending Act** means the [Liquor Amendment \(Kings Cross Plan of Management\) Act 2012](#).

### **36 Application of temporary licence and development consent freeze provisions to extended Kings Cross precinct**

(1) In this clause—

**extended Kings Cross precinct** means that part of the Kings Cross precinct that was not part of the Kings Cross precinct as described in Schedule 5 to this Act immediately before the amendment of that Schedule by the amending Act.

(2) The amendments made to Division 1A of Part 4 by the amending Act extend to an

application under this Act for any licence or other matter referred to in that Division or to an application for development consent under the *Environmental Planning and Assessment Act 1979*—

- (a) that relates to premises situated in the extended Kings Cross precinct, and
- (b) that was made on or after 19 September 2012 but not granted or otherwise determined as at the commencement of those amendments.

(3) However, the amendments made to Division 1A of Part 4 by the amending Act do not apply in relation to—

- (a) an application under this Act for a licence or other matter relating to premises situated in the extended Kings Cross precinct, or
- (b) an application for development consent under the *Environmental Planning and Assessment Act 1979* relating to premises situated in the extended Kings Cross precinct,

that was made before 19 September 2012.

(4) A reference in this clause to an application for development consent or to the granting of development consent has the same meaning as it has in section 471 of this Act.

### **37 Existing Kings Cross liquor accords**

- (1) The *Kings Cross Precinct Liquor Accord* as in force under Division 2 of Part 8 of this Act immediately before the commencement of this clause is terminated and any licence conditions imposed under section 136E in respect of that precinct liquor accord cease to have effect on that commencement.
- (2) The *Kings Cross Accord*, being the local liquor accord of that name in force under Division 1 of Part 8 of this Act, is taken to include terms authorising any person or body participating in the accord to contribute towards the costs associated with measures to minimise or prevent alcohol-related violence or anti-social behaviour or other alcohol-related harm in the Kings Cross precinct.

### **38 Crown not liable for any compensation**

- (1) Damages or compensation are not payable by or on behalf of the Crown—
  - (a) because of the enactment of the amending Act or the operation of the amendments made by the amending Act (including the provisions of this Part), or
  - (b) for the consequences of that enactment or operation, or
  - (c) because of a representation or conduct of any kind about the sale or supply of liquor on any premises or kind of premises.

- (2) In this clause, **the Crown** means the Crown within the meaning of the [Crown Proceedings Act 1988](#), and includes any employee or agent of the Crown.

## **Part 10 Provisions consequent on enactment of [Liquor Amendment \(Small Bars\) Act 2013](#)**

### **39 Conversion of existing general bar licences to small bar licences**

- (1) In this clause—

**existing general bar licence** means a general bar licence in force immediately before the commencement of this clause.

**existing premises** means the premises to which an existing general bar licence related immediately before the cancellation of the licence under this clause.

- (2) The Authority is, on application by the holder of an existing general bar licence made during the period of 6 months (or such longer period as may be prescribed by the regulations) immediately following the commencement of this clause, to—
- (a) cancel the existing general bar licence, and
  - (b) at the same time grant a small bar licence for the existing premises (a **new licence**) to the person who was the holder of the existing licence.
- (3) For the avoidance of any doubt, Division 3A of Part 3 of this Act applies to a new licence.
- (4) Any conditions imposed by or under this Act in relation to an existing general bar licence are, on the cancellation of the existing licence, taken to be conditions to which the new licence is subject.
- (5) Any strike incurred under Part 9A of this Act in respect of an existing general bar licence and in force immediately before the cancellation of the existing licence is taken to have been incurred in respect of the new licence.
- (6) Any proceedings commenced under Part 9 of this Act in relation to an existing general bar licence that were pending immediately before the cancellation of the existing licence may continue to be taken in relation to the new licence.
- (7) Any development consent under the [Environmental Planning and Assessment Act 1979](#) for the existing premises extends to the premises to which the new licence relates.
- (8) If, on the cancellation of an existing general bar licence, the existing premises were declared premises within the meaning of Schedule 4, the new premises are taken to be declared premises until such time as that Schedule is amended to remove the reference to the existing general bar licence.

