



New South Wales

# Liquor Act 2007 No 90

## Status information

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### Provisions in force

All the provisions displayed in this version of the legislation have commenced. For commencement and other details see the Historical notes.

### Does not include amendments by:

Liquor Amendment (Small Bars) Act 2013 No 5 (not commenced)



New South Wales

# Liquor Act 2007 No 90

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New South Wales

## Liquor Act 2007 No 90

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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.

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## 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 contributes to, and does not detract from, the amenity of community life.

### 4 Definitions

- (1) In this Act:

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

**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.

**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.

**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.

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

**Director-General** means the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services.

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

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

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

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

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

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

- (d) a proof of age card (however described) issued by a public authority of the Commonwealth or of another State or Territory for the purpose of attesting to a person's identity and age,
- (e) an Australian or foreign passport,
- (f) any other class of document prescribed by the regulations for the purposes of this definition.

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

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

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

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

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

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

**inspector** means an inspector within the meaning of the *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) any thing that is not a beverage referred to in paragraph (a) but, for the purposes of sale, is held out to be beer or spirits, or
- (c) any other substance prescribed by the regulations as liquor.

**liquor 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:

- (a) a person appointed by the licensee under section 66 to manage the licensed premises, or
- (b) in the case of a registered club that has only one set of premises or is a registered club referred to in section 66 (3)—the secretary of the registered club.

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

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

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

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

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

**non-proprietary association** means:

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

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

**person authorised to sell liquor** means:

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

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

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

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

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

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

**related corporation** of a licensee means:

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

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

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

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

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

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

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

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

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

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

**sell** includes any of the following:

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

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

**supply** includes dispose of or deliver.

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

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

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

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

- (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) A reference in this Act to premises situated in the Kings Cross precinct includes a reference to premises:
  - (a) that front or back onto, or abut, any street or part of a street specified in Schedule 2, or
  - (b) that can be entered from any such street or part, or
  - (c) that the regulations declare to be situated in the Kings Cross precinct.
- (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 Director-General is to issue guidelines to assist in determining whether or not a person is intoxicated for the purposes of this Act. Such guidelines are to be made publicly available in such manner as the Director-General considers appropriate.
- (4) The guidelines issued by the Director-General may also indicate circumstances in which a person may be assumed not to be intoxicated for the purposes of this Act.

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

##### **(1) General exemptions**

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

- (a) the sale of liquor to an adult on such trains under the control of Rail Corporation New South Wales as are determined by that corporation,
- (b) the sale of spirituous or distilled perfume as perfumery only and not for drinking,
- (c) the sale of liquor for medicinal purposes by:
  - (i) a registered medical practitioner, or
  - (ii) a registered nurse whose registration is endorsed under the Health Practitioner Regulation National Law as being qualified to practise as a nurse practitioner, or
  - (iii) a registered midwife whose registration is endorsed under the Health Practitioner Regulation National Law as being qualified to practise as a midwife practitioner, or
  - (iv) a registered pharmacist,

- (d) the sale of liquor to an adult at an auction conducted by an auctioneer, but only if such requirements (if any) as are prescribed by the regulations are complied with,
- (e) the sale of liquor taken in execution or under similar process, or forfeited to the Crown, if the sale is by or on behalf of the sheriff or a sheriff's officer, or a bailiff or a police officer,
- (f) the sale of liquor to an adult on board a vessel engaged in interstate or overseas voyages, but only if such requirements (if any) as are prescribed by the regulations are complied with,
- (g) the sale of liquor to an adult on board an aircraft, except in the case of a charter service where a person other than the aircraft operator sells or supplies liquor on board the aircraft,
- (h) the sale of liquor authorised by a law of the Commonwealth for the export of the liquor from the Commonwealth,
- (i) (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*.

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

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

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

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

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

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

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

## Part 3 Liquor licences

### Division 1 Preliminary

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

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

#### 11 Licence conditions—general provisions

- (1) A licence is subject to:
  - (a) such conditions as may be imposed, or are taken to have been imposed, by the Authority or the Director-General (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) Schedule 4 (Special licence conditions for declared premises) has effect. The regulations may amend that Schedule (including, without limitation, by adding or removing any relevant licence under that Schedule).
- (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 Director-General 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) for any day of the week other than a Sunday:
    - (i) the period from 5 am to midnight, or
    - (ii) if the regulations prescribe a shorter period—the period as so prescribed, and
  - (b) for a Sunday:
    - (i) the period from 10 am to 10 pm, or
    - (ii) if the regulations prescribe a shorter period—the period as so prescribed.

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

- (a) hotels,
- (b) the premises of a registered club,
- (c) the premises to which an on-premises licence relates (other than vessels),
- (d) the premises to which a packaged liquor licence relates (ie a bottle shop),
- (e) the licensed premises of a wine producer,
- (f) the licensed premises of a small-scale producer referred to in section 34.

- (2) Any such regulation that prescribes a shorter period for the purposes of subsection (1) may:
  - (a) apply to a specified class of licensed premises, and
  - (b) apply in relation to a specified day or days, and
  - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2) (a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

### **13 Special events extended trading period for hotels and clubs**

- (1) In addition to the trading hours that apply under this Act to the licensed premises to which a hotel licence or a club licence relates, the regulations may prescribe a period during which liquor may be sold or supplied for consumption on any such licensed premises.
- (2) Any such period may be prescribed only in relation to a specified day on which a special event is to be held or that immediately follows the day on which a special event is held. For the purposes of this subsection, *special event* means an event that the Minister considers to be of regional, State or national significance.
- (3) A regulation under this section may apply to a specified class of hotel or club premises. Without limitation, any such class of hotel or club premises may be specified by reference to hotels or club premises that are located in a particular area (however described).
- (4) This section does not authorise the sale, supply or consumption of liquor on any licensed premises contrary to a restriction or prohibition imposed by or under this Act in respect of the trading hours for the licensed premises.

## **Division 2 Hotel licences**

### **14 Authorisation conferred by hotel licence**

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

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

  - (a) during the standard trading period or at such other times as may be authorised by an extended trading authorisation,
  - (b) on 31 December in any year (but without limiting the operation of any extended trading authorisation)—from the start of the standard trading period for that day until 2 am on the next succeeding day,
  - (c) at any time on any day (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.
- (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.
- (3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular hotel or to such other exceptions as may be prescribed by the regulations. Also, subsection (2) does not apply to the extent that is necessary to comply with any other provision of this Act or with any other law.
- (4) **Food must be made available**  
Liquor may only be sold or supplied in a hotel if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied on the premises for consumption on the premises. If any requirements are prescribed by the regulations in relation to the nature and quality of any such food, those requirements must be complied with.
- (5) **Prohibition on residents and employees drinking liquor in bar area outside trading hours**  
Liquor may not be sold or supplied to, or consumed by, a resident or an employee of the licensee in a bar area of the hotel except at the time when liquor is authorised to be sold or supplied to other persons in that or any other bar area of the hotel. This subsection has effect despite any other provision of this Act, but is subject to subsection (6).
- (6) The Authority may, on application by a hotelier, authorise the use of a bar area of the hotel for the sale, supply or consumption of liquor exclusively to, or by, residents at a time when liquor may not otherwise be sold or supplied in a bar area of the hotel.  
**Note.** Section 51 applies to an authorisation referred to in this subsection.

### Division 3 Club licences

#### 18 Authorisation conferred by club licence

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



#### **19 Club licence—general provisions**

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

#### **20 Club licence—miscellaneous conditions**

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

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

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

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

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

#### **22 Primary purpose test**

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

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

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

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

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

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

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

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

(3) **Exceptions**

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

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

(4) Subsection (1) does not apply if the premises to which the licence relates:

- (a) are part of an airport, or
- (b) are located on land occupied by a tertiary institution and cater for students of that institution, or
- (c) are exempt from the primary purpose test referred to in section 22.

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

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

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

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

(3) **Restricted trading days**

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

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

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

- (1) Liquor may only be sold or supplied on the licensed premises to which an on-premises licence relates if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied under the authorisation of the licence.

- (2) If any requirements are prescribed by the regulations in relation to the nature and quality of any such food, those requirements must be complied with.
- (3) Subsection (1) is subject to such exceptions as may be approved by the Authority in relation to any particular licensed premises.

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

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

## **Division 5 Packaged liquor licences**

### **29 Authorisation conferred by packaged liquor licence**

#### **(1) Retail sales**

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

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

#### **(2) No retail trading on restricted trading days**

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

#### **(3) Selling liquor by wholesale or to employees**

A packaged liquor licence also authorises the licensee:

- (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
- (b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.

#### **(4) Tastings**

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

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

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

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

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

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

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

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

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

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

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

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

### **33 Producers of wine and similar products**

#### **(1) Authorisation conferred by licence**

A producer/wholesaler licence authorises the licensee, if the licensee carries on business as a wine producer or as a producer of cider, perry or mead:

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

- (b) to sell the licensee's product by retail on the licensed premises, for consumption away from the licensed premises only, on any day of the week during the standard trading period for that day or during such other period as may be authorised by an extended trading authorisation, and
  - (c) to sell or supply the licensee's product, at any time on the licensed premises, to customers or intending customers for consumption while on the licensed premises, but only for the purposes of tasting, and
  - (d) to sell or supply the licensee's product at a wine show, but only if the local police and the Authority have been notified, in accordance with the regulations, about the wine show by the organiser of the show at least 7 days before it is held, and
  - (e) to sell or supply the licensee's product at a producers' market or fair, but only if the local police and the Authority have been notified, in accordance with the regulations, about the market or fair by the organiser of the market or fair at least 7 days before it is held, and
  - (f) to sell or supply the licensee's product at any time on the licensed premises to the employees of the licensee or of a related corporation of the licensee, and
  - (g) to sell or supply liquor in accordance with a drink on-premises authorisation.  
**Note.** See section 50 (2) for trading hours in relation to drink on-premises authorisations.
- (2) The authorisation conferred by subsection (1) does not apply unless the primary purpose of the business or activity carried out on the licensed premises is the sale or supply of wine, or the sale or supply of cider, perry or mead, that is the licensee's product.
- (3) For the purposes of this section, a product is the *licensee's product* if:
- (a) it has been produced on the licensed premises (or a vineyard related to the licensed premises) from fruit grown 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.
- (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:
- producers' market or fair* means a market or fair:
- (a) at which farmers or primary producers display and sell their products directly to the public, and

- (b) that is conducted in accordance with such requirements as may be prescribed by the regulations (including requirements relating to the number of stalls at the market or fair).

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

#### **34 Producers of beer or spirits**

- (1) A producer/wholesaler licence authorises the licensee, if the licensee carries on business as a producer of beer or spirits:
  - (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 and intending customers for consumption while on the licensed premises, but only for the purposes of tasting, and
  - (d) to sell or supply the licensee's product at any time on the licensed premises to the employees of the licensee or of a related corporation of the licensee.
- (2) For the purposes of subsection (1), a product is the **licensee's product** only if:
  - (a) it has been produced on the licensed premises, and
  - (b) it is uniquely the licensee's (or a related corporation of the licensee's) own product.
- (3) (Repealed)

#### **35 Miscellaneous provisions relating to producers of wine and similar products**

- (1) This section applies to the holder of a producer/wholesaler licence who carries on business as a wine producer or as a producer of cider, perry or mead.
- (2) **Multiple premises**

Despite any other provision of this Act, the licensed premises to which a producer/wholesaler licence relates may comprise more than one set of premises, but only if:

  - (a) each set of premises is operated by the licensee, and
  - (b) the premises are all located in the same wine region (as determined in accordance with the regulations).
- (3) **Wine shows**

Liquor may only be sold or supplied by the licensee at a wine show in accordance with section 33 (1) (d):

  - (a) to customers or intending customers for consumption at the licensee's display area, but only for the purposes of tasting, or
  - (b) in sealed containers for consumption away from the wine show.
- (4) **Producers' markets or fairs**

Liquor may only be sold or supplied by the licensee at a producers' market or fair in accordance with section 33 (1) (e):



- (a) to customers or intending customers for consumption at the licensee's stall, but only for the purposes of tasting, and
  - (b) in sealed containers for consumption away from the market or fair.
- (5) Liquor must not be sold or supplied by the licensee at any such wine show, or at any such market or fair, to a person who is intoxicated.

## Division 7 Limited licences

### 36 Authorisation conferred by limited licence

#### (1) General scope of limited licence

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

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

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

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

#### (3) Functions required to be approved by Authority

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

#### (4) Maximum number of approved functions per year

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

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

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

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

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

#### (6) Special functions held on race days

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

- (a) the racing club holds race meetings or operates a betting auditorium authorised under section 24 of the *Racing Administration Act 1998*, or
  - (b) betting authorised by section 8 (6) (f) of the *Unlawful Gambling Act 1998* takes place at premises occupied by the racing club.
- (7) This section does not apply in relation to a limited licence granted under section 39 in respect of a special event.

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

- (1) Except in the case of a limited licence granted under section 39 in respect of a special event, a limited licence may only be granted to:
- (a) an individual on behalf of a non-proprietary association, or
  - (b) an individual in respect of a trade fair.
- Note.** A non-proprietary association includes a registered club or any other club.
- (2) The Authority may grant a limited licence authorising the sale or supply of liquor on the licensed premises only if the Authority is satisfied that the licence will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.
- (3) A limited licence is not to be granted if the Authority is of the opinion that the sale or supply of liquor under the licence would more appropriately be provided under another kind of licence.

