

Version No. 041
Liquor Control Reform Act 1998
No. 94 of 1998

Version incorporating amendments as at 3 June 2008

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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purpose

The purpose of this Act is to reform the law relating to the supply and consumption of liquor.

2 Commencement

- (1) This Part comes into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2) does not come into operation before 1 July 1999, it comes into operation on that day.

3 Definitions

- (1) In this Act—

alcohol-based food essence means a food flavouring preparation in liquid form intended for human consumption with an alcoholic content greater than 0.5% by volume at a temperature of 20° Celsius;

**S. 3(1) def. of
*alcohol-based
food essence*
inserted by
No. 88/2001
s. 4(a).**

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S. 3(1) def. of
*alcohol-
related
violence or
disorder*
inserted by
No. 73/2007
s. 10.

alcohol-related violence or disorder means
violence or disorder resulting from or related
to the consumption of alcohol (whether or
not the alcohol is consumed in the place
where the violence or disorder occurs);

S. 3(1) def. of
amenity
inserted by
No. 39/2002
s. 4(1).

amenity has the meaning given by section 3A;

S. 3(1) def. of
associate
inserted by
No. 92/2004
s. 9(1),
substituted by
No. 73/2007
s. 8.

associate has the meaning given in section 3AC;

authorised gaming visitor means a person—

- (a) who is on licensed premises in respect
of which a venue operator's licence is in
force; and
- (b) in the case of licensed premises within
the municipal district of a Council
mentioned in the Schedule to the
Public Holidays Act 1993, who resides
more than 5 kilometres from the
licensed premises; and
- (c) in the case of licensed premises that are
not within the municipal district of a
Council mentioned in the Schedule to
the **Public Holidays Act 1993**, who
resides more than 10 kilometres, or any
other distance which is determined by
the Minister under subsection (2), from
the licensed premises; and

- (d) whose name, residential address and date of admission to the licensed premises is recorded on the register of authorised gaming visitors required to be kept under section 10(4)(b)(ii);

authorised member of the police force means a member of the police force authorised by the Chief Commissioner for the purposes of this Act;

authorised premises means premises referred to in section 9(1)(b);

banning notice means a notice given under section 148B;

S. 3(1) def. of *banning notice* inserted by No. 73/2007 s. 4.

breach notice means a notice served by the Director under section 97A;

S. 3(1) def. of *breach notice* inserted by No. 73/2007 s. 11.

BYO permit means a BYO permit granted under this Act;

Chief Commissioner means Chief Commissioner of Police appointed under the **Police Regulation Act 1958**;

contested application means—

- (a) an application for the grant, variation, transfer or relocation of a licence or BYO permit in respect of which any objections are received under Division 5 of Part 2 within the period set out in that Division for those objections (or that period as extended under section 174); or

S. 3(1) def. of *contested application* substituted by No. 73/2007 s. 9.

- (b) an application under section 30 for the variation of a licence or BYO permit in respect of which an objection is received under section 30(b) within the period set out in that section for that objection (or that period as extended under section 174);

S. 3(1) def. of *convenience store* inserted by No. 92/2004 s. 9(1).

convenience store means a premises of not more than 240 square metres on which food, drinks and other convenience goods are sold;

co-operative has the same meaning as in the **Co-operatives Act 1996**;

Council has the same meaning as in the **Local Government Act 1989**;

S. 3(1) def. of *designated area* inserted by No. 73/2007 s. 4.

designated area means an area declared under section 147 to be a designated area for the purposes of Part 8A;

Director means Director of Liquor Licensing appointed under section 149;

director of a body corporate includes—

- (a) any person occupying or acting in the position of director of the body corporate, by whatever name called and whether or not validly appointed to occupy or duly authorised to act in the position; and
- (b) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act;

domestic partner of a person means an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—

S. 3(1) def. of *domestic partner* inserted by No. 92/2004 s. 9(1).

- (a) for fee or reward; or
- (b) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

driver licence means a driver licence issued under the **Road Safety Act 1986**;

evidence of age document means—

- (a) a proof of age card or a card issued in another State or a Territory that is the equivalent of a proof of age card; or
- (b) a driver licence or a licence issued in another State or a Territory that is the equivalent of a driver licence; or
- (c) an Australian or foreign passport; or

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(d) a document issued—

- (i) by a person; or
- (ii) on behalf of a government department or agency—

approved by the Minister that bears a photograph of the person to whom it is issued and enables that person's age to be determined;

S. 3(1) def. of *exclusion order* inserted by No. 73/2007 s. 4.

exclusion order means an order made by a court under section 148I;

S. 3(1) def. of *food court* inserted by No. 92/2004 s. 9(1).

food court means an area set aside on a retail premises for the consumption of food or drink by the customers of premises used for the sale of food or drink that are next to, or near, the area;

S. 3(1) def. of *guardian* inserted by No. 92/2004 s. 3.

guardian, in relation to a person who is under the age of 18 years, means a person who is authorised by law to manage the affairs of that young person;

S. 3(1) def. of *guest* amended by No. 92/2004 s. 9(2).

guest—

- (a) in relation to licensed premises under a general licence, means a person introduced to the premises by a resident; and
- (b) in relation to licensed premises under a club licence, means a person introduced to the club by a member in accordance with the rules of the club;

S. 3(1) def. of *homeless person* inserted by No. 73/2007 s. 4.

homeless person has the same meaning as in the **Magistrates' Court Act 1989**;

insolvent under administration means—

- (a) a person who is an undischarged bankrupt; or
- (b) a person for whom a debt agreement has been made under Part IX of the Bankruptcy Act 1966 of the Commonwealth (or the corresponding provisions of the law of another jurisdiction) if the debt agreement has not ended or has not been terminated; or
- (c) a person who has executed a deed of arrangement under Part X of the Bankruptcy Act 1966 of the Commonwealth (or the corresponding provisions of the law of another jurisdiction) if the terms of the deed have not been fully complied with; or
- (d) a person whose creditors have accepted a composition under Part X of the Bankruptcy Act 1966 (or the corresponding provisions of the law of another jurisdiction) if a final payment has not been made under that composition;

late hour entry declaration means a declaration made under section 58B;

S. 3(1) def. of *late hour entry declaration* inserted by No. 8/2006 s. 4(1).

licence means a licence granted under this Act;

licensed premises means the premises in respect of which a licence (other than a pre-retail licence) or BYO permit is granted but does not include premises referred to in section 13(1)(b) (vigneron's licence);

licensee means the holder of a licence;

licensing inspector means a person appointed as a licensing inspector under section 172;

liquor means a beverage, or other prescribed substance, intended for human consumption with an alcoholic content greater than 0.5% by volume at a temperature of 20° Celsius;

nominee of a licensee or permittee, means a person approved under section 54 as nominee of that licensee or permittee;

ordinary trading hours means—

- (a) in relation to a general licence or on-premises licence—
 - (i) the hours between 7 a.m. and 11 p.m. on each day, other than Sunday, Good Friday or ANZAC Day; and
 - (ii) the hours between 10 a.m. and 11 p.m. on Sunday; and
 - (iii) the hours between 12 noon and 11 p.m. on Good Friday and ANZAC Day;
- (b) in relation to a club licence—
 - (i) any time on any day other than Sunday, Good Friday or ANZAC Day; and
 - (ii) the hours between 10 a.m. and 11 p.m. on Sunday; and
 - (iii) the hours between 12 noon and 11 p.m. on Good Friday and ANZAC Day;

S. 3(1) def. of *ordinary trading hours* amended by No. 96/2003 s. 14(1).

-
- (c) in relation to a packaged liquor licence—
- (i) the hours between 9 a.m. and 11 p.m. on each day, other than Sunday, Good Friday, ANZAC Day or Christmas Day; and
 - (ii) the hours between 10 a.m. and 11 p.m. on Sunday; and
 - (iii) the hours between 12 noon and 11 p.m. on ANZAC Day;
- (d) in relation to a vigneron's licence—
- (i) the hours between 7 a.m. and 11 p.m. on each day, other than Sunday, Good Friday or ANZAC Day; and
 - (ii) the hours between 10 a.m. and 11 p.m. on Sunday, Good Friday and ANZAC Day;

owner of premises, means the person for the time being entitled to receive either on their own account or as mortgagee or other encumbrancer the rent of the premises or who would be so entitled if the premises were let at a rent;

* * * * *

S. 3(1) def. of *permitted percentage* inserted by No. 39/2002 s. 4(1), repealed by No. 39/2002 s. 16(a).

permittee means the holder of a BYO permit;
premises includes a vehicle, vessel and aircraft;

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proof of age card means a document issued by the Director under section 176;

S. 3(1) def. of *related body corporate* inserted by No. 39/2002 s. 4(2)(a), repealed by No. 39/2002 s. 16(a).

* * * * *

S. 3(1) def. of *related entity* amended by No. 44/2001 s. 3(Sch. item 73.1), substituted by No. 39/2002 s. 4(2)(b), repealed by No. 39/2002 s. 16(a).