(9) This clause is subject to the regulations.

#### **40 Review of amendments relating to small bars**

- (1) The Minister is to review the amendments made to this Act and the regulations by the *Liquor Amendment (Small Bars) Act 2013* to determine whether the policy objectives of those amendments remain valid and whether the terms of the amendments remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after 1 January 2016.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament before 1 January 2017.

### **Part 11 Provisions consequent on enactment of *Liquor Amendment (Kings Cross Plan of Management) Act 2013***

#### **41 Review of amendments relating to Kings Cross precinct ID scanner system**

- (1) The Minister is to review the amendments made by the *Liquor Amendment (Kings Cross Plan of Management) Act 2013* that relate to the operation of the Kings Cross precinct ID scanner system under Division 3 of Part 6 of this Act to determine whether the policy objectives of those amendments remain valid and whether the terms of those amendments remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 12 months following the commencement of those amendments and the Minister is to report to the Premier on the outcome of the review as soon as practicable after the review is completed.

### **Part 12 Provisions consequent on enactment of *Liquor Amendment Act 2014***

#### **42 Definition**

In this Part—

***amending Act*** means the *Liquor Amendment Act 2014*.

#### **43 Kings Cross precinct**

- (1) The declaration of the Sydney CBD Entertainment precinct by the regulations does not affect the application of this Act and the regulations to the Kings Cross precinct.
- (2) In particular (and without limiting subclause (1)), the provisions of this Act and the regulations that apply to premises situated within the Kings Cross precinct continue after the commencement of the amending Act to apply to premises that, immediately before the commencement of this clause, were treated by the operation of section

4A(2) as being situated within the Kings Cross precinct.

#### **44 Extended trading authorisations**

A term of an extended trading authorisation in force immediately before the commencement of this clause in respect of a licence under section 14, 18, 26 or 29 that authorises licensed premises to sell liquor for consumption away from the licensed premises after 10 pm is taken on that commencement to have no effect.

#### **45 Authorisation to sell liquor for consumption away from licensed premises**

A term of an authorisation under section 26 in force immediately before the commencement of this clause that authorises licensed premises to which an on-premises licence relates to sell liquor by retail for consumption away from the licensed premises after 10 pm is taken on that commencement to have no effect.

#### **46 Crown not liable for any compensation**

- (1) Damages or compensation are not payable by or on behalf of the Crown—
  - (a) because of the enactment of the amending Act or the operation of the amendments made by the amending Act (including the provisions of this Part), or
  - (b) for the consequences of that enactment or operation, or
  - (c) because of a representation or conduct of any kind about the sale or supply of liquor on any premises or kind of premises.
- (2) In this clause, **the Crown** means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes any employee or agent of the Crown.

#### **47 Review of amendments relating to “lock outs” and cessation of liquor sales at 3 am in Sydney CBD Entertainment precinct**

- (1) The Minister is to appoint a person who in the opinion of the Minister possesses appropriate expertise, knowledge and skills and who is independent of the Government to review the amendments made to the *Liquor Regulation 2008* by the amending Act that relate to “lock outs” and the cessation of liquor sales at 3 am and any other provision prescribed by the regulations, to determine whether the policy objectives of those amendments remain valid and whether the terms of those amendments remain appropriate for securing those objectives, and report to the Minister.
- (2) The review is to be undertaken as soon as possible after the end of the period of 2 years following the date of assent to the amending Act and the Minister is to report to the Premier on the outcome of the review as soon as practicable after the review is completed.

## **Part 13 Provisions consequent on enactment of [Liquor Legislation Amendment \(Statutory Review\) Act 2014](#)**

### **48 Definition**

In this Part—

**amending Act** means the *Liquor Legislation Amendment (Statutory Review) Act 2014*.

### **49 Existing authorisations under section 24(3)**

Section 24(3A) (as inserted by the amending Act) extends to an authorisation under section 24(3) that was in force immediately before the commencement of that amendment.

### **50 Existing approvals of courses of training or instruction**

Any approval of a course of training or instruction by the Authority under section 58 or 68 that was in force immediately before the commencement of the amendments to those sections by the amending Act is taken to be an approval by the Secretary under those sections as so amended.