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

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

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

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

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

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

#### **(3) Supervision requirements**

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

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

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

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

- (a) the function must be held on the club's premises (and if the club has several premises, only on its principal premises) and the only participants must be members of the club and their guests,
  - (b) the licensee must ensure that a register, in which such details as the Authority may require concerning any such function are recorded, is kept on the premises,
  - (c) the function must have been approved by resolution recorded in the records of the governing body of the club,
  - (d) food of a nature and quantity consistent with the responsible sale, supply and service of alcohol must be made available whenever liquor is made available at the function,
  - (e) liquor must not be made available at the function at any time before 12 noon or after 10 pm on the day on which the function is held,
  - (f) liquor must not be made available at the function for a period of more than 4 hours,
  - (g) the licensee must ensure that adequate adult supervision is maintained at any time when persons under the age of 18 years are on the premises while the function is being held,
  - (h) police officers and inspectors are to be permitted full and free access to the premises where the function is held, and to the register referred to in paragraph (b), at all times while the function is being held.
- (5) This section does not apply in relation to a limited licence granted under section 39 in respect of a special event.

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

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

## Part 4 Licensing procedures and related matters

### Division 1 Licence applications and granting of licences

#### 40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may be made by:
  - (a) an individual, or
  - (b) a corporation, or
  - (c) in the case of a club licence—a club (or a person on behalf of a club) that meets the requirements specified in section 10 (1) of the *Registered Clubs Act 1976*.
- (3) An application for a licence may not be made by:
  - (a) an individual who is under the age of 18 years, or
  - (b) a person who is disqualified from holding a licence or who holds a suspended licence, 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.  
Maximum penalty: 20 penalty units.

#### 41 Statement as to interested parties

- (1) An application for a licence must be accompanied by a written statement, made by a person having knowledge of the facts, specifying:
  - (a) that the person has made all reasonable inquiries to ascertain the information required to complete the statement, and
  - (b) whether there are any persons (other than financial institutions) who will be interested in the business, or the profits of the business, carried on under the licence, and
  - (c) if there are any such persons, their names and dates of birth and, in the case of a proprietary company, the names of the directors and shareholders.
- (2) For the purposes of subsection (1), a person is interested in the business, or the profits of the business, carried on under the licence if the person is entitled to receive:

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

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

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

#### **43 Authority or Director-General may require further information**

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

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

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

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

- (1) The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Director-General 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.
- (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.

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

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

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

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

### **Division 1A Temporary freeze on licences and other authorisations**

#### **47A Definitions**

- (1) In this Division:
  - freeze period* means the period:
    - (a) starting on the commencement of this section, and
    - (b) ending on 24 June 2011 (or such later date as may be prescribed by the regulations before the end of the freeze period) or, in the case of the Kings Cross precinct, ending on 24 December 2015.
  - freeze precinct* means the Kings Cross precinct or a precinct described in Schedule 5.
  - subject premises* means any premises situated wholly or partly in a freeze precinct.
- (2) For the purposes of this Division and Schedule 5:
  - (a) a precinct that is described by reference to specified streets is taken to include all the premises on those streets, and
  - (b) premises are taken to be on a street if:
    - (i) the street address of the premises includes the name of the street, or
    - (ii) the premises front or back onto, or abut, the street, or
    - (iii) the premises can be entered from the street, or
    - (iv) the regulations provide that the premises are situated in the immediate vicinity of the street.
- (2A) Subsection (2) does not apply in relation to the Kings Cross precinct.
- (3) A reference in this Division:
  - (a) to a public entertainment venue does not (except where otherwise expressly provided) include a reference to a cinema or theatre, and
  - (b) to a producer/wholesaler licence is a reference to such a licence only to the extent that the licence authorises, or would authorise, the sale of liquor by retail (other than the retail sale of liquor at a wine show or a producers' market or fair in accordance with section 33 (1) (d) or (e)).

#### **47AA Exclusion of small venues**

- (1) This Division does not apply to or in respect of subject premises:

- (a) that comprise a small venue, and
  - (b) that would, as a result of any application under this Act or an application for development consent as referred to in section 47I, continue to comprise a small venue.
- (2) For the purposes of this section, premises comprise a *small venue* if:
- (a) not more than 60 patrons may be lawfully on the premises at any one time under the licence conditions for the premises or any relevant consent for the premises under the *Environmental Planning and Assessment Act 1979*, and
  - (b) there are no gaming machines or other facilities for gambling or betting on the premises, and
  - (c) the sale or supply of liquor for consumption away from the premises is not authorised by the licence for the premises, and
  - (d) the premises do not operate as a public entertainment venue, and
  - (e) the premises meet any other criteria prescribed by the regulations.
- (3) The regulations may prescribe criteria for premises to be regarded as a small venue for the purposes of this section, including criteria relating to the location of the premises, to the trading hours of the premises or to any connection with or relationship to other premises in the area.

#### **47B Restrictions on granting new licences**

- (1) During the freeze period, the following types of licences must not be granted for subject premises:
- (a) hotel licence,
  - (b) club licence,
  - (c) on-premises licence that relates to a public entertainment venue,
  - (d) packaged liquor licence,
  - (e) producer/wholesaler licence.
- (2) During the freeze period, the Authority must not grant an on-premises licence (other than an on-premises licence referred to in subsection (1) (c)) for subject premises if the Authority is satisfied that the granting of the licence is likely to result in an increase in the number of persons who enter the freeze precinct in which the premises are situated principally to consume alcohol.

#### **47C Restrictions on granting extended trading authorisations**

During the freeze period:

- (a) an extended trading authorisation (other than an extended trading authorisation referred to in paragraph (c)) must not be granted in relation to subject premises, and
- (b) an extended trading authorisation applying to subject premises must not be varied so as to increase the trading hours of the premises, and
- (c) the Authority must not grant an extended trading authorisation in relation to subject premises so as to authorise the sale or supply of liquor on the premises for a special occasion that takes place on a specified date, and not on a regular basis, if the Authority is satisfied that the granting of the authorisation is likely to result in:
  - (i) an increase in the number of persons who enter the freeze precinct in which the premises are situated principally to consume alcohol, or
  - (ii) an increase in the patron capacity of the premises.



#### **47D Restrictions on varying or revoking licence conditions**

- (1) During the freeze period, the conditions to which a licence is subject, being a licence to which this section applies that is held in respect of subject premises, must not be varied or revoked if any such variation or revocation would result in an increase in the trading hours of the subject premises. This subsection does not, however, prevent the granting of an extended trading authorisation as referred to in section 47C (c).
- (2) Without limiting the operation of subsection (1), the Authority must not, during the freeze period, take action under any other provision of this Act to vary or revoke the conditions to which a licence is subject, being a licence to which this section applies that is held in respect of subject premises, if the Authority is satisfied that the variation or revocation of the condition is likely to result in:
  - (a) an increase in the number of persons who enter the freeze precinct in which the premises are situated principally to consume alcohol, or
  - (b) an increase in the patron capacity of the premises.
- (3) This section applies to the following types of licences:
  - (a) hotel licence,
  - (b) club licence,
  - (c) on-premises licence that relates to a public entertainment venue (including a cinema or a theatre),
  - (d) on-premises licence that relates to a restaurant,
  - (e) packaged liquor licence,
  - (f) producer/wholesaler licence.

#### **47E Restrictions on granting authorisations under section 24 (3)**

- (1) During the freeze period, an authorisation under section 24 (3) must not be granted in relation to subject premises for which any of the following types of licences is held:
  - (a) on-premises licence that relates to a public entertainment venue,
  - (b) on-premises licence that relates to a restaurant.
- (2) During the freeze period, the Authority must not grant an authorisation under section 24 (3) in relation to subject premises for which an on-premises licence is held (other than an on-premises licence referred to in subsection (1)) if the Authority is satisfied that the granting of the authorisation is likely to result in:
  - (a) an increase in the number of persons who enter the freeze precinct in which the premises are situated principally to consume alcohol, or
  - (b) an increase in the patron capacity of the premises.

#### **47F Restrictions on approving licence removals**

##### **(1) Removal of licence from premises situated outside of freeze precinct**

During the freeze period, the removal of any of the following types of licences must not be approved if the licence would be removed to subject premises from premises that are not situated in the freeze precinct in which the subject premises are situated:

- (a) hotel licence,
- (b) club licence,
- (c) on-premises licence that relates to a public entertainment venue,
- (d) packaged liquor licence,
- (e) producer/wholesaler licence.

- (2) During the freeze period, the Authority must not approve the removal of an on-premises licence (other than an on-premises licence that relates to a public entertainment venue) to subject premises from premises that are not situated in the freeze precinct in which the subject premises are situated if the Authority is satisfied that:
  - (a) the removal of the licence to the subject premises is likely to result in an increase in the number of persons who enter the freeze precinct in which the subject premises are situated principally to consume alcohol, or
  - (b) the patron capacity of the subject premises will be more than the patron capacity of the premises from which the licence would be removed.
- (3) **Removal of licence between premises in same freeze precinct**

During the freeze period, the Authority must not approve the removal of a licence, being a licence to which this subsection applies, to subject premises from other premises situated in the same freeze precinct in which the subject premises are situated if the Authority is satisfied that:

  - (a) the removal of the licence to the subject premises is likely to result in an increase in the number of people who enter the freeze precinct in which the subject premises are situated principally to consume alcohol, or
  - (b) the patron capacity of the subject premises will be more than the patron capacity of the premises from which the licence would be removed.
- (4) Subsection (3) applies to the following types of licences:
  - (a) hotel licence,
  - (b) club licence,
  - (c) on-premises licence,
  - (d) packaged liquor licence,
  - (e) producer/wholesaler licence.

#### **47G Restrictions on changing boundaries of premises**

- (1) During the freeze period, the Authority must not change the specified boundaries (as referred to in section 94) of subject premises to which this subsection applies if the Authority is satisfied that the change in the boundaries of the premises is likely to result in:
  - (a) an increase in the number of people who enter the freeze precinct in which the subject premises are situated principally to consume alcohol, or
  - (b) an increase in the patron capacity of the subject premises.
- (2) Subsection (1) applies to subject premises in respect of which any of the following types of licences is held:
  - (a) hotel licence,
  - (b) club licence,
  - (c) on-premises licence,
  - (d) packaged liquor licence,
  - (e) producer/wholesaler licence.
- (3) Without limiting subsection (1), the specified boundaries of any licensed premises to which a producer/wholesaler licence relates (being a producer/wholesaler licence to which section 35 applies) must not, during the freeze period, be changed if the change would result in the licensed premises being situated in a freeze precinct.

#### **47H Restrictions on licence conditions imposed by Director-General**

- (1) During the freeze period, the Director-General must not, except in such cases as the Director-General considers appropriate, impose a condition on a licence, or vary or revoke any condition of a licence, being a licence to which this section applies that is held in respect of subject premises, if the Director-General is satisfied that the condition, or the variation or revocation of the condition, is likely to result in:
  - (a) an increase in the number of people who enter the freeze precinct in which the subject premises are situated principally to consume alcohol, or
  - (b) an increase in the patron capacity of the premises.
- (2) This section applies to the following types of licences:
  - (a) hotel licence,
  - (b) club licence,
  - (c) on-premises licence that relates to a public entertainment venue (including a cinema or a theatre),
  - (d) on-premises licence that relates to a restaurant,
  - (e) packaged liquor licence,
  - (f) producer/wholesaler licence.
- (3) Subsection (1) does not limit the operation of section 47D (1).

#### **47I Restrictions on granting development consent in relation to subject premises**

- (1) During the freeze period, development consent to carry out development on subject premises must not be granted by a consent authority if the development requires a licence, approval, authorisation or other action under this Act that cannot be granted or taken because of the operation of the other provisions of this Division.
- (2) For the purposes of subsection (1), any matter under those other provisions of which the Authority is required to be satisfied is to be a matter of which the consent authority is required to be satisfied.
- (3) This section does not apply to or in respect of an application for development consent:
  - (a) to carry out development on subject premises for the purposes of a restaurant, or
  - (b) to carry out development on subject premises that are in a freeze precinct described in Part 2 of Schedule 5, or
  - (c) that was made on or before the relevant introduction date.
- (4) This section does not prevent:
  - (a) an application for development consent from being amended under the EP&A Act by the applicant for the purposes of removing or modifying that part of the application that would otherwise prevent it from being granted because of subsection (1), or
  - (b) the consent authority from determining any such amended application in accordance with that Act.
- (5) A reference in this section:
  - (a) to an application for development consent includes a reference to an application to modify an existing development consent, and
  - (b) to the granting of development consent includes a reference to the modification of a development consent.

- (6) A reference in this section to a consent authority includes, in the case of any development that is complying development, a reference to a certifying authority.
- (7) The provisions of the EP&A Act that provide for an appeal to the Land and Environment Court on the basis that the period for determining an application for development consent has expired before the application is determined do not, for the duration of the freeze period, apply in relation to an application for development consent that cannot be granted by the consent authority because of this section. In the case of any such application for development consent, the period under the relevant provision of the EP&A Act for determining the application is taken to commence immediately on the expiration of the freeze period.
- (8) Words and expressions used in this section or in section 47J that are defined in the EP&A Act have the same meaning as in that Act.
- (9) In this section:  
*EP&A Act* means the *Environmental Planning and Assessment Act 1979*.  
*relevant introduction date* means the date on which the Bill for the *Liquor Amendment (Temporary Licence Freeze) Act 2009* was introduced into the Legislative Assembly.