* * * * *

S. 3(1) def. of *relevant police member* inserted by No. 73/2007 s. 4.

relevant police member means—

- (a) an authorised member of the police force; or
- (b) a member of the police force authorised under section 148N(1) to be a relevant police member;

residence, in sections 119 and 123, means—

- (a) a building or part of a building used as a separate residence; and
- (b) any land, building or part of a building used for a purpose ancillary to the use of a building or part of a building as a separate residence—

but does not include licensed premises;

resident, in relation to licensed premises, means a person (other than the licensee or permittee) residing or lodging on the licensed premises;

responsible adult, in relation to a person who is under the age of 18 years, means a person who is of or over the age of 18 years and who is—

S. 3(1) def. of *responsible adult* inserted by No. 92/2004 s. 3.

- (a) the younger person's parent, step-parent, guardian or grandparent; or
- (b) the younger person's spouse; or
- (c) a person who is acting in place of a parent and who could reasonably be expected to exercise responsible supervision of the younger person;

specified offence, in relation to a banning notice or an exclusion order, means an offence specified in Schedule 2;

S. 3(1) def. of *specified offence* inserted by No. 73/2007 s. 4.

spouse of a person means a person to whom the person is married;

S. 3(1) def. of *spouse* inserted by No. 92/2004 s. 9(1).

state of intoxication has the meaning given by section 3AB(1);

S. 3(1) def. of *state of intoxication* inserted by No. 8/2006 s. 4(2).

supply includes sell, offer or expose for sale, exchange, dispose of and give away;

S. 3(1) def. of *supply* amended by No. 88/2001 s. 4(b).

tax officer has the same meaning as in the **Taxation Administration Act 1997**;

Tribunal means Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**;

uncontested application means an application for the grant, variation, transfer or relocation of a licence or BYO permit in respect of which no objection is received under Division 5 of Part 2 within the period set out in that Division for that objection (or that period as extended under section 174);

S. 3(1) def. of *vending machine* inserted by No. 92/2004 s. 9(1).

vending machine means a machine or device that is designed to enable the purchase of items stored in the machine or device by the insertion of money, a token, a card or a similar object into the machine or device;

S. 3(1) def. of *venue operator's licence* substituted by No. 114/2003 s. 12.1.3 (Sch. 6 item 9.1).

venue operator's licence has the same meaning as in the **Gambling Regulation Act 2003**;

vigner means a person who—

- (a) owns or occupies a vineyard or orchard containing at least 1.6 hectares of fruit-bearing vines or fruit trees; and
- (b) owns or possesses (whether on the vineyard or orchard or on other premises owned or occupied by the person) fermentation facilities in operating order sufficient for the annual production reasonably expected from the vineyard or orchard.

* * * * *

S. 3(1) def. of *voting power* inserted by No. 39/2002 s. 4(2)(a), repealed by No. 39/2002 s. 16(a).

- (2) For the purposes of paragraph (c) of the definition of *authorised gaming visitor* the Minister may determine that an alternative distance of not less than 5 kilometres should apply if the Minister is satisfied that it is in the interests of the community to do so.

3A What is *amenity*?

S. 3A inserted by No. 39/2002 s. 5.

- (1) For the purposes of this Act, the amenity of an area is the quality that the area has of being pleasant and agreeable.
- (2) Factors that may be taken into account in determining whether the grant, variation or relocation of a licence would detract from or be detrimental to the amenity of an area include—
- (a) the presence or absence of parking facilities;
 - (b) traffic movement and density;
 - (c) noise levels;
 - (d) the possibility of nuisance or vandalism;
 - (e) the harmony and coherence of the environment;
 - (f) any other prescribed matters.
- (3) Nothing in subsection (2) is intended to limit the definition of amenity.

s. 3AB

S. 3AB
inserted by
No. 8/2006
s. 5.

3AB What is intoxication?

- (1) For the purposes of this Act, a person is in a state of intoxication if his or her speech, balance, co-ordination or behaviour is noticeably affected and there are reasonable grounds for believing that this is the result of the consumption of liquor.
- (2) The Director must issue guidelines containing information about how to determine whether a person is in a state of intoxication for the purposes of this Act.

S. 3AC
inserted by
No. 73/2007
s. 12.

3AC Who is an *associate*?

- (1) For the purposes of this Act, an *associate* of a person (the *first person*) is—
 - (a) a person who—
 - (i) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in right of the person or on behalf of any other person) in any business of the first person involving the sale of liquor; and
 - (ii) by virtue of that interest or power, is able or will be able to exercise a significant influence over or with respect to the management or operation of that business; or
 - (b) a person who is or will be a director, whether in right of the person or on behalf of any other person, of any business of the first person involving the sale of liquor; or
 - (c) if the first person is a natural person, a person who is a relative of the first person, other than a relative—

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- (i) who is not, and has never been, involved in any business of the first person involving the sale of liquor; or
 - (ii) who will not be involved in the business the first person proposes to conduct as a licensee or permittee.

(2) In this section—

relative, in relation to a person, means—

- (a) the spouse or domestic partner of the person; or
- (b) a parent, son, daughter, brother or sister of the person; or
- (c) a parent, son, daughter, brother or sister of the spouse or domestic partner of the person;

relevant financial interest, in relation to a business involving the sale of liquor, means—

- (a) any share in the capital of the business; or
- (b) any entitlement to receive any income derived from the business; or
- (c) any entitlement to receive any payment as a result of money advanced;

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

- (a) to participate in any directorial, managerial, or executive decision; or
- (b) to elect or appoint any person as a director.

s. 3B

S. 3B
inserted by
No. 92/2004
s. 10.

3B Where supply occurs if off-premises request made

For the purposes of this Act, if liquor is provided to a person who was not on licensed premises at the time the person ordered the liquor, the supply of the liquor to the person occurs at the place where the liquor provided was appropriated to the person's order.

Examples:

- 1 A customer sits down at a kerb-side table of premises operated by the holder of a general licence. She orders a glass of wine. The waiter takes the order to the bar, where a glass is filled. The waiter then takes the glass to the customer. In this scenario the wine in the glass is supplied to the customer at the bar because that is where it was appropriated to the customer's order.
- 2 A customer orders the home delivery of a carton of beer by phone from the manager of premises licensed to supply liquor for consumption off the premises. The customer pays for the beer by providing his credit card details over the phone. The manager selects the beer from the fridge, and a staff member delivers the beer to the customer's house. In this scenario the beer is supplied to the customer at the fridge because that is where it was appropriated to the customer's order.

4 Objects

The objects of this Act are—

- (a) to contribute to minimising harm arising from the misuse and abuse of alcohol by—
 - (i) providing adequate controls over the supply and consumption of liquor; and
 - (ii) ensuring as far as practicable that the supply of liquor contributes to, and does not detract from, the amenity of community life; and
 - (iii) restricting the supply of certain other alcoholic products; and

S. 4(a)(iii)
inserted by
No. 88/2001
s. 5.

- (b) to facilitate the development of a diversity of licensed facilities reflecting community expectations; and
- (c) to contribute to the responsible development of the liquor and licensed hospitality industries.

5 Liquor Control Advisory Council

S. 5 (Heading)
inserted by
No. 92/2004
s. 11(1).

- (1) There is established a Liquor Control Advisory Council to advise the Minister on problems of alcohol abuse and on any other matters referred to it by the Minister. S. 5(1)
substituted by
No. 92/2004
s. 11(2).
- (2) The Council consists of a Chairperson and as many other members as the Minister considers it appropriate to appoint. S. 5(2)
substituted by
No. 92/2004
s. 11(2).
- (3) In appointing a person to be a member of the Council, the Minister must be satisfied that the person has appropriate knowledge, experience or skills. S. 5(3)
substituted by
No. 92/2004
s. 11(2).
- (4) A member holds office for the period, not exceeding 5 years, specified in the instrument of appointment and is eligible for re-appointment.
- (5) A member is entitled to be paid any travelling and other allowances approved by the Minister.
- (6) The **Public Administration Act 2004** does not apply to a member of the Council in respect of the office of member. S. 5(6)
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 115.1).
- (7) The Minister may remove a member from office. S. 5(7)
amended by
No. 92/2004
s. 11(3).
- (8) The Council may regulate its own procedure.