### **51 Existing local liquor accords**

- (1) The amendments made by the amending Act to Division 1 of Part 8 of this Act extend to a local liquor accord in force under that Division immediately before the commencement of those amendments.
- (2) Any such existing local liquor accord is taken to have been registered by the Secretary under section 135 (as substituted by the amending Act).

### **52 Existing incident registers**

Any incident register required under this Act to be maintained in the form approved by the Authority before the commencement of this clause is taken to be in a form approved by the Secretary.

### **53 Additional sanctions for selling liquor to minors on licensed premises**

Division 4 of Part 7 of this Act (as inserted by the amending Act) does not apply in relation to offences committed before the commencement of that Division.

## **Part 14 Provisions consequent on enactment of [Liquor Amendment \(Reviews\) Act 2017](#)**

### **54 Definition**

In this Part—



**amending Act** means the *Liquor Amendment (Reviews) Act 2017*.

#### **55 Application of extended freeze period to Kings Cross precinct**

The substitution of the definition of **freeze period** in section 47A(1) by the amending Act does not affect anything done (including any application that was made) in the period between—

- (a) the end of the period referred to in paragraph (a) of that definition (as in force before its substitution by the amending Act), and
- (b) the substitution of that definition by the amending Act.

#### **56 Prescribed precincts**

- (1) Anything done under Division 3 of Part 6 of this Act (including, without limitation, any approval or order given or made under that Division) that, immediately before the repeal of that Division by the amending Act, had effect under that Division is taken to have been done, and to have effect, under Division 4 of Part 6 of this Act.
- (2) Without limiting subclause (1), the Kings Cross precinct ID scanner system approved by the Secretary under Division 3 of Part 6 of this Act is, on the repeal of that Division by the amending Act, taken to have been approved by the Secretary under Division 4 of Part 6 of this Act as the prescribed precinct ID scanner system in respect of the Kings Cross precinct.
- (3) This clause is subject to the regulations.

#### **57 3 strikes scheme under Part 9A**

- (1) Any strike incurred under Part 9A of this Act and in force immediately before the substitution of that Part by the amending Act is revoked.
- (2) However, the revocation of an existing strike by this clause does not affect the continued operation of any remedial action taken under Part 9A in respect of the strike before the commencement of this clause. Part 9A, as in force immediately before the substitution of that Part by the amending Act, continues to apply in relation to the taking of any such existing remedial action as if that Part had not been substituted by the amending Act.
- (3) A strike may be imposed under Part 9A (as substituted by the amending Act) only in respect of offences committed after the commencement of that substitution.

### **Part 15 Provisions consequent on enactment of *Liquor and Gaming***

## Legislation Amendment Act 2018

### 58 Definition

In this Part—

**amending Act** means the *Liquor and Gaming Legislation Amendment Act 2018*.

### 59 Duration of licences

The amendments made by the amending Act to the provisions of Division 4 of Part 7 (Special provisions relating to minors) do not apply to a relevant prescribed offence event (within the meaning of that Division) derived from a conviction, payment or making of an order occurring after the commencement of the amendments in respect of a prescribed offence that was committed before that commencement.

### 60 Existing competency cards

Any competency card that was in force under clause 39A(1) of the *Liquor Regulation 2008* immediately before the insertion of the definition of **recognised competency card** in section 114A by the amending Act is taken to be a competency card within the meaning of that definition.

### 61 Existing conditions of approval to conduct RSA training courses

Any condition that applied to an approval to conduct RSA training courses in force immediately before the insertion of section 114B by the amending Act is taken to be a condition of such an approval for the purposes of section 114B as inserted.

## Part 16 Provisions consequent on enactment of Liquor Amendment (Night-time Economy) Act 2020

### 62 Definitions

In this Part—

**amending Act** means the *Liquor Amendment (Night-time Economy) Act 2020*.

**previous**, in relation to a provision, means the provision as in force immediately before its amendment or repeal by the amending Act.

### 63 Existing suspensions or cancellations of licences continue

The suspension or cancellation of a licence under previous sections 130C, 130D or 130E continues in effect despite the repeal of those provisions.