#### **47J Regulations**

The regulations may:

- (a) impose restrictions on the granting or determination, during the freeze period, of any type of licence or other matter in relation to subject premises (being a type of licence or matter that could be granted under this Act and is not otherwise dealt with under this Division), and
- (b) impose restrictions on the granting, during the freeze period, of development consent to carry out development on subject premises (being development consent that is not otherwise restricted by the operation of section 47I and that relates to the carrying out of development to which the other provisions of this Division apply), and
- (c) provide exceptions to all or any part of this Division, and
- (d) amend Part 1 or 2 of Schedule 5 (including, without limitation, by adding or removing, or varying the description of, a precinct).

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

#### **48 Community impact**

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of:
  - (a) the views of the local community, and
  - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.
- (2) In this section:  
*relevant application* means any of the following:
  - (a) an application for a hotel licence, club licence or packaged liquor licence,

- (b) an application under section 59 for approval to remove a hotel licence, club licence or packaged liquor licence to other premises,
  - (c) an application for an extended trading authorisation in relation to a hotel licence, club licence or packaged liquor licence,
  - (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
  - (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
  - (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
  - (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,
- but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A)).
- (3) A relevant application must be accompanied by a community impact statement.
  - (4) The community impact statement must:
    - (a) be prepared in accordance with the regulations and any requirements of the Authority, and
    - (b) be in the form approved by the Authority.
  - (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:
    - (a) the community impact statement provided with the application, and
    - (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.
  - (6) The regulations may make provision for or with respect to the following:
    - (a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),
    - (b) the matters to be addressed by a community impact statement,
    - (c) the information to be provided in a community impact statement,
    - (d) the criteria for determining the local and broader community for the purposes of a relevant application,
    - (e) any other matter relating to the preparation and content of a community impact statement.
  - (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**

##### **(1) Application of section**

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

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

(2) **Extended trading authorisation for consumption on premises**

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

- (a) in the case of a hotel licence—a specified period between midnight (other than midnight on a Sunday) and 5 am on any day of the week (other than a Monday),
- (b) in the case of a relevant licence other than a hotel licence—a specified period between midnight and 5 am on any day of the week,
- (c) in any case—a specified period between 5 am and 10 am on a Sunday,
- (d) in any case—a specified period between 10 pm and midnight on a Sunday.

(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 midnight on a Sunday.

(5) **Nature of extended trading authorisation**

An extended trading authorisation operates to authorise the sale or supply of liquor on the licensed premises:

- (a) on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or
  - (b) if the authorisation so provides—on a special occasion that takes place on a specified date.
- (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.

## 50 Drink on-premises authorisation for producers of wine and similar products

- (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 applying to licence-related authorisations**

- (1) This section applies to the following authorisations granted by the Authority under this Act:
  - (a) an extended trading authorisation,
  - (b) a drink on-premises authorisation,
  - (c) any other authorisation that may be granted by the Authority under Part 3 (other than a licence),
  - (d) a minors area authorisation,
  - (e) a minors functions authorisation.
- (2) An application for an authorisation to which this section applies must:
  - (a) be in the form and manner approved by the Authority, and
  - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
  - (c) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
  - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
- (3) In determining an application for an authorisation, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence. The Authority may determine the application whether or not the Director-General has provided a report in relation to the application.
- (4) If, before an application for an authorisation is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including information provided under this subsection), the applicant must immediately notify the Authority of the particulars of the change.  
Maximum penalty: 20 penalty units.
- (5) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for an authorisation.
- (6) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the authorisation.
- (7) The regulations may prescribe, or provide for the determination of, a fee in respect of the granting of an authorisation. If any such fee is prescribed or determined, the authorisation does not take effect unless the fee has been paid.
- (8) The Authority may, in granting an authorisation, specify requirements that are to be complied with before the authorisation takes effect. The authorisation does not take effect until such time as any such requirements have been complied with.
- (9) An authorisation:
  - (a) is subject to such conditions:



- (i) as are imposed by the Authority (whether at the time the authorisation is granted or at a later time), or
    - (ii) as are imposed by or under this Act or as are prescribed by the regulations, and
  - (b) may be varied or revoked by the Authority on the Authority's own initiative or on application by the licensee, the Director-General 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 Director-General 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 Director-General or the Commissioner of Police, or
  - (b) on the Authority's own initiative,
- vary or revoke a condition of a licence that has been imposed (or taken to have been imposed) by the Authority under this Act.
- (3) An application under subsection (1) or (2) must:
- (a) be in the form and manner approved by the Authority, and
  - (b) in the case of an application by a licensee—be accompanied by the fee prescribed by the regulations, and
  - (c) be accompanied by such information and particulars as may be prescribed by the regulations, and
  - (d) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
  - (e) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
- (4) The Authority must not impose a condition on a licence after it has been granted, or vary or revoke a condition that has been imposed (or taken to have been imposed) by the Authority, unless the Authority has:
- (a) given the licensee a reasonable opportunity to make submissions in relation to the proposed decision, and
  - (b) taken any such submissions into consideration before making the decision.
- (5) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application under this section to vary or revoke a condition to which a licence is subject.
- (6) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to vary or revoke the licence condition.

#### **54 Director-General may impose, vary or revoke licence conditions**

- (1) Without limiting the power of the Director-General to impose conditions on a licence under any other provision of this Act, the Director-General may impose conditions on a licence for such reasons, or in such circumstances, as the Director-General considers necessary or appropriate.
- (1A) The conditions that may be imposed by the Director-General 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 Director-General may, on application by the licensee or the Commissioner of Police or on the Director-General's own initiative:

- (a) vary or revoke a licence condition that has been imposed by the Director-General 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,  
that has been imposed (or taken to have been imposed) by the Authority.
- (3) The Director-General 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 Director-General 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 Director-General 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 Director-General:
  - (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 Director-General 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 Director-General, 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: 50 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 Authority.
- (2) An incident register required to be kept under this section is to record details of the following incidents that occur outside of the standard trading period for the licensed premises 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.

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

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

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

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

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

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

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

- (a) on payment to the Authority of the fee prescribed by the regulations, and
- (b) when the Authority endorses the licence to the effect that those other premises are the premises to which the licence relates.

#### 60 Transfer of licence

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

#### **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 in attendance at the premises in the capacity as licensee.
- (2) An application for a transfer of the licence may be made by the owner of the licensed premises 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.
- (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 Director-General and the Commissioner of Police of any application under this section and the Director-General and the Commissioner are entitled to make submissions in relation to such an application.

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

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

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

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

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

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

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

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

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

- (1) A licensee must not permit the licensed premises to be used for the sale of:
  - (a) any goods that the licensee suspects of being stolen, or
  - (b) any substance that the licensee suspects of being a prohibited plant or a prohibited drug.  
Maximum penalty: 50 penalty units.
- (2) A licensee must not permit the possession or use on the licensed premises of any substance that the licensee suspects of being a prohibited plant or a prohibited drug.  
Maximum penalty: 50 penalty units.
- (3) An employee or agent of a licensee or a person (other than the licensee) in charge of licensed premises must not permit the licensed premises to be used for the sale of:
  - (a) any goods that the employee, agent or person suspects of being stolen, or
  - (b) any substance that the employee, agent or person suspects of being a prohibited plant or a prohibited drug.

Maximum penalty: 50 penalty units.

- (4) An employee or agent of a licensee or a person (other than the licensee) in charge of licensed premises must not permit the possession or use on the licensed premises of any substance that the employee, agent or person suspects of being a prohibited plant or a prohibited drug.

Maximum penalty: 50 penalty units.

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

#### **75 Directions to licensees and staff of licensed premises**

- (1) The Director-General may give a licensee, or any employee or agent of a licensee, a written direction concerning any matter relating to the licensed premises (including any conduct on the licensed premises).

- (2) The direction takes effect when the direction is given to the licensee or person concerned or on a later date specified in the direction.

- (3) A licensee, employee or agent who, without reasonable excuse, fails to comply with a direction under this section is guilty of an offence.

Maximum penalty: 50 penalty units.

- (4) The power conferred by this section includes a power to give a direction to adopt, vary, cease or refrain from any practice on or in respect of the licensed premises.

- (5) The Director-General may revoke or vary a direction given under this section.

- (6) A direction under this section must not be inconsistent with this Act and the authorisation conferred by the licence concerned.

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

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

- (1) A person (*the participant*) may request a licensee to enter into an agreement (*a self-exclusion agreement*) with the person under which the person agrees to be prevented from entering or remaining on the licensed premises specified in the agreement.

- (2) A self-exclusion agreement is to be in the form approved by the Authority. The approved form may contain specified requirements that must be complied with in relation to such an agreement, including specifying the circumstances in which licensees are required to comply with a request to enter into an agreement. The approved form may also include provision for the manner in which a self-exclusion agreement may be terminated by the parties to the agreement.

- (3) If a request is made by a person to enter into a self-exclusion agreement, the licensee must enter into the agreement if the circumstances in which the request is made comply with the circumstances specified in the form approved by the Authority.

- (4) A self-exclusion agreement may, if the licensee who enters into the agreement is 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 because the person was intoxicated, violent, quarrelsome or disorderly, must not re-enter or attempt to re-enter the premises within 24 hours of being refused admission or being turned out.  
Maximum penalty: 50 penalty units.
- (7) After the 24-hour period ends in relation to any such person, an authorised person is not prevented from exercising the powers under subsection (3) in relation to the person.
- (8) A person who has been refused admission to, or turned out of, licensed premises in accordance with this section because the person was intoxicated, violent, quarrelsome or disorderly, must not, without reasonable excuse:
  - (a) remain in the vicinity of the premises, or
  - (b) re-enter the vicinity of the premises within 6 hours of being refused admission or being turned out.Maximum penalty: 50 penalty units.
- (9) Without limiting subsection (8), a person has a reasonable excuse for remaining in, or re-entering, the vicinity of the licensed premises if:
  - (a) the person reasonably fears for his or her safety if he or she does not remain in, or re-enter, the vicinity of the premises, or
  - (b) the person needs to remain in, or re-enter, the vicinity of the premises in order to obtain transport, or
  - (c) the person resides in the vicinity of the premises.
- (10) In the prosecution for an offence under subsection (8), the burden of proving that a person had a reasonable excuse for remaining in, or re-entering, the vicinity of the licensed premises concerned is on the person charged.
- (11) The functions that may be exercised under this section by an authorised person who is a licensee or employee or agent of a licensee may only be exercised in relation to the licensed premises to which the licensee's licence relates.
- (12) A reference in this section to turning a person out of licensed premises includes a reference to causing the person to be turned out.
- (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 Director-General, or
  - (b) the Commissioner of Police, or
  - (c) a licensee who is a party to a local liquor accord, or
  - (d) any other person (or class of persons) prescribed by the regulations.
- (3) The application must be in the form approved by the Authority.
- (4) The Authority may make such an order under this section only if the Authority is satisfied that the person the subject of the proposed order has repeatedly been intoxicated, violent, quarrelsome or disorderly on or in the immediate vicinity of licensed premises.

- (5) The regulations may prescribe other circumstances in which the Authority is authorised to make an order under this section.
- (6) An order under this section must specify a period (not exceeding 6 months) during which the order is in force.
- (7) In deciding whether to make an order under this section, the Authority is not to take into consideration the person's race or ethnic or national origins.
- (8) A person who is the subject of an order under this section must not enter or attempt to enter, or remain on, the licensed premises to which the order relates.  
Maximum penalty: 50 penalty units.

### **Division 3      Disturbance complaints**

#### **79    Making of complaint**

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

#### **80    Dealing with complaints**

- (1) The Director-General 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 Director-General decides to deal with the complaint, the Director-General 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 Director-General 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 Director-General under this section may be extended to include other licensed premises if the Director-General 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 Director-General 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 Director-General, and
  - (b) the Director-General 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 Director-General and the procedure at the conference is to be determined by the Director-General.
- (9) Nothing in this section prevents the Director-General 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 Director-General in relation to complaint**

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

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

- (1) An application under section 82 may be made by telephone.

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

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

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

- (3) Without limiting the generality of subsection (2), circumstances in which there may be a significant threat or risk to the public interest include circumstances in which there is:
  - (a) a threat to public health or safety, or
  - (b) a risk of substantial damage to property, or
  - (c) a significant threat to the environment, or
  - (d) a risk of serious offences (having a maximum penalty of not less than 2 years imprisonment) being committed on the premises.
- (4) An order ceases to have effect at the time specified or when a complaint concerning the licensee or manager of the premises is determined under this Act, whichever is the earlier.
- (5) An order may not require the closure of premises for a period longer than the period prescribed by the regulations.
- (6) An order may require the closure of premises until specified conditions are met but must not require closure for a period longer than that permitted under subsection (5).
- (7) A licensee must comply with an order made under this section.  
Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.
- (8) The regulations may make provision for or with respect to an application for an order under this section, including the procedure to be followed at or in connection with the hearing and determination of any such application.

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

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

#### **86 Breach of the peace**

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

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

#### **87 Director-General may make late hour entry declaration**

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

- (4) A late hour entry declaration has effect despite any other provision of this Act or the conditions of a licence relating to any licensed premises to which the declaration applies.