6 Act not to apply in certain cases

This Act does not apply—

- (a) to a person supplying spirituous or distilled perfume in good faith as perfumery; or
- (b) to liquor supplied or consumed as part of a religious service; or
- (c) to the supply or administration of liquor only as medicine or for medical purposes by or under the direction of a medical practitioner or pharmacist registered under the **Health Professions Registration Act 2005**; or
- (d) to the supply or consumption of liquor at the Houses of Parliament by the permission and under the control of the Parliament; or
- (e) to an auctioneer selling liquor by auction with the approval of the Director on account of—
 - (i) a person—
 - (A) who has failed to renew their licence; or
 - (B) who has surrendered their licence; or
 - (C) whose licence has been cancelled—
within the preceding 3 months; or
 - (ii) a person who intends to surrender their licence within 3 months after the sale; or
 - (iii) a person whose licence will expire within 3 months after the sale and who does not intend to renew the licence; or

S. 6(c)
amended by
No. 97/2005
s. 182(Sch. 4
item 33).

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- (f) to the official receiver or trustee in bankruptcy of a bankrupt estate selling liquor that is the property of that estate for the purposes of winding up that estate; or
 - (g) to an executor or administrator of the estate of a deceased person selling liquor that is the property of that estate for the purposes of winding up that estate; or
 - (h) to an insurer selling liquor to which the insurer has acquired title by virtue of a settlement of a claim made in good faith under a policy of insurance but not by purchase; or
 - (i) to a person not carrying on a business of supplying liquor who supplies liquor to a licensee; or
 - (j) to any of the following persons selling by auction any liquor taken in execution or under any warrant of distress or forfeited—
 - (i) the Assistant Director, Asset Confiscation Operations in the Enforcement Management Division of the Department of Justice;
 - (ii) the sheriff or a person authorised by the sheriff;
 - (iii) a bailiff;
 - (iv) a member of the police force; or
 - (k) to the granting of allowances of liquor to the crew of a vessel.

S. 6(j)
substituted by
No. 8/2006
s. 6.

PART 2—LICENCES AND BYO PERMITS

Division 1—Categories of licences and permits

7 What are the categories of licences and permits that may be issued under this Act?

The following licences and permits may be issued under this Act—

- (a) general licence;
- (b) on-premises licence;
- (c) club licence;
- (d) packaged liquor licence;
- (e) pre-retail licence;
- (f) vigneron's licence;
- (g) limited licence;
- (h) BYO permit.

8 General licence

- (1) A general licence authorises the licensee—
 - (a) to supply liquor on the licensed premises—
 - (i) during ordinary trading hours; and
 - (ii) at any other times determined by the Director and specified in the licence—
for consumption on and off the licensed premises; and
 - (b) to supply liquor on the licensed premises at any time to a resident of the licensed premises or a guest of such a resident for consumption on the licensed premises; and

- (c) if the licensee resides on the licensed premises, to supply liquor on that part of the licensed premises set aside for the licensee's private residence at any time to a guest of the licensee for consumption on that part of the licensed premises.
- (2) A general licence is subject to—
- (a) the condition set out in section 16 (compliance with planning scheme); and
- (b) if the licence authorises the licensee to supply liquor outside ordinary trading hours (except as provided in subsection (1)(b) or (c)), the condition set out in section 17(1); and
- (c) if the licensee is a body corporate, the condition set out in section 18 (approval of directors); and
- * * * * *
- (d) any other conditions determined by the Director and specified in the licence.

S. 8(2)(ca)
inserted by
No. 21/2001
s. 4,
repealed by
No. 39/2002
s. 16(b).

9 On-premises licence

- (1) An on-premises licence authorises the licensee—
- (a) to supply liquor on the licensed premises—
- (i) during ordinary trading hours; and
- (ii) at any other times determined by the Director and specified in the licence—
- for consumption on the licensed premises;
and

Liquor Control Reform Act 1998
No. 94 of 1998
Part 2—Licences and BYO Permits

s. 9

S. 9(1)(b)
amended by
No. 92/2004
s. 12(a).

(b) to supply liquor on any other premises authorised by the Director and specified in the licence, during ordinary trading hours or at the times referred to in paragraph (a)(ii) or at any other times determined by the Director and specified in the licence, for consumption on those premises; and

S. 9(1)(c)
inserted by
No. 92/2004
s. 12(b).

(c) if specifically authorised by the Director, to supply liquor in an open container for consumption in a food court next to, or near, the licensed premises.

(2) An on-premises licence is subject to—

(a) the conditions set out in subsection (3), if applicable; and

(b) the condition set out in section 16 (compliance with planning scheme); and

(c) if the licence authorises the licensee to supply liquor outside ordinary trading hours, the condition set out in section 17(1); and

(d) if the licensee is a body corporate, the condition set out in section 18 (approval of directors); and

(e) any other conditions determined by the Director and specified in the licence.

(3) If the permitted use of the licensed premises under the **Planning and Environment Act 1987** is that of a restaurant, the on-premises licence is subject to the following conditions—

(a) the predominant activity carried on on the licensed premises must be the preparation and serving of meals for consumption on the licensed premises; and

- (b) tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time; and
- (c) the licensee must not permit—
- (i) the live performance of any musical works; or
 - (ii) the playing of any recorded musical works—
- on the premises at higher than background music level at any time outside ordinary trading hours.
- (4) The condition in subsection (3)(c) does not apply to music performed or played on licensed premises outside ordinary trading hours as part of a function that is—
- (a) held in an area of those premises that is set aside for the exclusive use of persons who have booked a table in that area and their guests; and
 - (b) attended only by those persons and guests.
- (5) In this section—
- background music level***, in relation to premises, means a level that enables patrons to conduct a conversation at a distance of 600 millimetres without having to raise their voices to a substantial degree.

10 Club licence

- (1) A club licence may be a full club licence or a restricted club licence.
- (2) A full club licence authorises the licensee to supply liquor on the licensed premises—
- (a) during ordinary trading hours; and

(b) at any other times determined by the Director and specified in the licence—

to a member of the club for consumption on or off the licensed premises and to an authorised gaming visitor or a guest of a member for consumption on the licensed premises.

- (3) A restricted club licence authorises the licensee to supply liquor at the times determined by the Director and specified in the licence to a member of the club, an authorised gaming visitor or a guest of a member for consumption on the licensed premises.
- (4) A club licence is subject to—
- (a) a condition that the rules of the club comply with Schedule 1 (except to the extent determined by the Director under section 25(1)(a)); and
 - (b) a condition that the secretary of the club keep on the licensed premises, in a form and manner approved by the Director—
 - (i) a members register containing the name and address of each member of the club and particulars of payment of the last subscription for membership paid by the member; and
 - (ii) in the case of a club in respect of which a venue operator's licence is in force, a register of authorised gaming visitors containing the name and residential address of each authorised gaming visitor admitted to the licensed premises and the date of that admission; and

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- (c) a condition that the registers be kept open for inspection at any time by a licensing inspector, an authorised member of the police force, the Director or a person employed under Part 3 of the **Public Administration Act 2004** in the administration of this Act who is authorised in writing by the Director; and
- (d) a condition that the secretary of the club ensure that there are kept proper accounts and records of the transactions and affairs of the club and such other records as will sufficiently explain the financial operations and financial position of the club; and
- (e) the condition set out in section 16 (compliance with planning scheme); and
- (f) if the licence authorises the licensee to supply liquor outside ordinary trading hours, the condition set out in section 17(1); and
- (g) any other conditions determined by the Director and specified in the licence.
- (5) Despite subsection (1), the Director may impose a condition on a club licence prohibiting the supply of liquor on the licensed premises during any time that a law other than this Act forbids the club from trading at the premises.
- (6) Despite subsection (1), a club licence in respect of licensed premises within an electoral district referred to in clause 17(1) of Schedule 3 does not authorise the licensee to supply liquor to an authorised gaming visitor.

S. 10(4)(c)
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 115.1).

11 Packaged liquor licence

- (1) A packaged liquor licence authorises the licensee to supply liquor on the licensed premises in sealed containers, bottles or cans—
- (a) during ordinary trading hours; and
 - (b) at any other times determined by the Director and specified in the licence—

for consumption off the licensed premises.

- (2) If—

- (a) the licensed premises under a packaged liquor licence is located within premises used primarily as a supermarket; and
- (b) the licensee is the owner of the supermarket business; and
- (c) the Director so determines and specifies in the licence—

the packaged liquor licence also authorises the licensee to receive payment for liquor supplied on the licensed premises at any checkout located in the supermarket if the person receiving the payment is of or over the age of 18 years.