### 64 Existing disqualifications continue

The disqualification of a person from holding a licence under previous section 130E continues in effect despite the repeal of that section.

## **65 Existing strikes revoked**

- (1) A strike incurred by a licensee or manager under previous section 144E and in force immediately before the commencement is revoked.
- (2) A strike incurred on a club licence under previous section 144I and in force immediately before the commencement is revoked.

## **66 Existing remedial action resulting from strikes continues**

The revocation of a strike under clause 65 does not affect the continued operation of any remedial action taken under previous Part 9A as a result of the strike.

## **67 Trading hours for small bars**

- (1) This clause applies to a small bar licence if, immediately before the commencement—
  - (a) the licence was in force for a small bar in a prescribed precinct, and
  - (b) the licensed premises were authorised to trade until midnight.
- (2) From the commencement of this clause, an extended trading authorisation under section 49A is taken to be in force authorising the sale or supply of liquor for consumption on the licensed premises between midnight and 2 am on any day of the week.

## **68 Extended trading authorisation for Sundays**

- (1) This clause applies to licensed premises or a part of licensed premises (**relevant premises**) that, immediately before the commencement—
  - (a) were premises to which section 12(1B) of this Act applied, and
  - (b) were authorised to trade until 10 pm.
- (2) However, this clause does not apply to relevant premises if the licence was, immediately before the commencement, subject to a condition—
  - (a) imposed before 24 February 2014, requiring the premises to cease trading at or before 10 pm on any day, other than a Sunday that does not fall on 24 or 31 December or a restricted trading day, or
  - (b) imposed on or after 24 February 2014, requiring the premises to cease trading before 10 pm on any day, other than a Sunday that does not fall on 24 or 31 December or a restricted trading day, or
  - (c) imposed before 14 January 2020, requiring the premises to cease trading before 10 pm on any Sunday, other than a Sunday that falls on 24 or 31 December or a restricted trading day.

- (3) From the commencement of this clause, an extended trading authorisation under section 49(4) is taken to be in force authorising the sale or supply of liquor on relevant premises for consumption away from the licensed premises between 10 pm and 11 pm on a Sunday that does not fall on 24 or 31 December or a restricted trading day.

#### **69 Standard trading hours**

- (1) This clause applies to licensed premises or a part of licensed premises (**relevant premises**) to which section 12(1B) of this Act applies if the licence for the relevant premises—
- (a) was granted, or subject to a variation of trading hours, between the period starting on 16 December 2016 and ending immediately before the commencement of this clause, and
  - (b) was subject to a condition that required the relevant premises to cease the sale or supply of liquor for consumption away from the licensed premises at 10 pm on any day other than a Sunday.
- (2) From the commencement of this clause, the standard trading period as set out in section 12(1)(a) and (1B), as amended by the amending Act, applies to the licence as if the licence had been granted or varied after the commencement of this clause.

#### **70 Certain live entertainment conditions cease to have effect**

- (1) This clause applies to any of the following conditions (a **live entertainment condition**) of a licence that are in force immediately before the commencement—
- (a) a condition that restricts the genre of music that may be played or performed on the licensed premises,
  - (b) a condition that restricts the number of musicians or live entertainment acts that may perform on the licensed premises,
  - (c) a condition that restricts what type of instruments may be played on the licensed premises,
  - (d) a condition that restricts the performance of original music,
  - (e) a condition that restricts a stage for live performers from facing a particular direction,
  - (f) a condition that restricts decorations, including, for example, mirror balls, or lighting used by musicians,
  - (g) a condition that prohibits live music, live entertainment or the amplification of a musical instrument at all times or across the entire licensed premises,
  - (h) a condition that prohibits or restricts the presence or use of a dance floor or

another area ordinarily used for dancing.