**88 Effect of late hour entry declaration**

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

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

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

**90 Director-General may vary or revoke late hour entry declaration**

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

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

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

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

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

- (1) A licensee or a related corporation of the licensee must not:
  - (a) if the licensee is an individual—allow any person to have the personal supervision and management of the conduct of the business under the licence for a longer continuous period than 6 weeks except with the approval of the Authority, or
  - (b) lease or sublease the right to sell liquor on the licensed premises, or
  - (c) lease or sublease any part of the licensed premises on which liquor is ordinarily sold or supplied for consumption on the premises or on which approved gaming machines are ordinarily kept, used or operated, or
  - (d) lease or sublease any other part of the licensed premises except with the approval of the Authority.Maximum penalty: 50 penalty units.
- (2) The owner of licensed premises must not:
  - (a) lease or sublease any part of the premises on which liquor is ordinarily sold or supplied for consumption on the premises, or on which an approved gaming machine is ordinarily kept, used or operated, to any person other than the licensee or a related corporation of the licensee, or
  - (b) except with the approval of the Authority, lease or sublease any other part of the licensed premises to any person other than the licensee or a related corporation of the licensee.Maximum penalty: 50 penalty units.
- (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 Director-General and the Commissioner of Police a reasonable opportunity to make submissions in relation to the proposed change, and
  - (b) to take any such submissions into consideration before deciding whether to make the change.
- (4) Any change in the specified boundaries of licensed premises under this section does not take effect until such fee as may be prescribed by the regulations has been paid.
- (5) The Authority must not specify or change the boundaries of any licensed premises unless the Authority is of the opinion that any primary purpose requirement under this Act in relation to the licensed premises is or will be complied with.

**95 Name of licensed premises**

- (1) A licensee must cause to appear and be maintained on the front of the licensed premises, in accordance with the regulations, a sign that specifies:
  - (a) a name for the licensed premises (not being a name that is a prohibited name for the licensed premises under this section), and
  - (b) the type of licence for the premises, and
  - (c) any other particulars prescribed by the regulations.Maximum penalty: 5 penalty units.
- (2) A licensee must not alter the name referred to in subsection (1) (a) unless the Authority has, on payment of such fee as may be prescribed by the regulations:
  - (a) approved in writing of the proposed new name, and
  - (b) endorsed the change of name on the licence.Maximum penalty: 5 penalty units.
- (3) The Authority may not approve an alteration of the name of licensed premises if the name as proposed to be altered is a prohibited name for the licensed premises under this section.
- (4) A licensee must not cause or permit the use on any sign displayed on the exterior of the licensed premises or in any advertising with respect to the licensed premises of a name that is a prohibited name for the licensed premises under this section.

Maximum penalty: 5 penalty units.

- (5) A name is a prohibited name for licensed premises under this section if:
  - (a) it is a name or a name of a kind, or contains words or words of a kind, prescribed by the regulations as prohibited, either in relation to all licensed premises or in relation to the particular class of licensed premises of which the licensed premises form part, or
  - (b) it is a name that the Authority has notified the licensee in writing is prohibited as being objectionable, inappropriate or misleading.
- (6) A regulation for the purposes of subsection (5) may be made so as to apply to licensed premises generally or so as to apply only to a specified class or specified classes of licensed premises.
- (7) A name may not be prohibited in respect of licensed premises by notification under this section if the regulations provide that the name is permitted for use in relation to the licensed premises concerned or in relation to the particular class of licensed premises concerned.
- (8) It is a defence to a prosecution for an offence under this section if it is proved that:
  - (a) the licensee had taken all reasonable precautions to avoid commission of the alleged offence, and
  - (b) at the time of the alleged offence, the licensee did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.
- (9) This section does not apply in relation to a limited licence or an on-premises licence that relates to a catering service.

#### **96 Temporary premises**

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

#### **97 Breath analysis equipment**

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

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

**98 Work carried out on licensed premises**

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

## Part 6 Miscellaneous offences and regulatory controls

### Division 1 General

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

- (1) The regulations may make provision for or with respect to requiring or encouraging the adoption of responsible practices in the sale, supply, service and promotion of liquor.
- (2) In particular, the regulations may make provision for or with respect to the following:
  - (a) restricting or prohibiting the conduct of promotions or other activities (including the discounting or supply of liquor free of charge) that could result in misuse or abuse of liquor, such as binge drinking or excessive consumption,
  - (b) the standards to be observed on licensed premises in the sale and service of liquor, for the purpose of preventing misuse or abuse of liquor,
  - (c) requiring licensees, managers and other persons engaged in the sale, supply, service and promotion of liquor and other activities on the licensed premises to undergo courses of training that will promote responsible practices in those activities,
  - (d) specifying the circumstances in which the Director-General 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) The regulations under subsection (2) (c) may create offences punishable by a penalty not exceeding 100 penalty units.

**Note.** The penalty for any other offence created by the regulations cannot exceed 50 penalty units—see section 159 (3).

#### 100 Regulations may declare undesirable liquor products

- (1) The regulations may declare a specified liquor product (or class of liquor products) to be an undesirable liquor product.
- (2) A licensee must not sell or supply any such liquor product that is declared to be an undesirable liquor product.  
Maximum penalty: 50 penalty units.
- (3) The Minister may recommend the making of a regulation under this section only if, in the opinion of the Minister:
  - (a) the name of the liquor product, or its design or packaging, is indecent or offensive, or
  - (b) the name of the liquor product, or its design or packaging, encourages irresponsible, rapid or excessive consumption of the product, or
  - (c) the name of the liquor product, or its design or packaging, is likely to be attractive to minors, or
  - (d) the liquor product is likely, for any reason, to be confused with soft drinks or confectionery, or
  - (e) the liquor product is, for any other reason, likely to have a special appeal to minors, or

- (f) it is otherwise in the public interest to declare the liquor product to be an undesirable liquor product.
- (4) The Minister must, before recommending the making of a regulation under this section, consult with relevant liquor industry representatives and the manufacturer of any liquor product proposed to be prescribed by the regulations (where the manufacturer is known to the Minister).
- (5) The validity of a regulation under this section is not affected by any failure to comply with subsection (3) or (4).

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

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

**102 Director-General may restrict or prohibit undesirable promotion of liquor**

- (1) The Director-General may, by notice in writing given to a licensee, restrict or prohibit the licensee carrying on, or being involved in, an activity that:
  - (a) promotes the sale or supply of liquor, and
  - (b) is specified or described in the notice.
- (2) The Director-General may restrict or prohibit any such activity only if the Director-General is of the opinion that:
  - (a) the promotion is likely to have a special appeal to minors because of the use of designs, names, motifs or characters in the promotion that are, or are likely to be, attractive to minors or for any other reason, or
  - (b) the promotion is indecent or offensive, or
  - (c) the promotion involves the provision of liquor in non-standard measures or the use of emotive descriptions or advertising that encourages irresponsible drinking and is likely to result in intoxication, or
  - (d) the promotion involves the provision of free drinks, or extreme discounts or discounts of a limited duration, that creates an incentive for patrons to consume liquor more rapidly than they otherwise might, or
  - (e) the promotion otherwise encourages irresponsible, rapid or excessive consumption of liquor, or
  - (f) the restriction or prohibition is otherwise in the public interest.
- (3) A licensee must comply with a notice given to the licensee under this section.  
Maximum penalty: 50 penalty units.
- (4) The Director-General must not give a notice under this section unless the Director-General has issued publicly available guidelines that indicate the kinds of activities or promotions that the Director-General would consider being the subject of a notice under this section.

**102A Director-General may restrict or prohibit activities that encourage misuse or abuse of liquor**

- (1) The Director-General 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 Director-General, 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).

- (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, and
  - (b) earlier than the end of that period.

Maximum penalty: 5 penalty units.

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

Maximum penalty: 20 penalty units.

#### **105 Carrying liquor away from licensed premises outside trading hours**

- (1) If liquor is authorised to be sold or supplied on licensed premises for consumption away from the premises, a person must not carry liquor away from the premises at a time when the licensee is not authorised to sell or supply liquor for consumption away from the premises.

Maximum penalty: 5 penalty units.

- (2) A person does not commit an offence under subsection (1) if:
- (a) the person:

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

#### **106 Delivery of liquor from unlicensed premises**

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

#### **107 Production of licence on licensed premises**

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

#### **108 Prohibition on extension of credit for gambling**

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

#### **109 Misrepresentation or misdescription of credit transactions**

- (1) A responsible person for licensed premises must not, in any credit transaction, describe or represent any cash advance extended to another person who the responsible person knows, or could reasonably be expected to know, intends to use



the cash advance to gamble on the licensed premises to be a payment for goods or services lawfully provided on the licensed premises or elsewhere.

Maximum penalty: 50 penalty units.

- (2) In subsection (1), *credit transaction* means any transaction involving a payment to licensed premises by means of a credit facility provided by a financial institution.

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

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

Maximum penalty: 50 penalty units.

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

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

- (1) A person must not carry away any liquor from the premises to which an on-premises licence relates.

Maximum penalty: 5 penalty units.

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

**112 Obtaining liquor by false representation**

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

- (a) is a resident of the premises or a guest of a resident of the premises, or
- (b) is intending to eat, or has eaten, a meal on the premises, or

- (c) is intending to purchase, or make use of, a product or service provided or supplied on the premises, or
  - (d) is attending a function on the premises, or
  - (e) is an employee or agent of the licensee.
- Maximum penalty: 5 penalty units.

### **113 Carrying liquor for sale**

- (1) A person must not:
- (a) carry liquor about for the purpose of sale, or
  - (b) offer or expose liquor for sale at or on any place other than a place at or on which liquor may lawfully be sold, or
  - (c) carry liquor, for the purpose of sale, to a place other than a place at or on which liquor may lawfully be sold.
- Maximum penalty: 20 penalty units.
- (2) If liquor is carried, offered or exposed by a person in contravention of subsection (1) and is so carried, offered or exposed on behalf of another person, that other person is taken to have contravened that subsection.
- (3) It is a defence to a prosecution for a contravention of subsection (1) or (2) if it is proved that the liquor was carried, offered or exposed for the purpose of a sale that may lawfully be made.
- (4) In the prosecution for an offence under this section, the burden of proving that liquor that has been carried about, or carried to any place, was not so carried for the purpose of sale is on the person charged.

### **114 Sale of liquor through internet or by other communication media**

- (1) A licensee who sells liquor by taking orders over the telephone or by facsimile or by mail order must cause the licence number to be displayed in any advertisement or information published in writing or electronically in connection with such sales.
- Maximum penalty: 20 penalty units.
- (2) A licensee who sells liquor through an internet site must ensure that the licence number is prominently displayed on the site and in any advertisement or information published in writing or electronically in connection with such sales.
- Maximum penalty: 20 penalty units.
- (3) A licensee who sells liquor by taking orders over the telephone or by facsimile or by mail order, or who sells liquor through an internet site:
- (a) must, at the time at which an agreement for sale is made, require the prospective purchaser to supply the purchaser's date of birth so as to confirm that the prospective purchaser is of or above the age of 18 years, unless the prospective purchaser has previously supplied the purchaser's date of birth to the licensee, and
  - (b) must give written instructions to the person responsible for delivery of the liquor, requiring that the liquor be delivered:
    - (i) to the adult person who placed the order, or
    - (ii) to another adult person at those premises who undertakes to accept it on behalf of the person who placed the order, or
    - (iii) if the delivery is made on a day after the day the order is taken, or the sale made through an internet site, in accordance with the customer's instructions.

Maximum penalty: 20 penalty units.

- (4) If delivery of any liquor sold in a manner described in this section is taken by a minor:
  - (a) the delivery is taken to constitute a supply to which section 117 (2) applies, and
  - (b) the licensee, and any person by whom the liquor was delivered on the licensee's behalf, are each taken to have supplied the liquor contrary to section 117 (2).
- (5) A licensee who, in accordance with subsection (4), is prosecuted for an offence under section 117 (2) has a defence under this subsection if it is proved that the licensee:
  - (a) complied with the requirements of subsection (3) in relation to the supply concerned, and
  - (b) at the time of the alleged offence did not know, and could not reasonably be expected to have known, that the alleged offence was committed.
- (6) A person (not being a licensee) who, in accordance with subsection (4), is prosecuted for an offence under section 117 (2) has a defence under this subsection if it is proved that:
  - (a) the person to whom the liquor was delivered was of or above the age of 14 years and, before the liquor was delivered, there was produced to the defendant an evidence of age document that may reasonably be accepted as applying to the person and as proving that the person was of or above the age of 18 years, and
  - (b) at the time of the alleged offence the defendant did not know, and could not reasonably be expected to have known, that the alleged offence was committed.
- (7) A minor must not take delivery of any liquor sold in a manner described in this section unless the minor was ordered or requested by his or her parent or guardian to take delivery of the liquor.  
Maximum penalty: 20 penalty units.
- (8) A person must not order or request a minor to take delivery of liquor sold in a manner described in this section.  
Maximum penalty: 30 penalty units.
- (9) This section does not apply to or in respect of the sale of liquor to persons authorised to sell liquor.

## **Division 2      Restricted alcohol areas**

### **115    Declaration of restricted alcohol area**

- (1) The regulations may:
  - (a) declare any area of the State that is specified in the regulations to be a restricted alcohol area for the purposes of this Act, and
  - (b) restrict the sale, supply, possession or consumption of liquor on any premises (whether or not licensed premises) in any such restricted alcohol area.
- (2) Without limiting the restrictions that may be imposed, the regulations may restrict:
  - (a) the trading hours for licensed premises in a restricted alcohol area, and
  - (b) the kinds of liquor that may be sold or supplied, and the way in which liquor is sold or supplied, on licensed premises in a restricted alcohol area.