- (3) A packaged liquor licence is subject to—

- (aa) a condition that the predominant activity carried on in the area set aside as the licensed premises is the sale by retail of liquor for consumption off the licensed premises; and
- (aab) a condition that, following the period of 3 months after the grant or transfer of the licence to the licensee, the area set aside as the licensed premises is, at any time when it is open for business, under the management or control of a person who has completed a responsible service of alcohol program

S. 11(3)(aa)
inserted by
No. 21/2001
s. 5.

S. 11(3)(aab)
inserted by
No. 39/2002
s. 6(1).

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- approved by the Director under subsection (4); and
- (aac) a condition that every person who has the management or control of the area set aside as the licensed premises when it is open for business must have completed a responsible service of alcohol program approved by the Director under subsection (4) in the previous financial year; and **S. 11(3)(aac) inserted by No. 39/2002 s. 6(1).**
- (aad) a condition that the licensee comply with the code of conduct (if any) determined by the Minister under subsection (5) as in force from time to time; and **S. 11(3)(aad) inserted by No. 39/2002 s. 6(1).**
- (a) the condition set out in section 16 (compliance with planning scheme); and
- (b) if the licence authorises the licensee to supply liquor outside ordinary trading hours, the condition set out in section 17(1); and
- (c) if the licensee is a body corporate, the condition set out in section 18 (approval of directors); and
- (d) any other conditions determined by the Director and specified in the licence.
- (4) The Director may, from time to time, approve programs to be responsible service of alcohol programs for the purposes of the licence condition referred to in subsection (3)(aab) and the licence condition referred to in subsection (3)(aac). **S. 11(4) inserted by No. 39/2002 s. 6(2).**
- (5) The Minister, by notice published in the Government Gazette, may determine a code of conduct, consistent with the objects of this Act, for licensees of packaged liquor licences. **S. 11(5) inserted by No. 39/2002 s. 6(2).**
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s. 12

S. 11(6)
inserted by
No. 39/2002
s. 6(2).

(6) The Minister may, at any time by notice published in the Government Gazette, vary or revoke the code of conduct under subsection (5).

S. 11(7)
inserted by
No. 39/2002
s. 6(2).

(7) The Minister must not determine a code of conduct, or vary or revoke it, until the Minister has consulted packaged liquor licensees.

S. 11(8)
inserted by
No. 6/2003
s. 15.

(8) The Small Business Commissioner appointed under the **Small Business Commissioner Act 2003** may investigate the compliance by licensees of packaged liquor licences with a code of conduct under subsection (5).

12 Pre-retail licence

S. 12(1)
substituted by
No. 92/2004
s. 13.

- (1) A pre-retail licence authorises the licensee to supply liquor at any time and on any premises—
- (a) to a person who holds a licence under this Act; and
 - (b) to a person licensed to sell or supply liquor by or under a law of another State or Territory if the liquor supplied is to be consumed outside Victoria; and
 - (c) to a person for the purpose of exporting the liquor supplied out of Australia.
- (2) A pre-retail licence is subject to—
- (a) if the licensee is a body corporate, the condition set out in section 18 (approval of directors); and
 - (b) any other conditions determined by the Director and specified in the licence.

13 Vigneron's licence

- (1) A vigneron's licence authorises the licensee—
 - (a) to supply on the licensed premises—
 - (i) during ordinary trading hours; and
 - (ii) at any other times determined by the Director and specified in the licence—

liquor produced on the licensed premises in accordance with the licence for consumption on or off the licensed premises; and
 - (b) to supply at any time and on any premises liquor produced on the licensed premises in accordance with the licence to a person who holds a licence under this Act.
 - (2) A vigneron's licence is subject to—
 - (a) the condition set out in subsection (3); and
 - (b) the condition set out in section 16 (compliance with planning scheme); and
 - (c) if the licence authorises the licensee to supply liquor outside ordinary trading hours, the condition set out in section 17(1); and
 - (d) if the licensee is a body corporate, the condition set out in section 18 (approval of directors); and
 - (e) any other conditions determined by the Director and specified in the licence.
 - (3) A vigneron's licence is subject to the condition that wine, cider, brandy or perry produced by the licensee is made from fruit grown in Australia and—
 - (a) in the case of wine, is to the extent of at least 70% made from fruit grown or fermented by the licensee; and
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- (b) in the case of cider or perry, is to the extent of at least 25% made from fruit grown by the licensee; and
- (c) in the case of brandy, is to the extent of at least 70% made from wine distilled by the licensee.

14 Limited licence

- (1) A limited licence authorises the licensee to supply liquor at the times determined by the Director and specified in the licence.
- (2) A limited licence is subject to—
 - (a) the condition set out in subsection (3), if applicable; and
 - (b) if the licensee is a body corporate, the condition set out in section 18 (approval of directors); and
 - (c) any other conditions determined by the Director and specified in the licence.
- (3) If the Director is satisfied that a limited licence is required for the purposes of a club (other than a club that holds a club licence), the Director must impose a condition on the licence that liquor supplied under the licence must be purchased from the holder of a general licence or packaged liquor licence.

15 BYO permit

- (1) A BYO permit authorises liquor to be consumed, possessed or controlled on the premises in respect of which the permit is granted at the times determined by the Director and specified in the permit.

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- (2) A BYO permit is subject to—
- (a) a condition that the permittee does not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the permit relates during or immediately after the periods to which the permit relates; and
 - (b) a condition that the premises are a restaurant or a club; and
 - (c) the condition set out in section 16 (compliance with planning scheme); and
 - (d) if the permittee is a body corporate, the condition set out in section 18 (approval of directors); and
 - (e) any other conditions, including conditions relating to entertainment, determined by the Director and specified in the permit.

16 Licence and permit condition—compliance with planning scheme

- (1) Subject to subsection (2), it is a condition of every licence and BYO permit that the use of the licensed premises does not contravene the planning scheme that applies to the licensed premises under the **Planning and Environment Act 1987**.
- (2) Subsection (1) does not apply to a pre-retail licence or a limited licence.

17 Licence condition—extended hours

- (1) Subject to subsection (2), it is a condition of every licence that authorises the supply of liquor outside ordinary trading hours that the licensee does not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the licence relates

during or immediately after the hours outside ordinary trading hours to which it relates.

- (2) Subsection (1) does not apply to—
- (a) a general licence that authorises the supply of liquor outside ordinary trading hours only as set out in section 8(1)(b) or (c); or
 - (b) a pre-retail licence; or
 - (c) a vigneron's licence that authorises the supply of liquor outside ordinary trading hours only as set out in section 13(1)(b); or
 - (d) a limited licence.

18 Licence and permit condition—approval of directors

(1) Subject to subsection (2), it is a condition of every licence or BYO permit held by a body corporate that a person must not be appointed as, or otherwise become, a director of the body corporate without the approval of the Director.

- (2) Subsection (1) does not apply to—
- (a) a licence or BYO permit held by—
 - (i) a Council; or
 - (ii) a university or a TAFE institute within the meaning of the **Education and Training Reform Act 2006**; or

S. 18(2)(a)(ii) substituted by No. 24/2006 s. 6.1.2(Sch. 7 item 26).

S. 18(2)(a)(iii) repealed by No. 24/2006 s. 6.1.2(Sch. 7 item 26).

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- (b) a club licence.

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S. 18A
inserted by
No. 21/2001
s. 6,
amended by
No. 39/2002
s. 7(1),
repealed by
No. 39/2002
s. 16(b).

18B Licence condition—security cameras

S. 18B
inserted by
No. 8/2006
s. 7.

- (1) If the Director imposes a condition on a licence requiring the licensed premises to which the licence relates to be fitted with security cameras, it is a further condition of the licence that the security cameras comply with any standards prescribed for the purposes of this section.
- (2) The regulations may prescribe standards relating to the quality and operation of security cameras on licensed premises the licence for which includes a condition requiring the premises to be fitted with security cameras.

Division 2—Additional authority of licences

Pt 2 Div. 2
(Heading)
amended by
No. 74/2000
s. 3(Sch. 1
item 72.1).

19 30-minute period for consumption of liquor after hours

A licence that authorises the supply of liquor during any period for consumption on the licensed premises or on any authorised premises also authorises liquor so supplied to be consumed on those premises during the 30 minutes next after the expiration of that period.

20 Gratuitous supply of liquor

A licence that authorises the licensee to supply liquor for consumption off the licensed premises also authorises the licensee to supply liquor gratuitously for consumption on the premises at any time at which the licensee is authorised to supply liquor for consumption off the premises.