- (2) From the commencement of this clause, the live entertainment condition ceases to have effect.
- (3) However, despite subclause (2), the Secretary may impose a condition relating to noise abatement on a licence if—
  - (a) the Secretary receives a written complaint from—
    - (i) an occupier of neighbouring premises of the licensed premises, or
    - (ii) the local consent authority for the licensed premises, or
    - (iii) the Commissioner of Police, and
  - (b) the Secretary is satisfied the quiet and good order of the neighbourhood of the licensed premises are being unduly disturbed as a result of the conditions mentioned in subclause (1) ceasing to have effect.
- (4) Section 80 does not apply to a complaint referred to in subclause (3)(a).
- (5) To remove any doubt, this clause does not affect another condition that may impact on entertainment that is provided on the licensed premises, or an area adjacent to the premises.

**Example—**

A condition relating to noise abatement

- (6) In this clause—

***neighbouring premises*** has the meaning given by the regulations.

**71 Entertainment conditions not to be imposed**

- (1) From the commencement of this clause, an entertainment condition may not be imposed on a licence.
- (2) However, subclause (1) does not apply to—
  - (a) an entertainment condition imposed in response to a disturbance complaint, or
  - (b) an entertainment condition relating to adult entertainment of a sexual nature.
- (3) From the commencement of this clause, a live entertainment condition may not be imposed on a licence.
- (4) However, subclause (3) does not apply to a live entertainment condition relating to adult entertainment of a sexual nature.
- (5) To remove any doubt, this clause does not prevent an entertainment condition in force

immediately before the commencement of this clause being varied or revoked.

(6) In this clause—

**entertainment condition** means a condition of a licence that has the effect of limiting—

- (a) the entertainment that may be provided on licensed premises or an area adjacent to licensed premises, or
- (b) the way in which entertainment may be provided on licensed premises or an area adjacent to licensed premises.

**live entertainment condition** means a condition referred to in clause 70(1).

## **Part 17 Provision consequent on enactment of [State Revenue and Fines Legislation Amendment \(Miscellaneous\) Act 2022](#)**

### **72 Powers of local councils to encourage use of outdoor space**

- (1) Anything done by a local council during the relevant period, that would have been validly done if the [State Revenue and Fines Legislation Amendment \(Miscellaneous\) Act 2022](#), Schedule 6[3] and [4] had commenced before it was done, is taken to have been validly done under section 166.

(2) In this clause—

**relevant period** means the period—

- (a) starting at the beginning of 11 December 2021, and
- (b) ending on the commencement of this clause.

## **Part 18 Provisions consequent on enactment of [24-Hour Economy Legislation Amendment \(Vibrancy Reforms\) Act 2023](#)**

### **73 Application of fee payable under section 25A to particular applications**

A fee payable in relation to an application for an authorisation under section 25A, as inserted by the [24-Hour Economy Legislation Amendment \(Vibrancy Reforms\) Act 2023](#), does not apply to an application made under that section within 6 months after the commencement of section 25A.

### **74 Application of section 59A to particular applications to remove unrestricted club licences to other premises**

- (1) This clause applies in relation to an application under section 59 to remove an unrestricted club licence to premises other than the premises specified in the licence—

- (a) made, but not determined, before the commencement of section 59A, or
  - (b) made and granted before the commencement of section 59A.
- (2) Section 59A applies in relation to the application as if the application had been made after the commencement of that section.
- (3) To avoid doubt, it is declared that any variation to the on-premises trading hours of a registered club as a result of the granting of an application mentioned in subclause (1)(b) is of no effect.
- (4) In this clause—

***on-premises trading hours***, of a registered club, means the times during which liquor may be sold or supplied only for consumption on the club's licensed premises.

***unrestricted club licence*** means a club licence—

- (a) that was, at the time the application was made, a club licence to which the [Registered Clubs Act 1976](#), Schedule 2, clause 94(2) applied, and
- (b) under which, at the time the application was made, the registered club to which the licence related was continuing to operate without restrictions in relation to the club's on-premises trading hours in accordance with the [Registered Clubs Act 1976](#), Schedule 2, clause 94.

## Schedule 2 Kings Cross precinct

(Section 4A)

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

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

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

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

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

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

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

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

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

Street.

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

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

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

### **Schedule 3 Oxford Street-Darlinghurst precinct**

(Section 49(3))

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

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

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

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

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

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

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

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

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

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

### **Schedules 4, 5 (Repealed)**