- (3) A restricted alcohol area may be declared in respect of an area that is an alcohol-free zone established under the *Local Government Act 1993*.
- (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 Kings Cross precinct**

#### **116A Regulatory controls for licensed premises in Kings Cross precinct**

- (1) The regulations may prescribe conditions to which a licence relating to premises situated in the Kings Cross 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, 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 Kings Cross 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 Kings Cross precinct.
- (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 Director-General to exempt the licensee of any premises situated in the Kings Cross 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.
- (5) 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 Kings Cross precinct may be subject.
- (6) 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 the person is a parent or guardian of the minor.

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

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

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

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

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

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

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

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

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

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

(10) **Burden of proof**

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

- (11) In the application of this section to an on-premises licence that relates to a catering service, a reference to licensed premises does not include any private domestic premises.
- (12) For the purposes of this section, *supply* of liquor includes serving liquor to a person.

**118 Offences relating to consumption etc of liquor by minor**

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

A minor must not:

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

Maximum penalty: 20 penalty units.

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

A person must not:

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

Maximum penalty: 30 penalty units.

- (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:
- at least 7 days notice must be given to the local police before any function is held,
  - 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,
  - 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,
  - liquor must not be sold, supplied, disposed of or consumed in the area in which a function is held,
  - 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,
  - such other conditions as may be prescribed by the regulations.
- (5) A licensee is guilty of an offence if any conditions of a minors functions authorisation held by the licensee are contravened.  
Maximum penalty: 20 penalty units.
- (6) Nothing in this section prevents a minors functions authorisation from applying to the whole of the licensed premises concerned.
- (7) For the purposes of this section, *function* includes, but is not limited to, a function as defined in section 4 (1).

## 123 Minor not to enter or remain in certain licensed premises

- (1) A minor must not:
- enter or remain in the bar area of a hotel or club premises, or
  - 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
  - enter or remain in a licensed public entertainment venue unless:
    - the minor is in the company of a responsible adult, or



- (ii) a function is being held in the venue in accordance with a minors functions authorisation.

Maximum penalty: 20 penalty units.

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

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

- (1) If a minor:
  - (a) enters a bar area of a hotel or club premises, or
  - (b) enters a part of a hotel to which a minors area authorisation is in force, but is not in the company of a responsible adult, or
  - (c) enters a licensed public entertainment venue, but is not in the company of a responsible adult,the licensee is guilty of an offence.  
Maximum penalty: 50 penalty units.
- (2) If a minor:
  - (a) is in a bar area of a hotel or club premises, or

- (b) is in a part of a hotel to which a minors area authorisation is in force, but is not in the company of a responsible adult, or
- (c) is in a licensed public entertainment venue, but is not in the company of a responsible adult,

the licensee is guilty of an offence unless the minor is immediately removed from the area or premises concerned.

Maximum penalty: 50 penalty units.

- (3) A licensee does not commit an offence under this section if the minor:
  - (a) is at least 14 years of age and produces to the licensee (or an employee or agent of the licensee) an evidence of age document that may reasonably be accepted as applying to the minor and as proving that the minor is of or above the age of 18 years, or
  - (b) is an apprentice or trainee (within the meaning of the *Apprenticeship and Traineeship Act 2001*) who has entered, or is on, the licensed premises concerned for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee, or
  - (c) has entered, or is on, the licensed premises concerned for such purposes, or in such circumstances, as may be approved by the Authority and are specified in the licence concerned.
- (4) A licensee does not commit an offence under this section in relation to a minor entering, or being or remaining in, a bar area of a hotel or club premises if the minor:
  - (a) is present in the bar area only for so long as is reasonably necessary to pass through the area in order to conveniently gain access to another area of the hotel or club premises that the minor may enter without contravening this Act, and
  - (b) is in the company of a responsible adult while in the bar area.
- (5) A licensee does not commit an offence under this section in relation to a minor being in the bar area of club premises if:
  - (a) a reception is being held in that area in association with the wedding of a member of the club or of a person who is a child or parent of a member of the club or for whose maintenance a member of the club is or has been responsible, and
  - (b) the minor has been invited to the reception by a person entitled to issue the invitation.
- (6) A licensee does not commit an offence under this section in relation to a minor being in a licensed public entertainment venue if a function is being held in the venue in accordance with a minors functions authorisation.
- (7) In the prosecution for an offence under this section, the defendant has the burden of proving that a particular person was the responsible adult in relation to a minor at the relevant time.

#### **125 Responsible adult not to leave minor unaccompanied on licensed premises**

- (1) If, under this Act, a minor is required to be accompanied by a responsible adult while in a hotel or licensed public entertainment venue, the responsible adult who is accompanying the minor must not leave the minor unaccompanied on the licensed premises without first informing the licensee or an employee or agent of the licensee.  
Maximum penalty: 30 penalty units.

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

**126 Minors must be refused entry to licensed premises**

If:

- (a) a responsible person for a hotel, club premises or licensed public entertainment venue is aware that a person (*the relevant person*) who may reasonably be suspected of being under the age of 18 years is attempting to enter the licensed premises, and
- (b) the presence of the relevant person on the licensed premises would, if the relevant person were under the age of 18 years, be an offence under this Act, the responsible person must refuse the relevant person entry to the premises unless there is produced to the responsible person an evidence of age document that may reasonably be accepted as applying to the relevant person and as proving that the relevant person is of or above the age of 18 years.

Maximum penalty: 50 penalty units.

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

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

**Division 3 Other provisions relating to minors**

**128 Minor required to provide information**

- (1) An authorised person may require a person (*the relevant person*) who is reasonably suspected of being a minor and who, if a minor, would be committing an offence under this Act:
- (a) to state the relevant person's full name, residential address and date of birth, and
- (b) to produce then, or at a police station within a reasonable time, an evidence of age document for the person.
- (2) A person who is the subject of a requirement under subsection (1) must not:
- (a) refuse or fail to state his or her full name, residential address and date of birth, or
- (b) without reasonable excuse, refuse or fail to produce an evidence of age document that may reasonably be accepted as applying to the person.
- Maximum penalty: 20 penalty units.
- (3) In this section:

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

**129 Minor must not use false evidence of age**

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

Maximum penalty: 20 penalty units.

**130 Minors not to be detained**

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

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

## Part 8 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 Director-General,
- (c) the NSW Police Force (to be represented by a police officer nominated by the Commissioner of Police),
- (d) a local council,
- (e) any body or organisation (such as a Chamber of Commerce) representing commercial or business interests in the relevant local area,
- (f) a community or residents' group with an interest in alcohol-related harm or the amenity of the relevant local area,
- (g) any other person or body (or person or body belonging to a class of persons or bodies) prescribed by the regulations.

#### 133 Establishing local liquor accord

- (1) Any 2 or more eligible parties (at least one of whom is a licensee) may prepare a draft local liquor accord in writing and submit it to the Commissioner of Police and the Director-General for approval.
- (2) The draft 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 proposed area to which the accord is to apply, and
  - (d) any other matter that may be prescribed by the regulations.
- (3) The Commissioner of Police and the Director-General are to endeavour to ensure that local liquor accords are prepared for, and apply to, all areas of the State.

#### 134 Terms of local liquor accords

- (1) Without limiting the terms that may be included in a local liquor accord, an accord may make provision for or with respect to any one or more of the following:
  - (a) authorising or requiring any licensee who is a party to the accord:

- (i) to cease to serve liquor (including take-away liquor) on the licensed premises, or
  - (ii) to restrict the public's access to the licensed premises in a manner and to the extent provided by the accord,  
or both, from a time of day that is earlier than the time at which, as required by the relevant licence, trading must cease,
- (b) authorising or requiring any licensee who is a party to the accord:
  - (i) to restrict the use of glass containers, or
  - (ii) to maintain an incident register, or
  - (iii) to install and operate closed-circuit television or any other security device, or
  - (iv) to provide security staff, or
  - (v) to do any other thing that may be prescribed by the regulations in order to minimise alcohol-related harm.
- (2) Entry by any person into a local liquor accord, and any conduct on the part of any person for the purpose of promoting or giving effect to the terms of a local liquor accord, are specifically authorised by this Act for the purposes of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*.
- (3) Conduct authorised by subsection (2) is authorised only to the extent (if any) to which the conduct, so far as it consists of things done to regulate the supply of liquor or in some other respect, would otherwise contravene Part IV of the *Trade Practices Act 1974* of the Commonwealth or the *Competition Code of New South Wales*.

### **135 Approval, variation and termination of local liquor accord**

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

### **136 Requirement to contribute to costs of implementing local liquor accord**

- (1) The Director-General 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 Director-General 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 Director-General, 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 Director-General) for the precinct or area to which the accord applies or is to apply,
  - (f) such other persons or bodies as the Director-General 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 Director-General may approve liquor accords for designated precincts

- (1) The Director-General 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 Director-General considers appropriate.
- (3) The Director-General may approve a precinct liquor accord for a designated precinct only if the Director-General 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 Director-General may terminate a precinct liquor accord at any time by notice in writing given to the persons or bodies participating in the accord.

**136C Director-General may approve liquor accords for community events**

- (1) The Director-General 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 Director-General is to make publicly available, in such manner as the Director-General 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 Director-General may approve a community event liquor accord for a community event only if the Director-General 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 Director-General 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 Director-General 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 Director-General 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 Director-General 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 Director-General, 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 Director-General 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 Director-General in accordance with the terms of the accord.
- (3) Any money paid to the Director-General 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 Director-General 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 Director-General under this section may, if the amount is not paid within the time specified by the Director-General in the direction to the licensee concerned, be recovered by the Director-General 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 Director-General may carry out inquiries and investigations in relation to proposed complaint

- (1) The Director-General may carry out such investigations and inquiries as the Director-General considers necessary in order to ascertain whether a complaint should be made under this Part in relation to:
  - (a) a licensee, or
  - (b) a manager, or
  - (c) a close associate of a licensee.
- (2) The Commissioner of Police may inquire into, and report to the Director-General on, such matters as the Director-General may request concerning the licensee, manager or close associate to whom the complaint, if made, would relate.
- (3) The Director-General may, by notice in writing, require a licensee, manager or close associate who is the subject of an investigation under this section to do one or more of the following things:
  - (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as, in the opinion of the Director-General, is relevant to the investigation and is specified in the notice,

- (b) produce, in accordance with directions in the notice, such records as, in the opinion of the Director-General, are relevant to the investigation and permit examination of the records, the taking of extracts from them and the making of copies of them,
  - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
  - (d) furnish to the Director-General such authorisations and consents as the Director-General requires for the purpose of enabling the Director-General to obtain information (including financial and other confidential information) from other persons concerning the person under investigation and the person's associates.
- (4) A person who complies with a requirement of a notice under subsection (3) does not on that account incur a liability to another person.
- (5) A person must not fail to comply with a requirement of the Director-General contained in a notice under subsection (3).  
Maximum penalty: 20 penalty units.

### 139 Grounds for making complaint

- (1) A complaint in relation to a licensee, manager or close associate of a licensee may be made to the Authority by any of the following persons (referred to in this Part as *the complainant*):
- (a) the Director-General,
  - (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,
  - (d) that the licensee or manager has failed to comply with any other requirement under this Act or the regulations (or under the former Act), relating to the licence or the licensed premises,
  - (e) that the licensee or manager has failed to comply with a direction or other requirement of the Authority, the Director-General or the Commissioner of Police under this Act (or of the Director-General or the Commissioner under the former Act),
  - (f) that the licensee or manager has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption),
  - (g) that intoxicated persons have frequently been on the licensed premises or have frequently been seen to leave those premises,
  - (h) that acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises,

- (i) that the licensee is not a fit and proper person to be the holder of a licence (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*.

#### 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 for such period as the Authority thinks fit,
  - (g) withdraw the manager's approval to manage licensed premises,
  - (h) disqualify the manager from being the manager of licensed premises,
  - (i) in the case of a limited licence held on behalf of a non-proprietary association—order that a limited licence is not, for a period of not more than 3 years from the date on which the decision takes effect, to be granted to any person on behalf of the non-proprietary association,
  - (j) disqualify the close associate from being a close associate of a licensee for such period as the Authority thinks fit,
  - (k) disqualify the close associate from holding a licence for such period as the Authority thinks fit,
  - (l) order the licensee, manager or close associate to pay the amount of any costs incurred by:
    - (i) the Director-General in carrying out any investigation or inquiry under section 138 in relation to the licensee, manager or close associate, or
    - (ii) the Authority in connection with the taking of disciplinary action against the licensee, manager or close associate under this section,
  - (m) reprimand the licensee, manager or close associate.
- (3) If the Authority orders a licensee or manager to pay a monetary penalty under this section and the penalty is not paid within the time specified in the order, the Authority may:
- (a) cancel the licence, or
  - (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 Review by ADT of decisions by Authority under this Part**

- (1) An application for the review of a decision by the Authority in relation to a complaint under this Part may be made to the Administrative Decisions Tribunal.
- (2) An application for such a review may be made by:
  - (a) the person against whom any disciplinary action is taken by the Authority in relation to the complaint, or
  - (b) the complainant.
- (3) Part 2 of Chapter 5 of the *Administrative Decisions Tribunal Act 1997* does not apply to an application to the Administrative Decisions Tribunal for a review of a decision by the Authority under this Part.
- (4) In determining an application for a review of any decision by the Authority under section 141 (1A) or (1B), the Administrative Decisions Tribunal (and any Appeal Panel in determining any appeal against such a review under the *Administrative Decisions Tribunal Act 1997*):
  - (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 review, the applicant's representative and any other interested party, unless the Commissioner of Police approves otherwise.