21 Bringing of liquor onto licensed premises

- (1) This section applies if—
 - (a) a licence authorises the licensee to supply liquor for consumption on licensed premises or on any authorised premises; and
 - (b) the predominant activity carried on on the licensed premises is the preparation and serving of meals for consumption on the licensed premises; and
 - (c) tables and chairs are placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time.
- (2) If this section applies, the licence authorises a person of or over the age of 18 years, with the consent of the licensee, to—
 - (a) bring liquor onto, or possess or control liquor on, the premises for consumption with a meal purchased on those premises; and
 - (b) consume that liquor with that meal; and
 - (c) take away from the premises any container brought onto the premises by him or her containing any such liquor that was not consumed with that meal.

Division 3—Restrictions on grant of licences and BYO permits

22 Certain premises not to be licensed

- (1) The Director must not grant a licence or BYO permit in respect of—
- (a) premises used primarily as a drive-in cinema; or
 - (b) premises used primarily as a petrol station; or
 - (c) premises that, in the opinion of the Director, are used primarily as a milk bar, convenience store or mixed business; or
 - (ca) premises that, in the opinion of the Director, are intended by the occupier of the premises to be primarily used by people under the age of 18 years; or
 - (d) premises in a class of premises prescribed for the purposes of this section.
- (2) The Director, with the approval of the Minister, may grant a licence in respect of premises referred to in subsection (1)(c) if the Minister is satisfied that the area in which the premises are situated is a tourist area or an area with special needs and that there are not adequate existing facilities or arrangements for the supply of liquor in the area.
- (3) For the purposes of subsection (1)(b) regard must be had to the following factors—
- (a) the physical location of the area set aside as the licensed premises; and
 - (b) the primary means of access to and egress from the area set aside as the licensed premises; and

S. 22(1)(ca)
inserted by
No. 92/2004
s. 5.

S. 22(3)
inserted by
No. 21/2001
s. 7.

(c) whether or not a reasonable person would consider that the area set aside as the licensed premises is part of premises that are used primarily as a petrol station.

S. 22(4)
inserted by
No. 8/2006
s. 8.

(4) The regulations referred to in subsection (1)(d) may permit the Director to grant a licence or BYO permit in respect of premises prescribed for the purposes of this section if the Director has the approval of the Minister to do so.

S. 23
amended by
Nos 21/2001
s. 8, 39/2002
s. 7(2),
repealed by
No. 39/2002
s. 16(b).

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24 Further restriction on grant of packaged liquor licence

The Director must not grant a packaged liquor licence unless satisfied that the predominant activity to be carried on in the area set aside as the licensed premises is the sale by retail of liquor for consumption off the licensed premises.

25 Restrictions on grant of club licences

- (1) The Director must not grant a club licence unless satisfied—
- (a) that the rules of the club comply with Schedule 1 except to the extent that the Director determines it is appropriate that they should not so comply; and
 - (b) in the case of a restricted club licence, that supplies of liquor for the club will be purchased only from a person who holds a general licence or a packaged liquor licence.

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- (2) In deciding whether a club licence should be full or restricted, the Director must have regard to—
- (a) the number of members of the club; and
 - (b) the standard of the facilities and services that the club provides; and
 - (c) the number of full-time staff the club employs; and
 - (d) the turnover (or estimated turnover) of liquor purchases at the club; and
 - (e) the days and hours of operation of the club; and
 - (f) any other matter that the Director considers relevant.

25A Restriction on insertion of licence condition permitting vending machines

S. 25A
inserted by
No. 92/2004
s. 14.

The Director may only specify in a licence that the licensee may sell liquor by means of a vending machine if the Director has the approval of the Minister to do so.

26 Restriction on grant of limited licence

The Director may grant a limited licence only if satisfied that the scale and scope of the supply of liquor the subject of the licence is limited in nature.

Liquor Control Reform Act 1998
No. 94 of 1998
Part 2—Licences and BYO Permits

s. 27

Pt 2 Div. 3A
(Heading and
ss 26A–26K)
inserted by
No. 21/2001
s. 9,
amended by
Nos 44/2001
s. 3(Sch.
items 73.2–
73.4), 39/2002
s. 8,
repealed by
No. 39/2002
s. 16(b).

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Pt 2 Div. 3B
(Heading and
ss 26L–26T)
inserted by
No. 39/2002
s. 9,
repealed by
No. 39/2002
s. 16(b).

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**Division 4—Applications for grant, variation, transfer and
relocation of licences and BYO permits**

27 Who can apply for a licence or BYO permit?

- (1) A person who—
- (a) is a natural person of or over the age of 18 years or a body corporate (including an incorporated association, a co-operative or a Council); and
 - (b) is not disqualified from holding a licence or BYO permit under this Act—
- may apply to the Director for a licence or BYO permit.
- (2) A member of the committee of management of a club that is not a body corporate may apply to the Director for a club licence on behalf of the club.

- (3) A member of a partnership of natural persons may apply to the Director for a licence or BYO permit on behalf of the partnership.

28 Form of application

- (1) An application for a licence or BYO permit must—
- (a) be in a form approved by the Director; and
 - (aa) list the names, dates of birth and addresses of the applicant's associates; and
 - (b) include the prescribed particulars; and
 - (c) be accompanied by—
 - (i) the prescribed information (if any); and
 - (ia) a plan or depiction of the premises in respect of which the licence or BYO permit is sought in a form specified by the Director; and
 - (ii) the prescribed fee for the licence or permit.
- (2) If a change occurs in the particulars or information included in or with an application, the applicant must notify the Director of the change within 14 days.
- (3) If the Director requests an applicant to give any other information, the applicant must comply with the request.

S. 28(1)(aa) inserted by No. 92/2004 s. 15(1)(a), amended by No. 73/2007 s. 14.

S. 28(1)(c)(ia) inserted by No. 92/2004 s. 15(1)(b).

29 Application for variation of licence or BYO permit

- (1) An application to the Director for the variation of a licence or BYO permit may be made by—
- (a) the licensee or permittee; or

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- (b) the Chief Commissioner or a licensing inspector; or
 - (c) the persons referred to in section 32(1)(a) or (b) in connection with an application for the transfer of the licence or permit.
- (2) A variation of a licence or BYO permit may include—
- (a) a variation of the times outside ordinary trading hours at which the licence or permit authorises the supply of liquor;
 - (b) a variation of the size or perimeter of the licensed premises;
 - (c) a variation of a condition of the licence or permit (other than a condition imposed by this Act);
 - (d) the imposition of a new condition on the licence or permit;
 - (e) the removal of a condition of the licence or permit (other than a condition imposed by this Act).
- (3) An application under subsection (1) must—
- (a) be in a form approved by the Director; and
 - (b) include the prescribed particulars; and
 - (c) be accompanied by—
 - (i) the prescribed information (if any); and
 - (ia) a plan or depiction of the licensed premises in a form specified by the Director; and
 - (ii) (except in the case of an application by the Chief Commissioner or a licensing inspector) the prescribed variation fee.

S. 29(3)(c)(ia)
inserted by
No. 92/2004
s. 15(2).

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- (4) If the Director requests an applicant for a variation of a licence or BYO permit to give any other information, the applicant must comply with the request.

30 Procedure on application for variation by Chief Commissioner or licensing inspector

If the Chief Commissioner or a licensing inspector applies to the Director for a variation of a licence or BYO permit—

- (a) the Director must, not later than 14 days after the application is received by him or her, give a copy of the application—
- (i) to the licensee or permittee; and
 - (ii) to the owner, and any mortgagee registered with the Director, of the licensed premises;
- (b) the licensee or permittee may, within 21 days after receiving the copy of the application, object to the application by giving notice in writing to the Director of the objection and the grounds for objecting;
- (c) the Director must give a copy of any notice under paragraph (b) to the Chief Commissioner or the inspector within 7 days after he or she receives the notice.

S. 30(a)
substituted by
No. 92/2004
s. 16(a).

S. 30(b)
substituted by
No. 92/2004
s. 16(a).

S. 30(c)
amended by
No. 92/2004
s. 16(b).

31 Application for relocation of licence or BYO permit

- (1) A licensee or permittee may apply to the Director for relocation of the licence or BYO permit from the licensed premises to other premises.
- (2) An application for relocation must—
- (a) be in a form approved by the Director; and
 - (b) include the prescribed particulars; and

S. 31(2)(c)(ia)
inserted by
No. 92/2004
s. 15(3).

- (c) be accompanied by—
 - (i) the prescribed information (if any); and
 - (ia) a plan or depiction of the premises to which it is sought to relocate the licence or BYO permit in a form specified by the Director; and
 - (ii) the prescribed relocation fee.

32 Application for transfer of licence or BYO permit

- (1) An application to the Director for transfer of a licence or BYO permit from the licensee or permittee to a person qualified to apply for the licence or permit may be made by—
 - (a) the licensee or permittee and the proposed transferee jointly; or
 - (b) the owner or mortgagee of the licensed premises and the proposed transferee jointly, if—
 - (i) the licensee or permittee has been legally evicted from, or has deserted, the licensed premises; or
 - (ii) the lease, tenancy or occupation of the licensed premises has expired or been determined by any lawful means; or
 - (iii) the licensee or permittee has ceased to carry on business on the premises and has refused or neglected to concur in the application.
- (2) An application for transfer must—
 - (a) be in a form approved by the Director; and
 - (b) include the prescribed particulars; and

- (c) be accompanied by—
- (i) the prescribed information (if any); and
 - (ia) a plan or depiction of the licensed premises in a form specified by the Director; and
 - (ii) the prescribed transfer fee.
- (3) If the Director requests an applicant for transfer to give any other information, the applicant must comply with the request.

S. 32(2)(c)(ia)
inserted by
No. 92/2004
s. 15(2).

33 Copy of application to be given to police and local council

- (1) On receiving an application—
- (a) for a licence or BYO permit; or
 - (b) for the variation of a licence or BYO permit (other than an application by the Chief Commissioner or a licensing inspector); or
 - (c) for the transfer or relocation of a licence or BYO permit—

the Director must give a copy of the application to the Chief Commissioner.

- (2) On receiving an application—
- (a) for a licence; or
 - (b) for the variation of a licence (other than an application by the Chief Commissioner or a licensing inspector); or
 - (c) for the relocation of a licence—

the Director must give a copy to the Council of the municipal district in which the premises or licensed premises to which the application relates are situated.

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- (3) Subsections (1) and (2) do not apply to an application for a limited licence or for the variation, transfer or relocation of a limited licence, but the Director may give a copy of such an application to the Chief Commissioner or the relevant Council if the Director thinks fit.

34 Public display of licence application

- (1) An applicant for the grant, variation or relocation of a licence (other than a limited licence) must ensure that a notice of the application is continuously displayed on the premises or site to which the application relates or premises to which the licence is sought to be relocated during the period of 28 days (or shorter period determined by the Director) immediately after the application is made.
- (2) The notice must be displayed in a manner that invites public attention to the application.
- (3) The Director may require that the size and format of the notice comply with requirements specified by the Director.
- (4) If it is not practicable to display the notice on the premises or site, it is sufficient compliance with subsection (1) if the notice is conspicuously displayed in accordance with subsection (2) on any adjoining premises.
- (5) An applicant is deemed to have complied with subsections (1), (3) and (4) if the Director is satisfied—
- (a) that the applicant took all reasonable steps to ensure that the notice was continuously and conspicuously displayed as required under those subsections; and
 - (b) that any failure to keep the notice so displayed was not the fault of the applicant.
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- (6) A notice under this section must contain—
- (a) the name of the applicant; and
 - (b) the address of the premises to which the application relates or to which the licensed premises are sought to be relocated; and
 - (c) the type of licence to which the application relates; and
 - (d) if the application is for a variation of the times during which the licence authorises the supply of liquor, the times sought in the application; and
 - (e) any conditions sought in relation to the grant, variation or relocation of the licence; and
 - (f) any other information required by the Director.
- (7) The Director may require an applicant for the grant, variation or relocation of a limited licence to display the application in accordance with this section.
- (8) This section does not apply in respect of an application made under section 29(1)(b) for the variation of a licence.

S. 34(8)
inserted by
No. 92/2004
s. 17.

Note

Applications for variation under section 29(1)(b) can only be made by the Chief Commissioner or a licensing inspector.

35 Advertisement of licence application

- (1) An applicant for the grant, variation or relocation of a packaged liquor licence or a prescribed licence must cause notice of the application to be advertised in a newspaper circulating in the area—

S. 35
substituted by
No. 39/2002
s. 10.

- (a) in which the premises to which the application relates are or are to be situated;
or
- (b) to which the licensed premises are sought to be relocated—

or to be advertised in the manner directed by the Director under subsection (3)(b).

- (2) The Director may direct an applicant for the grant, variation or relocation of a licence (other than a packaged liquor licence or prescribed licence) to cause notice of the application to be advertised in a newspaper circulating in the area—

- (a) in which the premises to which the application relates are or are to be situated;
or
- (b) to which the licensed premises are sought to be relocated—

or to be advertised in the manner directed by the Director under subsection (3)(b).

- (3) The Director may—
 - (a) specify the newspaper in which notice of an application, or of applications of a specified class, is or are to be advertised;
 - (b) direct that an application, or applications of a specified class, is or are to be advertised in another manner specified by the Director.
- (4) A notice referred to in subsection (1) or (2) must comply with any requirements specified by the Director as to size and the information contained in it.
- (5) The Director must refuse to consider an application until the applicant has complied with subsection (1) or (2), as the case requires.

(6) In this section—

prescribed licence means a licence, other than a limited licence, of a class that is prescribed for the purposes of subsection (1).

36 Notification of particular persons

- (1) The Director may direct an applicant for a licence or for a variation or relocation of a licence to give notice of the application to a specified person or to persons in a specified area personally or by post.
- (2) The Director may give a direction under subsection (1) only if he or she considers that the grant, variation or relocation of the licence may cause material detriment to the persons to be notified.
- (3) The Director may refuse to consider an application until a direction under subsection (1) is complied with.

37 Guidelines

The Director must issue guidelines with respect to the requirements for the display, advertisement and notification of applications under this Division.

Division 5—Objections

38 Objection on ground of amenity

- (1) Any person may object to the grant, variation or relocation of a licence on the ground that the grant, variation or relocation would detract from or be detrimental to the amenity of the area in which the licensed premises or proposed licensed premises are situated.

S. 38(1A)
inserted by
No. 39/2002
s. 11(1).

- (1A) In addition to the ground referred to in subsection (1), any person may object to the grant, variation or relocation of a packaged liquor licence on the ground that the grant, variation or relocation would be conducive to or encourage the misuse or abuse of alcohol.
- (2) An objection must—
- (a) be made to the Director in writing within 30 days after the day on which notice of the application for the grant, variation or relocation was first displayed under section 34(1); and
 - (b) state the reasons for the objection.
- (3) None of the following is a valid reason for an objection under this section—
- (a) that the business carried on under the licence would or would not be successful;
 - (b) that the business of another licensee or permittee (including the objector) may be adversely affected by the grant, variation or relocation;
 - (c) that there is insufficient need or demand to justify the grant, variation or relocation.

39 Objection by Chief Commissioner

- (1) The Chief Commissioner may object to the grant, variation or relocation of a licence or BYO permit on any grounds he or she thinks fit.
- (2) The Chief Commissioner may object to the transfer of a licence or BYO permit on the ground that the proposed transferee is not a suitable person to hold the licence or permit.

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- (3) An objection must—
- (a) be made to the Director in writing within 21 days after the day on which a copy of the application for the grant, variation, transfer or relocation was given to the Chief Commissioner under section 33(1); and
 - (b) state the grounds of, and the reasons for, the objection.

40 Objection by local council

- (1) The Council of the municipal district in which premises are situated may object to—
- (a) the grant or variation of a licence in respect of those premises; or
 - (b) the relocation of a licence to those premises—

on the ground that the grant, variation or relocation would detract from or be detrimental to the amenity of the area in which the premises are situated.

- (1A) In addition to the ground referred to in subsection (1), the Council of the municipal district in which premises are situated may object to—
- (a) the grant or variation of a packaged liquor licence in respect of those premises; or
 - (b) the relocation of a packaged liquor licence to those premises—

S. 40(1A)
inserted by
No. 39/2002
s. 11(2).

on the ground that the grant, variation or relocation would be conducive to or encourage the misuse or abuse of alcohol.

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- (2) An objection must—
- (a) be made to the Director in writing within 30 days after the day on which notice of the application for the grant, variation or relocation was first displayed under section 34(1); and
 - (b) state the reasons for the objection.
- (3) None of the following is a valid reason for an objection under this section—
- (a) that the business carried on under the licence would or would not be successful;
 - (b) that the business of another licensee or permittee may be adversely affected by the grant, variation or relocation;
 - (c) that there is insufficient need or demand to justify the grant, variation or relocation.