## Part 9A Disciplinary action—3 strikes

### Division 1 Preliminary

#### 144A Part does not limit Part 9

This Part does not limit the operation of Part 9.

#### 144B Definitions

In this Part:

**business owner**, in relation to a licence, means an owner of the business carried on under the licence.

**prescribed offence**, in relation to a licence, means an offence against any of the following provisions of this Act (or a provision of this Act or the regulations that is prescribed by the regulations) that was committed on or in relation to the premises to which the licence relates:

- (a) 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 the premises outside of the trading hours for those premises,
- (b) section 11 (2) (breach of licence condition) but only in respect of conditions imposed under section 144E or clauses 2A–5 or 7 of Schedule 4,
- (c) section 73 (1) (a) or (b) (permitting intoxication or indecent, violent or quarrelsome conduct),
- (d) section 73 (2) (selling or supplying liquor to an intoxicated person),
- (e) section 74 (1) (b) or (2) (permitting the sale, possession or use of a prohibited plant or drug),
- (f) section 75 (3) (failure to comply with a direction given by the Director-General),
- (g) section 82 (6) (failure to comply with a short-term closure order),
- (h) section 84 (7) (failure to comply with a long-term closure order),
- (i) section 102A (2) (failure to comply with a notice issued by the Director-General),
- (j) section 117 (1), (2) or (8) (selling or supplying liquor to a minor or allowing such sale or supply),
- (k) section 149 (licensees and managers liable for act of employees etc) in respect of a contravention of section 73 (2), 75 (3) or 117 (1) or (2).

**relevant person**, in relation to a licence, means the licensee or manager of the premises to which the licence relates.

**remedial action** means any action that the Director-General or the Authority is authorised or required to take under section 144E or 144F.

**reviewable decision** means a decision under Division 2.

#### 144C Committing a prescribed offence

- (1) For the purposes of this Part, a person commits a prescribed offence if:
  - (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 respect of 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, 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,any strike based on the conviction, penalty notice or enforcement order is revoked and any remedial action taken as the result of the strike ceases to have effect.
- (3) Prescribed offences that are committed in relation to a particular licence within a single 24 hour period are taken, for the purposes of this Part, to be a single prescribed offence.

## **Division 2      Strikes**

### **144D    Incurring strikes**

- (1) A first strike is incurred in respect of a licence if no other strike is in force in respect of the licence and a relevant person in relation to the licence commits a prescribed offence.
- (2) A second strike is incurred in respect of a licence if:
  - (a) a relevant person in relation to the licence commits a prescribed offence, and
  - (b) one strike was in force in respect of the licence when the offence was committed, and
  - (c) the Director-General decides that a second strike should be incurred because of the seriousness of any harm that may have resulted from, or been associated with, the commission of the offence.
- (3) A third strike is incurred in respect of a licence if:
  - (a) a relevant person in relation to the licence commits a prescribed offence, and
  - (b) 2 strikes were in force in respect of the licence when the offence was committed, and
  - (c) the Authority decides that a third strike should be incurred taking the following into account:
    - (i) the seriousness of any harm that may have resulted from, or been associated with, the commission of the offence,
    - (ii) any other matter that may be prescribed by the regulations.
- (4) A strike comes into force on the day on which the offence that caused the strike was committed.
- (5) A strike expires on the day occurring 3 years after the day on which it comes into force.
- (6) The expiration of a strike does not affect the continued operation of remedial action taken under this Division in respect of the strike.

### **144E    1 or 2 strikes—remedial action**

- (1) The Director-General may, if 1 or 2 strikes are in force in respect of a licence, impose conditions on the licence relating to any one or more of the following:
  - (a) the use of plans of management and incident registers in respect of the licensed premises,

- (b) the prohibition of the use of glass or other breakable containers on the licensed premises,
  - (c) the engagement of persons to promote the responsible service of alcohol at the licensed premises,
  - (d) the notification of persons, by the licensee, that the strike has been incurred,
  - (e) in the case of a club licence—requiring members of the governing body of the club to undergo training,
  - (f) any other matter that may be prescribed by the regulations.
- (2) The Director-General may, if 2 strikes are in force in respect of a licence, impose conditions on the licence relating to any one or more of the following:
- (a) the persons who may be appointed as a manager of the licensed premises,
  - (b) the implementation of security measures in respect of the licensed premises,
  - (c) the prohibition of the sale or supply of liquor on the licensed premises before 10 am or after 11 pm (or both),
  - (d) the prohibition of patrons entering the licensed premises at certain times,
  - (e) the prohibition of 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),
  - (f) the prohibition of certain types of entertainment on the licensed premises,
  - (g) any other matter that may be prescribed by the regulations.
- (3) The Director-General may vary or revoke a condition imposed under this section at any time.
- (4) The Director-General is not to impose or vary a condition under this section in respect of a licence unless the Director-General is satisfied that the condition (or condition as varied) is a reasonable response to the behaviour that led to any of the strikes being incurred in respect of the licence.
- (5) A condition imposed under this section remains in force until revoked by the Director-General.
- (6) Nothing in this section limits the power of the Director-General to impose, vary or revoke conditions under any other provision of this Act.

**144F 3 strikes—remedial action**

- (1) When 3 strikes are incurred in respect of a licence, the Authority must take action under this section for the purpose of preventing the commission of any further prescribed offences by a relevant person in relation to the licence.
- (2) The Authority must also take action under this section for that purpose if the Authority becomes aware that a relevant person in relation to the licence committed a prescribed offence while 3 strikes were in force in respect of the licence.
- (3) **Licences other than club licences**

If the licence is a licence other than a club licence, the action that the Authority is to take is one or more of the following actions that the Authority considers to be reasonably necessary for the purpose of preventing the commission of any further prescribed offences by a relevant person in relation to the licence:

- (a) suspend the licence for up to 12 months,
- (b) cancel the licence and disqualify (for up to 12 months) any of the following persons from being granted a licence in respect of the premises to which the cancelled licence related (the *subject premises*):

- (i) any person who was a business owner under the cancelled licence at the time the third strike was incurred,
- (ii) any close associate of any such business owner,
- (c) disqualify (permanently or for a specified period) any person who was the licensee or manager of the subject premises at the time the third strike was incurred from holding a licence in respect of, or managing, the subject premises or any other licensed premises,
- (d) impose a condition on the licence, or any subsequent licence issued in respect of the subject premises, that a person who is disqualified under paragraph (c) must not be employed or otherwise engaged as an employee or agent of the licensee or manager of those premises,
- (e) impose, vary or revoke any condition on the licence that is not inconsistent with this Act.

(4) **Club licences**

If the licence is a club licence, the action that the Authority is to take is one or more of the following actions that the Authority considers to be reasonably necessary for the purpose of preventing the commission of any further prescribed offences by a relevant person in relation to the licence:

- (a) disqualify (permanently or for a specified period) a person who held any of the following positions at the time the third strike was incurred from holding any of those positions:
    - (i) secretary of the club,
    - (ii) manager of any of the club's premises,
    - (iii) member of the governing body of the club,
  - (b) disqualify (permanently or for a specified period) any such person from being the secretary of any other registered club, holding any licence or being appointed to manage any other licensed premises,
  - (c) appoint a person to administer the affairs of the club who, on appointment and until the Authority orders otherwise, has, to the exclusion of any other person or body of persons, the functions of the governing body of the club,
  - (d) impose a condition on the club licence that a person who is disqualified under paragraph (a) must not be employed or otherwise engaged as an employee or agent of the club or of the manager of any of the club's premises,
  - (e) impose, vary or revoke any condition on the club licence that is not inconsistent with this Act.
- (5) Nothing in this section limits the power of the Authority to impose, vary or revoke conditions under any other provision of this Act.
- (6) The Authority may undo any remedial action taken under this section at any time.

**144G Matters to be considered by Director-General and Authority**

- (1) In this section:  
*decision-maker* means the Director-General or the Authority.
- (2) A decision-maker must, when making a reviewable decision in relation to a licence:
- (a) notify the following persons in writing that the decision-maker is deciding the matter and invite those persons to make a submission within a specified period of at least 21 days:
    - (i) the licensee,

- (ii) the manager (if any) of the premises to which the licence relates (the *licensed premises*),
    - (iii) if the decision is whether a second or third strike should be incurred—each interested person in the business carried on under the licence (but only if the person’s name has been provided to the Authority under section 41 or 55) and the owner of the licensed premises,
    - (iv) if the decision is whether a third strike should be incurred—each former licensee or manager who may be adversely affected by the decision,
    - (v) any other person prescribed by the regulations, and
  - (b) take into account any submissions received before the end of the specified period from any of the following:
    - (i) a person referred to in paragraph (a),
    - (ii) the NSW Police Force,
    - (iii) the Office of Liquor, Gaming and Racing, Department of Trade and Investment, Regional Infrastructure and Services,
    - (iv) the Bureau of Crime Statistics and Research of the Department of Attorney General and Justice, and
  - (c) take into account each of the following to the extent that the decision-maker considers it to be relevant to the decision:
    - (i) whether the licensed premises were declared premises within the meaning of Schedule 4 when the offences that caused a strike are alleged to have been committed,
    - (ii) the size and patron capacity of the licensed premises and how this may impact on the ability of the licensee or manager to prevent the commission of prescribed offences,
    - (iii) the history and nature of the commission of prescribed offences by relevant persons in relation to the licence or on or in relation to the licensed premises,
    - (iv) the history and nature of violent incidents that have occurred in connection with the licensed premises,
    - (v) whether other action would be preferable,
    - (vi) whether there have been changes to the persons who are the licensee, manager or business owner,
    - (vii) whether there have been changes to the business practices in respect of the business carried on under the licence,
    - (viii) any other matter prescribed by the regulations.
- (3) Nothing in this section prevents a decision-maker from taking into account any other matter that the decision-maker thinks is relevant to the proper making of a decision under this Part.
- (4) A decision-maker must, as soon as practicable after making a decision under this Part, give notice in writing of the decision, the reasons for the decision and any right of review in respect of the decision to each person that is required to be notified by the decision-maker under subsection (2) (a) in respect of the decision.
- (5) A submission provided to a decision-maker under subsection (2) (b) (i) may not be used for the purposes of prosecuting an offence under this Act.
- (6) The regulations may prescribe guidelines setting out how the matters referred to in subsection (2) (c) are to be taken into account by a decision-maker.

### Division 3      Reviews and appeals

#### 144H    Reviews generally

- (1) An application for the review of a reviewable decision may be made by a person who is required to be notified of the decision under section 144G no later than 21 days after the person receives the notification.
- (2) The application is to be made to the Authority in the case of a decision of the Director-General and to the Administrative Decisions Tribunal in the case of a decision of the Authority.
- (3) Part 2 of Chapter 5 of the *Administrative Decisions Tribunal Act 1997* does not apply to an application to the Administrative Decisions Tribunal for a review of a decision of the Authority under this Part.
- (4) An application for a review operates to stay the reviewable decision unless the body conducting the review otherwise directs.
- (5) The operation of any remedial action taken in respect of a strike is suspended during any time that the decision to impose the strike is stayed.
- (6) In determining an application for review under this section, the body conducting the review must take into account any matter that was required to be taken into account in making the reviewable decision that is the subject of the review.

#### 144I    Reviews by Authority

- (1) In determining an application for review under this Division, the Authority may:
  - (a) confirm the decision the subject of the application, or
  - (b) vary the decision, or
  - (c) revoke the decision.
- (2) The Director-General is to give effect to any decision of the Authority under this Division to vary or revoke the decision the subject of the application for review.
- (3) The Authority may not make any decision in relation to an application for review under this Division unless a member of the Authority who is or has been a Judge, or has been an Australian lawyer for at least 7 years, is present at the meeting of the Authority or the committee of the Authority at which the decision of the Authority is made.

#### 144J    Appeals

- (1) An appeal against a conviction for a prescribed offence does not operate to prevent a strike being incurred as a result of the commission of the offence or to prevent the taking of remedial action in respect of such a strike but 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 strike based on the conviction is revoked and any remedial action taken as a result of such a strike ceases to have effect.
- (2) The Director-General or 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 Director-General or the Authority could have taken had those changed circumstances applied when the relevant strike was incurred.

**144K Review of Part**

- (1) The Minister is to review this Part to determine whether the policy objectives of the Part remain valid and whether the terms of the Part remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 4 years from the commencement of this Part.
- (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 4 years.



## Part 10 Criminal proceedings and related matters

### 145 Proceedings for offences

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

### 146 Time within which proceedings for offences may be commenced

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

### 147 Maximum penalties for certain offences

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

### 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 Director-General 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 Director-General),
  - (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) In this section:  
*authorised officer* means a police officer or an inspector.
- (2) An authorised officer may serve a penalty notice on a person (including a licensee) if it appears to the officer that the person has committed an offence under this Act or the regulations and the offence is one that is prescribed by the regulations to be an offence to which this section applies.
- (3) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay within a time and to a person specified in the notice the amount of penalty prescribed by the regulations for the offence if dealt with under this section.
- (4) A penalty notice may be served personally or by post.
- (5) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is liable to any further proceedings or action in relation to the alleged offence, except the taking of disciplinary action under Part 9 or 9A.
- (6) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence.