41 Objection to licence by licensing inspector

- (1) A licensing inspector may object to the grant, variation, transfer or relocation of a licence on any of the following grounds—
- (a) in the case of a grant or transfer, that the licensee or proposed licensee is not a suitable person to hold the licence;
 - (b) in the case of a grant, variation or relocation—
 - (i) that the grant, variation or relocation would detract from or be detrimental to the amenity of the area in which the licensed premises or proposed licensed premises are situated; or
 - (ii) that the grant, variation or relocation would be conducive to or encourage the misuse or abuse of alcohol;

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- (c) in the case of an application in relation to a club licence, any ground referred to in section 44(2)(c).
- (2) A licensing inspector may object to the grant or transfer of a BYO permit on the ground that the proposed permittee or transferee is not a suitable person to hold the permit.
- (3) An objection must—
- (a) be made to the Director in writing within 30 days after—
 - (i) in the case of an objection to the grant, variation or relocation of a licence—the day on which notice of the application was first displayed under section 34(1); or
 - (ii) in the case of an objection to the transfer of a licence—the day on which the application was made; and
 - (b) state the grounds of, and the reasons for, the objection.
- (4) None of the following is a valid reason for an objection under this section—
- (a) that the business carried on under the licence would or would not be successful;
 - (b) that the business of another licensee or permittee may be adversely affected by the grant, variation or relocation;
 - (c) that there is insufficient need or demand to justify the grant, variation or relocation.

S. 41(3)(a)
substituted by
No. 39/2002
s. 11(3).

42 Director may refuse to accept objection

The Director may refuse to accept an objection if he or she considers that—

- (a) in the case of an objection under section 38, the person making the objection is not affected by the application; or
- (b) the objection is frivolous or vexatious; or
- (c) the objection is not otherwise in accordance with this Act.

43 Withdrawal of objection

A person who has made an objection under this Division may withdraw it at any time.

Division 6—Determination of applications

44 Determination of uncontested applications

- (1) Subject to Division 3, the Director must grant or refuse to grant an uncontested application at any time after the expiry of the period for objection under Division 5 (or that period as extended under section 174).
- (2) The Director may refuse to grant an uncontested application on any of the following grounds—
 - (a) in the case of a grant or transfer of a licence or BYO permit, that the applicant or proposed transferee is not a suitable person to hold or carry on business under the licence or BYO permit;
 - (b) in any case—
 - (i) that the granting of the application would detract from or be detrimental to the amenity of the area in which the premises to which the application relates are situated;

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- (ii) that the granting of the application would be conducive to or encourage the misuse or abuse of alcohol;
 - (iii) if the applicant or proposed transferee is a natural person—that the applicant or proposed transferee does not have an adequate knowledge of this Act;
 - (iv) if the applicant or proposed transferee is a body corporate—that no director of the applicant or proposed transferee has an adequate knowledge of this Act;
 - (v) that the application has not been made, displayed or advertised in accordance with this Act;
- (c) in the case of an application in relation to a club licence—
- (i) that the club is not conducted in good faith as a club; or
 - (ii) that the club is kept or habitually used for any unlawful purpose; or
 - (iii) that the club is used mainly for the supply of liquor; or
 - (iv) that liquor purchased by or belonging to the club has been supplied illegally whether on the club premises or elsewhere; or
 - (v) that persons who are not members have been admitted to the club for the purpose only of obtaining liquor; or
 - (vi) that the supply of liquor to the club is not under the control of the management committee of the club; or
 - (vii) that any of the rules of the club have been habitually broken.
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- (3) Without limiting the reasons why a person is not a suitable person to hold, or carry on business under, a licence or BYO permit, a person is not a suitable person to hold, or carry on business under, a licence or BYO permit if the person or, if the person is a body corporate, any director of the person has, within the preceding 3 years—
- (a) been convicted, whether in Victoria or elsewhere, of an offence of supplying liquor without a licence or of supplying adulterated liquor or of an offence against any law relating to customs or excise; or
 - (b) engaged in activities involving the trading in or marketing of liquor in a manner contrary to the provisions of this Act.
- (4) The Director may make any enquiries concerning an uncontested application he or she thinks fit, but is not required to give any person an opportunity to be heard concerning the application.

45 Referral of contested applications to Panel

The Director must refer a contested application and each objection to it to the Panel for consideration and report.

46 What does the Panel do?

- (1) The Panel must consider each contested application and give the applicant and each objector a reasonable opportunity to be heard.
- (2) Hearings of the Panel are to be conducted in accordance with Division 3 of Part 9.
- (3) The Panel must report its findings to the Director.

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- (4) In its report, the Panel—
- (a) must make a recommendation as to whether or not the application should be granted; and
 - (b) may make any other recommendations it thinks fit concerning the application.
- (5) The Panel's report must contain the reasons for the recommendations under subsection (4).

47 Determination of contested application after Panel report

- (1) Subject to Division 3, the Director must grant or refuse to grant a contested application after giving full consideration to the recommendations of the Panel under section 46(4).
- (2) The Director may refuse to grant a contested application on any of the grounds set out in section 44(2) and section 44(3) applies accordingly.
- (3) The Director may make any enquiries concerning a contested application he or she thinks fit, but is not required to give any person an opportunity to be heard concerning the application.

48 Director may permit amendments and disregard errors

In deciding whether to grant or refuse to grant an application, the Director may—

- (a) permit the amendment of the application or of any information given to the Director in connection with the application; and
- (b) disregard any omission, error, defect or insufficiency in the application or any information given to the Director in connection with the application; and

- (c) disregard any failure, defect or insufficiency in displaying, advertising or giving notice of the application.

49 Licence and BYO permit conditions

The Director may impose any conditions he or she thinks fit on the grant of an application, including a condition that the grant is not effective until any requirements specified in the grant have been met.

50 Period of licence or BYO permit

- (1) Subject to this Act, a licence or BYO permit has effect on the day on which it is granted and continues in force until the end of the calendar year in which it is granted.
- (2) A limited licence or restricted club licence may be expressed to have effect and continue in force in accordance with its terms.

51 Form of licence or BYO permit and endorsements

- (1) A licence or BYO permit is to be in the form approved by the Director.
- (2) If a licence or BYO permit is varied, relocated or transferred under this Part or a nominee is approved under section 54, the Director must endorse the licence or permit to that effect.

52 Copy of licence or BYO permit

The Director may, on application by a licensee or permittee and payment of the prescribed fee, issue to the licensee or permittee a copy of the licence or BYO permit, or of part of the licence or permit, with the word "copy" marked on it.

53 Liability of joint and incorporated licensees or permittees and unincorporated clubs

- (1) If a licence or BYO permit is granted or transferred to two or more persons, those persons are severally liable as licensee or permittee.
- (2) If a licence or BYO permit is granted or transferred to a body corporate, the directors of the body corporate are severally liable as licensee or permittee.
- (3) If a club licence is granted to a person on behalf of an unincorporated club, the members of the committee of management of the club are severally liable as licensee.
- (4) Subsection (2) or (3) does not apply at any time when a nominee of the body corporate or club (as the case requires) is in place under section 54.
- (5) Nothing in subsection (4) affects or limits the application of Part 6.

54 Nominee of licensee or permittee

- (1) A licensee or permittee that is a body corporate may apply to the Director for the approval of a person as nominee of the licensee or permittee.
- (2) A person who holds a club licence on behalf of an unincorporated club may apply to the Director for the approval of a person as nominee of the club.
- (2A) An application under this section must be accompanied by the fee specified in the regulations for the purposes of this section.
- (3) The Director must give a copy of the application to the Chief Commissioner.
- (4) The Chief Commissioner may object to the application on the ground that the person is not a suitable person to be the nominee of the licensee or permittee.

S. 54(2A)
inserted by
No. 92/2004
s. 18(1)(2).

- (5) An objection must—
- (a) be made to the Director in writing within 21 days after the day on which a copy of the application was given to the Chief Commissioner; and
 - (b) state the reasons for the objection.
- (6) After the end of the period specified in subsection (5)(a) (or that period as extended under section 174), the Director must grant the application if satisfied that the person is a suitable person to be the nominee of the licensee or permittee.
- (6A) A person becomes the nominee of the licensee or permittee on the Director granting the application.
- (7) In making his or her decision, the Director must consider any objection made under subsection (4).
- (8) Section 44(3) applies to the determination of an application under this section.
- (9) A person approved as nominee under this section is liable as if he or she were the licensee or permittee.
- (10) A person ceases to be a nominee on ceasing to manage or control the licensed premises in circumstances in which that cessation is, or is likely to be, permanent.

S. 54(6A)
inserted by
No. 92/2004
s. 19(1).

S. 54(10)
inserted by
No. 92/2004
s. 19(2).

Note

On a person ceasing to be a nominee, section 53(4) ceases to apply. This has the effect under section 53 of re-imposing liability as a licensee or permittee on the directors or members of the committee of management (as the case may be) of the body holding the licence or permit.