- (7) However, if a penalty is paid under this section in respect of a penalty notice served on a person, the person is, for the purposes of Part 9, taken to have been convicted of the offence to which the penalty notice related.
- (8) The regulations may:
  - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
  - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
  - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (9) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty which could be imposed for the offence by a court.
- (10) This section does not limit the operation of any other provision of, or made under, this or any other Act or law relating to proceedings that may be taken in respect of offences.

#### **151 Forfeiture and seizure of liquor and other things**

- (1) If a person is found guilty of an offence under section 7, any liquor that was, at the time of the commission of the offence, in the person's possession or apparently under the person's control is forfeited to the Crown.
- (2) If the holder of a producer/wholesaler licence, or an employee or agent of such a licensee, is found guilty of an offence under section 9 (1) (b) of selling liquor that is not authorised to be sold under the licence, any liquor (other than liquor the licensee is authorised to sell under the licence) that was, at the time of the commission of the offence, in the licensee's possession or apparently under the licensee's control is forfeited to the Crown.
- (3) If a person is found guilty of an offence under section 113:
  - (a) any liquor to which the offence relates, and
  - (b) any vehicle, boat or other thing in which the liquor was being carried, offered or exposed,is forfeited to the Crown.
- (4) If a licence is cancelled under this Act, any liquor found, not earlier than 7 days after the cancellation takes effect, in the former licensee's possession on the former licensed premises is forfeited to the Crown.
- (5) A police officer or inspector may seize and carry away anything that the officer or inspector reasonably suspects may be liable to forfeiture under this section.
- (6) For the purposes of this section, *liquor* includes any bottle or other container in which the liquor is contained.

#### **152 Evidentiary provisions**

- (1) In any proceedings for an offence under this Act or the regulations, any one or more of the following allegations (however expressed) is evidence of the truth of the allegation unless the contrary is proved:
  - (a) that a specified person was or was not the holder of a licence or a specified kind of licence at a specified time or during a specified period,
  - (b) that a specified licence was or was not subject to a specified condition at a specified time or during a specified period,

- (c) that a specified authorisation to which section 51 applies was or was not in force at a specified time or during a specified period,
  - (d) that a specified licence was or was not endorsed with a specified endorsement at a specified time or during a specified period,
  - (e) that a specified person was or was not the secretary or an office holder of a specified non-proprietary association at a specified time or during a specified period,
  - (f) that a specified licence was or was not held by a specified person on behalf of a specified non-proprietary association at a specified time or during a specified period,
  - (g) that a specified body or association was or was not a specified non-proprietary association at a specified time or during a specified period,
  - (h) that a specified licence was or was not suspended or cancelled at a specified time or during a specified period,
  - (i) that specified premises were or were not licensed premises at a specified time or during a specified period,
  - (j) that a specified part of premises was or was not a bar area at a specified time or during a specified period,
  - (k) that specified hours were or were not the trading hours of specified licensed premises at a specified time or during a specified period,
  - (l) that specified premises were subject to a closure order under this Act at a specified time or during a specified period,
  - (m) that a minors area authorisation or minors functions authorisation was or was not in force in respect of a specified part of any premises at a specified time or during a specified period,
  - (n) that a specified person has or has not been approved by the Authority as a person who may be appointed as the manager of licensed premises,
  - (o) that a specified person is or was, at a specified time or during a specified period, the Director-General,
  - (p) that a specified person is or was, at a specified time or during a specified period, a delegate of the Minister, or of the Commissioner of Police, or of the Authority, to whom a specified function has been delegated under this Act or the *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,
  - (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 its annual report under the *Annual Reports (Statutory Bodies) Act 1984*:
  - (a) the number of licences in force in each Statistical Local Area determined by the Australian Bureau of Statistics (along with the total State-wide number of licences) during the financial year to which the report relates,
  - (b) the number of new licences granted by the Authority during that year,
  - (c) the number of licences suspended or cancelled by the Authority during that year,
  - (d) the number of authorisations to which section 51 applies granted by the Authority during that year,
  - (e) the number of licences in respect of which disciplinary action was taken by the Authority during that year and the nature of the disciplinary action taken.
- (2) The information provided in relation to licences and authorisations in the annual report is, where relevant, to be categorised according to the different types of licences and authorisations that may be granted and held under this Act.

### 157 Delegations

- (1) An office holder may delegate to a person any function conferred or imposed on the office holder by or under this Act, other than this power of delegation.

**Note.** The power of the Authority to delegate its functions under this Act is contained in the *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 Director-General.

**158 Crown not liable for any compensation**

- (1) Damages or compensation are not payable by or on behalf of the Crown because of:
  - (a) the enactment or operation of this Act, or for the consequences of that enactment or operation, or
  - (b) a representation or conduct of any kind about any restrictions or limitations on the sale or supply of liquor on any premises or kind of premises.
- (2) In subsection (1), *the Crown* means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes any employee or agent of the Crown.

**159 Regulations**

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

**160 Savings and transitional provisions**

Schedule 1 has effect.

**161 Repeals**

The following Acts and regulations are repealed:

- (a) *Liquor Act 1982*,
- (b) *Liquor (Repeals and Savings) Act 1982*,
- (c) *Liquor Regulation 1996*,
- (d) *Liquor (Transitional Provisions) Regulation 1983*.

**162 Review of Act**

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

## Schedule 1 Savings and transitional provisions

(Section 160)

### Part 1 Preliminary

#### 1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:  
this Act  
*Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007*  
*Liquor Legislation Amendment Act 2008*  
*Liquor Amendment (Temporary Licence Freeze) Act 2009*  
*Liquor and Registered Clubs Legislation Amendment Act 2009*, to the extent that it amends this Act  
*Liquor Legislation Amendment Act 2010*  
*Liquor Amendment (3 Strikes) Act 2011*  
*Clubs, Liquor and Gaming Machines Legislation Amendment Act 2011*, to the extent that it amends this Act  
*Liquor Amendment (Kings Cross Plan of Management) Act 2012*
- (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 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.

## **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.

## Schedule 4 Special licence conditions for declared premises

(Section 11 (1A))

### 1 Definitions

- (1) In this Schedule:
- declared premises* means the premises to which a level 1 or level 2 licence relates.
- level 1 licence* means a licence specified in Table 1 at the end of this clause.
- level 2 licence* means a licence specified in Table 2 at the end of this clause.
- restricted service period*, in relation to declared premises, means:
- the period between midnight and such later time (if any) at which the premises are required to cease trading, or
  - in the case of declared premises that are not required to cease trading at any time after midnight—the period between midnight and 5 am.
- (2) Any change in the name (as referred to in Table 1 or Table 2) of any declared premises does not affect the application of this Schedule to the licence for those premises.

**Table 1—level 1 licences**

Licence number	Name of licensed premises	Location
LIQH400117108	Fanny's of Newcastle	Newcastle
LIQH400102283	Ivy	Sydney
LIQH400118163	M J Finnigans	Newcastle
LIQH400119380	Shore Club Hotel Manly	Manly

**Table 2—level 2 licences**

Licence number	Name of licensed premises	Location
LIQH400117434	King Street Hotel	Newcastle West
LIQH400108893	The Oxford Bathurst	Bathurst
LIQH400122810	The Woodport Inn	Erina
LIQH400101449	Coogee Bay Hotel	Coogee
LIQO624006558	Platform 3 Entertainment Pty Ltd	Wollongong
LIQH400119186	Port Macquarie Hotel	Port Macquarie
LIQH400111657	Town House Motor Inn	Cowra
LIQH400109113	Coffs Harbour Hotel	Coffs Harbour
LIQH400118546	Royal Hotel	Orange
LIQH400100078	Albion Hotel	Parramatta
LIQH400118260	Mean Fiddler	Rouse Hill
LIQC300231135	Mt Pritchard & District Community Club Limited (Trading as Mounties)	Mount Pritchard



Licence number	Name of licensed premises	Location
LIQO624006134	Sphere Nightspot and Lounge Bar	Sutherland
LIQO624006917	Woody's Surf Shack	Byron Bay

## 2 Special licence conditions

- (1) A level 1 licence is subject to each of the conditions specified in this Schedule.
- (2) A level 2 licence is subject to each of the conditions specified in this Schedule (other than the conditions specified in clauses 2A, 3 and 5).
- (2A) This Schedule does not apply in relation to a newly specified licence until 8 December 2012. For the purposes of this subclause, a *newly specified licence* is a licence that was not specified in Table 1 or Table 2 to clause 1 immediately before the substitution of those Tables by the *Liquor Amendment (Special Licence Conditions) Regulation (No 2) 2012*.
- (3) The conditions specified in this Schedule are in addition to any other conditions to which a level 1 or level 2 licence is subject.

## 2A Additional security measures

- (1) In this clause:  
*additional security measure* means a security measure that comprises or relates to any of the following:
  - (a) providing security staff,
  - (b) training for security staff,
  - (c) closed-circuit television,
  - (d) digital video and audio recording devices,
  - (e) electronic ID scanning,
  - (f) systems for recording and retaining patron particulars,
  - (g) inter-venue communication network.
- (2) The licensee of any declared premises must:
  - (a) within 14 days of the commencement of this clause, or
  - (b) in the case of premises that become declared premises at any time after the commencement of this clause—within 14 days of the premises becoming declared premises,  
notify the Director-General, in the form approved by the Director-General, of the details of one or more additional security measures that the licensee proposes to implement in relation to the premises.
- (3) The Director-General may, after considering the notice provided by the licensee under subclause (2), decide:
  - (a) to approve the additional security measure or measures as notified by the licensee without any variations, or
  - (b) to approve the additional security measure or measures as notified by the licensee with such variations as are determined by the Director-General, or
  - (c) to approve a different additional security measure in relation to the declared premises.

- (4) The Director-General is to notify the licensee in writing of the Director-General's decision and of the date on and from which the licensee is required to implement the additional security measure or measures approved by the Director-General. Any such implementation date must be at least 14 days after the date on which the Director-General is notified by the licensee under subclause (2).
- (5) The licensee must implement the approved additional security measure or measures in accordance with the Director-General's notice.

### **3 "Lock outs" for declared premises**

- (1) The licensee of any declared premises must not permit patrons to enter the premises after 2 am or before 5 am (*the lock out period*).
- (1A), (1B) (Repealed)
- (2) For the avoidance of doubt, patrons already present in declared premises immediately before the start of the lock out period 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 lock out period.
  - (3) This clause does not:
    - (a) prevent a resident of declared premises from entering the premises during the lock out period, or
    - (b) in the case of declared premises that are premises to which a club licence relates—prevent a full member or honorary member (within the meaning of the *Registered Clubs Act 1976*) of the registered club from entering the premises during the lock out period.

### **4 Glasses and breakable plastic containers prohibited during restricted service period**

- (1) During the restricted service period, any drink (whether or not it contains liquor) sold or supplied for consumption on declared premises must not be served or supplied in a glass or breakable plastic container.
- (2) During the restricted service period, the licensee of declared premises must remove empty glasses and empty breakable plastic containers from patrons and from any area of the premises to which patrons have access.
- (3) This clause does not require empty glasses or other containers to be removed from the room in which a resident of declared premises is residing or staying.
- (4) In this clause:  
*glass* means:
  - (a) a drinking vessel, or
  - (b) a container (such as a bottle or jug) from which drinks can be poured, that is made wholly or principally of glass.

### **5 Certain drinks prohibited during restricted service period**

- (1) The following drinks must not be sold or supplied on declared premises during the restricted service period:
  - (a) any drink (commonly referred to as a "shot") that contains no more than 30 ml of spirits or liqueur and that is designed to be consumed rapidly,
  - (b) any drink containing more than 50% spirits or liqueur,

- (c) any ready to drink beverage with an alcohol by volume content of more than 5%,
  - (d) any drink prepared on the premises that contains more than one 30 ml nip of spirits or liqueur.
- (2) During the restricted service period, no more than:
- (a) 4 alcoholic drinks (whether or not of the same kind), or
  - (b) the contents of one bottle of wine,
- may be sold or supplied on declared premises to the same person at any one time.
- (3) In this clause:  
***ready to drink beverage*** means an alcoholic mixed beverage that is prepared by the manufacturer.

#### **6 Other requirements during restricted service period**

For a continuous period of 10 minutes during each hour of the restricted service period:

- (a) the sale or supply of liquor on declared premises must cease, or
- (b) the licensee must:
  - (i) distribute free drinking water or food (or both) to patrons, and
  - (ii) actively encourage patrons to consume water.

#### **7 Service of alcohol to cease 30 minutes before closing time**

If declared premises are required to cease trading on any day, the licensee must cease selling or supplying liquor on the premises 30 minutes before the premises are required to cease trading.

#### **7A Standard trading period incident register**

- (1) The licensee of any declared premises must maintain a register, in the form approved by the Authority, in which the licensee is to record the details of any incident referred to in section 56 (or the regulations made under that section) that occurs during the standard trading period and any action taken in response to any such incident.
- (2) The register under this clause may be maintained as part of any incident register that the licensee is required to maintain under section 56.
- (3) This clause has effect on and from 1 December 2009.

#### **8 Exemptions**

- (1) The Director-General may, by order in writing served on the licensee of declared premises, exempt the declared premises from any specified provision of this Schedule.
- (2) The Director-General may exempt declared premises only if the Director-General:
  - (a) is satisfied that conditions other than the specified provision to which the exemption relates will be more effective in reducing the risk of alcohol-related violence in or about the declared premises concerned, and
  - (b) imposes those other conditions on the licence for the premises under any relevant provision of this Act.
- (3) Any such relevant provision applies except to the extent that it prevents the imposition of conditions that are inconsistent with this Schedule.

- (4) An exemption under this clause has effect only while the other conditions imposed by the Director-General to replace the specified provision to which the exemption relates remain in force.
- (5) Without limiting any other provision of this clause, an exemption under this clause may, if the relevant order so provides, apply in relation to a specified part of declared premises.

#### **9 Review of Schedule**

- (1) The Minister is to review this Schedule to determine whether the policy objectives remain valid and whether the terms of this Schedule remain appropriate for securing those objectives.
- (2) The review is to be undertaken no later than at the end of the period of 12 months immediately following the date of assent to the *Liquor Amendment (Special Licence Conditions) Act 2008*.
- (3) In undertaking the review, the Minister is to consult with the Bureau of Crime Statistics and Research of the Department of Attorney General and Justice and take into consideration any information and advice provided by the Bureau in relation to the incidence of alcohol-related violence in or about the licensed premises to which this Schedule applies.
- (4) A report on the outcome of the review is to be tabled in each House of Parliament within 3 months after the completion of the review.

## Schedule 5 Freeze precincts

(Division 1A of Part 4)

**Note.** Maps illustrating the precincts described in this Schedule are available for inspection on the website of the NSW Office of Liquor, Gaming and Racing, Communities NSW.

### Part 1 Precincts affected by liquor licensing and development consent freeze provisions

**Note.** All of the provisions of Division 1A of Part 4 of this Act (including the restrictions under section 471 in relation to the granting of development consent under the *Environmental Planning and Assessment Act 1979*) apply to or in respect of the precincts described in this Part.

#### Oxford Street, Darlinghurst precinct

Oxford Street from its intersection with College Street on its northern side and Wentworth Avenue on its southern side southeast to its intersection with Bourke Street on its northern side and Flinders Street on its southern side

Flinders Street from its intersection with Oxford Street south to its intersection with Short Street on its western side and to property number 58A on its eastern side

The precinct also comprises the whole of the area bounded by the following streets:

Oxford Street from its intersection with Crown Street southeast to its intersection with Bourke Street on its northern side and Flinders Street on its southern side

Flinders Street from its intersection with Oxford Street south to its intersection with Patterson Lane on its western side

Patterson Lane from its intersection with Flinders Street west to its intersection with Bourke Street

Bourke Street from its intersection with Patterson Lane north to its intersection with Campbell Street

Campbell Street from its intersection with Bourke Street west to its intersection with Crown Street

Crown Street from its intersection with Campbell Street north to its intersection with Oxford Street

The precinct also comprises premises at Nos. 10–20 Oxford Square, Darlinghurst.

### Part 2 Precincts affected by liquor licensing freeze provisions only

**Note.** Section 471 (which provides for restrictions on the granting of development consent under the *Environmental Planning and Assessment Act 1979*) does not apply to or in respect of any precincts specified in this Part.

On the commencement of this Part (as inserted by the *Liquor Amendment (Temporary Licence Freeze) Act 2009*) this Part was blank.

## Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
Cll	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

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

## Table of amending instruments

Liquor Act 2007 No 90. Assented to 13.12.2007. Date of commencement, 1.7.2008, sec 2 and GG No 76 of 27.6.2008, p 5866. This Act has been amended as follows:

- 2007** No 9 Private Health Facilities Act 2007. Assented to 15.6.2007.  
Date of commencement, 1.3.2010, sec 2 and 2010 (53) LW 26.2.2010.  
Amended by Statute Law (Miscellaneous Provisions) Act (No 2) 2009  
No 106. Assented to 14.12.2009. Date of commencement of Sch 5,  
8.1.2010, sec 2 (2).
- 2008** No 62 Statute Law (Miscellaneous Provisions) Act 2008. Assented to 1.7.2008.  
Date of commencement of Sch 1.13, assent, sec 2 (2).
- No 99 Gaming Machines Amendment Act 2008. Assented to 3.12.2008.  
Date of commencement of sec 4, 31.1. 2009, sec 2 (1) and GG No 23 of  
30.1.2009, p 473.
- No 101 Liquor Legislation Amendment Act 2008. Assented to 3.12.2008.  
Date of commencement, assent, sec 2.
- No 102 Liquor Amendment (Special Licence Conditions) Act 2008. Assented to  
3.12.2008.  
Date of commencement, assent, sec 2.
- 2009** No 23 Criminal Organisations Legislation Amendment Act 2009. Assented to  
19.5.2009.  
Date of commencement of Sch 3, assent, sec 2 (1).
- No 49 NSW Trustee and Guardian Act 2009. Assented to 26.6.2009.  
Date of commencement, 1.7.2009, sec 2 and 2009 (305) LW 1.7.2009.
- (324) Liquor Amendment (Special Licence Conditions) Regulation 2009. LW  
10.7.2009.  
Date of commencement, 10.7.2009, cl 2.
- No 66 Liquor Amendment (Temporary Licence Freeze) Act 2009. Assented to  
1.10.2009.  
Date of commencement, assent, sec 2.
- No 72 Liquor and Registered Clubs Legislation Amendment Act 2009.  
Assented to 28.10.2009.  
Date of commencement, assent, sec 2.

- (542) Liquor Amendment (Special Licence Conditions) Regulation (No 2) 2009. LW 20.11.2009.  
Date of commencement, 1.12.2009, cl 2. Amended by Liquor Amendment (Licence Numbers) Regulation 2009 (543). LW 25.11.2009.  
Date of commencement, on publication on LW, cl 2.
- 2010** (187) Liquor Amendment (2010 FIFA World Cup) Regulation 2010. LW 14.5.2010.  
Date of commencement, on publication on LW, cl 2.
- No 19 Relationships Register Act 2010. Assented to 19.5.2010.  
Date of commencement of Sch 3, assent, sec 2 (2).
- (212) Liquor Amendment (Special Licence Conditions) Regulation 2010. LW 28.5.2010.  
Date of commencement, 1.6.2010, cl 2.
- No 34 Health Practitioner Regulation Amendment Act 2010. Assented to 15.6.2010.  
Date of commencement of Sch 2, 1.7.2010, sec 2 (2).
- No 36 Liquor Legislation Amendment Act 2010. Assented to 15.6.2010.  
Date of commencement, assent, sec 2.
- (643) Liquor Amendment (Special Licence Conditions) Regulation (No 2) 2010. LW 24.11.2010.  
Date of commencement, 1.12.2010, cl 2.
- No 127 Public Health Act 2010. Assented to 7.12.2010.  
Date of commencement of Sch 4, 1.9.2012, sec 2 and 2012 (275) LW 29.6.2012.
- 2011** (6) Liquor Amendment (Special Events—Extended Trading Periods) Regulation 2011. LW 14.1.2011.  
Date of commencement, on publication on LW, cl 2.
- (251) Liquor Amendment (Special Licence Conditions) Regulation 2011. LW 27.5.2011.  
Date of commencement, 1.6.2011, cl 2.
- No 22 Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011. Assented to 27.6.2011.  
Date of commencement of Sch 2.12, 1.10.2011, sec 2 and 2011 (509) LW 28.9.2011.
- No 41 Transport Legislation Amendment Act 2011. Assented to 13.9.2011.  
Date of commencement of Sch 5.18, 1.11.2011, sec 2 and 2011 (559) LW 28.10.2011.
- No 58 Liquor Amendment (3 Strikes) Act 2011. Assented to 16.11.2011.  
Date of commencement, 1.1.2012, sec 2 and 2011 (626) LW 9.12.2011.
- (598) Liquor Amendment (Special Licence Conditions) Regulation (No 2) 2011. LW 25.11.2011.  
Date of commencement, 1.12.2011, cl 2.

- No 72 Clubs, Liquor and Gaming Machines Legislation Amendment Act 2011. Assented to 28.11.2011.  
Date of commencement of Sch 2 [1] and [2], 1.3.2012, sec 2 (1) and 2012 (64) LW 1.3.2012; date of commencement of Sch 2 [3]–[5] [8]–[12] [15]–[18] and [21]–[23], assent, sec 2 (2); date of commencement of Sch 2 [6] [7] and [14], 30.3.2012, sec 2 (1) and 2012 (123) LW 30.3.2012; date of commencement of Sch 2 [13] [19] and [20], 20.1.2012, sec 2 (1) and 2012 (3) LW 13.1.2012.
- 2012** No 9 Crimes (Criminal Organisations Control) Act 2012. Assented to 21.3.2012.  
Date of commencement, assent, sec 2.
- (227) Liquor Amendment (Special Licence Conditions) Regulation 2012. LW 1.6.2012.  
Date of commencement, 1.6.2012, cl 2.
- No 42 Statute Law (Miscellaneous Provisions) Act 2012. Assented to 21.6.2012.  
Date of commencement of Sch 1.18, 6.7.2012, sec 2 (1).
- No 91 Liquor Amendment (Kings Cross Plan of Management) Act 2012. Assented to 20.11.2012.  
Date of commencement, 7.12.2012, sec 2 and 2012 (593) LW 30.11.2012.
- No 97 Miscellaneous Acts Amendment (Directors' Liability) Act 2012. Assented to 26.11.2012.  
Date of commencement, 11.1.2013, sec 2 and 2012 (629) LW 14.12.2012.
- (583) Liquor Amendment (Special Licence Conditions) Regulation (No 2) 2012. LW 30.11.2012.  
Date of commencement, 1.12.2012, cl 2.
- (656) Liquor Further Amendment (Extension of Freeze Period) Regulation 2012. LW 21.12.2012.  
Date of commencement of cl 4, 24.12.2012, cl 2 (2).
- 2013** No 12 Crimes (Criminal Organisations Control) Amendment Act 2013. Assented to 3.4.2013.  
Date of commencement, assent, sec 2.

## Table of amendments

- Sec 1 Am 2011 No 72, Sch 2 [1].
- Sec 4 Am 2009 No 23, Sch 3.3 [1]; 2009 No 72, Sch 1 [2] [3]; 2010 No 19, Sch 3.59 [1]; 2010 No 36, Sch 1 [1] [2]; 2011 No 41, Sch 5.18; 2011 No 72, Sch 2 [1]–[3]; 2012 No 9, Sch 1.6 [1]; 2012 No 91, Sch 1 [1]; 2013 No 12, Sch 2.2.
- Sec 4A Ins 2012 No 91, Sch 1 [2].
- Sec 6 Am 2007 No 9, Sch 5.18 (subst 2009 No 106, Sch 5.15); 2010 No 34, Sch 2.32; 2010 No 127, Sch 4.14; 2011 No 72, Sch 2 [4] [5].
- Sec 11 Am 2008 No 102, Sch 1 [1].
- Sec 11A Ins 2008 No 101, Sch 1 [1].
- Sec 14 Am 2009 No 72, Sch 1 [4] [5].



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Sec 15A	Ins 2011 No 72, Sch 2 [7].
Sec 25	Am 2009 No 72, Sch 1 [6]–[8].
Sec 33	Am 2008 No 62, Sch 1.13 [1] [2]; 2009 No 72, Sch 1 [9]–[12].
Sec 34	Am 2008 No 62, Sch 1.13 [3]; 2009 No 72, Sch 1 [13]–[16].
Sec 35	Am 2009 No 72, Sch 1 [17].
Sec 40	Am 2009 No 23, Sch 3.3 [2]; 2012 No 9, Sch 1.6 [2].
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Sec 47H	Ins 2009 No 66, Sch 1 [1]. Am 2011 No 72, Sch 2 [8].
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Sec 48	Am 2009 No 72, Sch 1 [18]; 2011 No 72, Sch 2 [9].
Sec 49	Am 2009 No 72, Sch 1 [19]–[22]; 2012 No 91, Sch 1 [7].
Sec 50	Am 2009 No 72, Sch 1 [23].
Sec 53	Am 2011 No 72, Sch 2 [10] [11].
Sec 54	Am 2010 No 36, Sch 1 [4]–[8].
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Sec 55	Am 2009 No 72, Sch 1 [24].
Sec 56	Am 2009 No 72, Sch 1 [25].
Sec 60	Am 2011 No 72, Sch 2 [13].
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Sec 64	Am 2009 No 49, Sch 2.36 [2].
Sec 66	Am 2011 No 72, Sch 2 [14].
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Sec 140	Am 2009 No 23, Sch 3.3 [6].
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Sec 144C	Ins 2011 No 58, Sch 1 [2]. Am 2012 No 42, Sch 1.18 [1] [2].
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Sec 155	Rep 2011 No 72, Sch 2 [20].
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- Sch 4            Ins 2008 No 102, Sch 1 [2]. Am 2009 (324), Sch 1 [1]–[3]; 2009 (542), Sch 1 [1] (am 2009 (543), cl 3) [2]; 2010 (187), Sch 2; 2010 (212), Sch 1 [1] [2]; 2010 (643), Sch 1 [1] [2]; 2011 (6), Sch 2; 2011 (251), Sch 1 [1] [2]; 2011 (598), Sch 1 [1] [2]; 2011 No 72, Sch 2 [23]; 2012 (227), Sch 1 [1] [2]; 2012 (583), Sch 1 [1]–[3].
- Sch 5            Ins 2009 No 66, Sch 1 [4]. Am 2012 No 91, Sch 1 [12]; 2012 (656), cl 4.
- The whole Act    Am 2009 No 72, Sch 1 [1] (“Director” and “Director’s” omitted wherever occurring, “Director-General” and “Director-General’s” inserted instead, respectively).