- (11) The licensee or permittee must notify the Director in writing that a person has ceased to be the nominee of the licensee or permittee within 14 days after that cessation occurs.

S. 54(11)
inserted by
No. 92/2004
s. 19(2).

Penalty applying to this subsection: 5 penalty units.

55 Transfer of club licence to incorporated association

If a copy of a certificate of incorporation of a club under the **Associations Incorporation Act 1981** is lodged with the Director, a club licence held on behalf of the club before that incorporation is deemed to have been transferred to the incorporated association and the Director must amend the licence or permit accordingly.

56 Concurrent dealing with transfer and relocation

If an applicant for relocation of a licence or BYO permit is also, together with a proposed transferee, an applicant for the transfer of the licence or permit, the application for relocation is to be dealt with at the same time as the application for transfer.

57 Effect of transfer or relocation

- (1) A transfer of a licence or BYO permit operates as a like licence or BYO permit granted to the transferee—
- (a) for the residue of the term for which the licence or BYO permit was granted to the transferor; or
 - (b) if the transfer takes place after application for renewal of the licence or BYO permit has been made and before the date of operation of that renewal—for the period for which the licence or BYO permit is to be renewed.

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- (2) If the Director grants an application for the relocation of a licence or BYO permit, the licence or permit has effect as if it had been granted in respect of the premises to which it is relocated.

Division 7—Variation of licence or BYO permit by Director

58 Variation of licence or BYO permit at initiative of Director

- (1) The Director, at his or her own initiative, may vary a licence or BYO permit in accordance with this section.
- (2) A variation under this section may include—
- (a) a variation of the times outside ordinary trading hours at which the licence or permit authorises the supply of liquor;
 - (b) a variation of the size or perimeter of the licensed premises;
 - (c) a variation of a condition of the licence or permit (other than a condition imposed by this Act);
 - (d) the imposition of a new condition on the licence or permit;
 - (e) the removal of a condition of the licence or permit (other than a condition imposed by this Act).
- (3) If the Director proposes to vary a licence or BYO permit, he or she must give the licensee or permittee written notice of the proposed variation.
- (4) Within 21 days after notice is given to the licensee or permittee under subsection (3), the licensee or permittee may give the Director written notice of objection to the proposed variation.

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- (5) If the licensee or permittee gives notice of objection in accordance with subsection (4), the Director must not vary the licence or permit unless the Director—
- (a) has given the licensee or permittee a reasonable opportunity to make written and oral submissions in relation to the objection; and
 - (b) has considered any submissions so made.

58A Correcting mistakes

S. 58A
inserted by
No. 92/2004
s. 20.

The Director, at his or her own initiative, may at any time vary a licence or BYO permit to correct—

- (a) a clerical mistake; or
- (b) an error arising from an accidental slip or omission; or
- (c) a material miscalculation of figures or a material mistake in the description of any person, thing or matter referred to in the licence or permit; or
- (d) a defect of form.

Division 7A—Late hour entry declarations

Pt 2 Div. 7A
(Heading and
ss 58B–58D)
inserted by
No. 8/2006
s. 9.

58B Director may make late hour entry declarations

S. 58B
inserted by
No. 8/2006
s. 9.

- (1) Subject to this section and section 58C, the Director, at his or her own initiative, may make a late hour entry declaration for an area or locality.

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- (2) A late hour entry declaration—
- (a) must specify—
 - (i) the area or locality to which it applies; and
 - (ii) the licences or class of licences to which it applies; and
 - (iii) the hours during which it applies; and
 - (b) may specify any conditions that the Director thinks fit.
- (3) A late hour entry declaration—
- (a) applies to—
 - (i) each licensed premises in respect of which a specified licence or licence of the specified class is in force in the area or locality specified in the declaration at the time the declaration is made; and
 - (ii) if the declaration specifies a class of licences, each premises in the area or locality in respect of which a licence of the specified class is granted after the time the declaration is made; and
 - (b) has effect despite any condition of the licence for any licensed premises to which it applies.
- (4) Subject to any conditions specified in a late hour entry declaration under subsection (2)(b), the licensee of licensed premises to which the declaration applies must not permit any patrons to enter the premises during the hours during which the declaration applies.
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- (5) 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 in the premises at all times while the premises are authorised to trade.

58C Making a late hour entry declaration

S. 58C
inserted by
No. 8/2006
s. 9.

- (1) The Director must give written notice of a proposed late hour entry declaration under section 58B to each licensee of licensed premises in the area or locality to which the declaration is proposed to apply.
- (2) Within 21 days after notice is given to a licensee under subsection (1), the licensee may give the Director written notice of objection to the proposed late hour entry declaration.
- (3) If a licensee gives notice of objection in accordance with subsection (2), the Director must not make the late hour entry declaration unless the Director—
 - (a) has given the licensee a reasonable opportunity to make written and oral submissions in relation to the objection; and
 - (b) if any submissions are made, has considered the submissions.

58CA Temporary late hour entry declaration

S. 58CA
inserted by
No. 73/2007
s. 15.

- (1) Despite anything to the contrary in section 58C, the Director may make a late hour entry declaration under section 58B without giving written notice under section 58C if the Director believes on reasonable grounds that—

s. 58CA

S. 58CA(3)
amended by
No. 21/2008
s. 27.

S. 58CA(4)(b)
amended by
No. 21/2008
s. 27.

S. 58CA(5)
amended by
No. 21/2008
s. 27.

- (a) alcohol-related violence or disorder has occurred in the area or locality to which the order is to apply; and
 - (b) a late hour entry declaration in relation to the area or locality is reasonably likely to be an effective means of reducing or preventing the occurrence of alcohol-related violence or disorder in the area or locality.
- (2) Before making a late hour entry declaration referred to in subsection (1), the Director must consult the Chief Commissioner.
- (3) The Director must give written notice of a late hour entry declaration referred to in subsection (1) to each licensee of licensed premises in the area or locality to which the declaration applies.
- (4) A late hour entry declaration referred to in subsection (1) takes effect on the day specified in the notice and expires when the earliest of the following occurs—
- (a) the declaration is revoked under section 58D;
 - (b) a late hour entry declaration is made in accordance with section 58C in relation to the area or locality;
 - (c) a period of 3 months elapses after the day on which the declaration takes effect.
- (5) Nothing in this section prevents the Director from making a late hour entry declaration in accordance with section 58C in relation to the area or locality to which a late hour entry declaration referred to in subsection (1) applies while the declaration referred to in subsection (1) is in force.

58D Director may revoke or vary a late hour entry declaration

S. 58D
inserted by
No. 8/2006
s. 9.

- (1) The Director may—
 - (a) vary a late hour entry declaration in accordance with this section; or
 - (b) revoke a late hour entry declaration.
- (2) The Director must give written notice of a proposed variation of a late hour entry declaration to each licensee of licensed premises to which the declaration applies.
- (3) Within 21 days after notice is given to a licensee under subsection (2) of a proposal to vary a late hour entry declaration, the licensee may give the Director written notice of objection to the proposed variation.
- (4) If a licensee gives notice of objection in accordance with subsection (3), the Director must not vary the late hour entry declaration unless the Director—
 - (a) has given the licensee a reasonable opportunity to make written and oral submissions in relation to the objection; and
 - (b) if any submissions are made, has considered the submissions.

Division 8—Renewal of licences and BYO permits

59 Licence to be renewed within 21 days

- (1) If, not later than 21 days after the day on which, but for this section, a licence or BYO permit would cease to be in force, the licensee or permittee pays the prescribed renewal fee in respect of the licence or permit, the licence or permit is renewed accordingly.

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- (2) The licence or BYO permit remains in force from the day on which it would otherwise cease to be in force until the day on which it is renewed in accordance with subsection (1).

60 Licence renewal after 21 days

- (1) If a licence or BYO permit is not renewed in accordance with section 59(1), the former licensee or permittee may apply to the Director for renewal of the licence or permit under this section.
- (2) An application under this section—
- (a) must be made by 30 June next following the day on which the licence or permit ceased to be in force; and
 - (b) must be in a form approved by the Director; and
 - (c) must be accompanied by the prescribed renewal fee.
- (3) The Director must renew a licence or permit on application made in accordance with subsection (2).
- (4) A licence or permit that is renewed in accordance with this section—
- (a) in the case of a limited licence or a restricted club licence, takes effect on the day, and for the period, specified in the licence;
 - (b) in any other case—
 - (i) takes effect on the day on which it is renewed; and
 - (ii) remains in force, subject to section 59, until the end of the calendar year in which it is renewed.
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61 Notice of failure to renew licence or BYO permit

- (1) If a licensee or permittee fails to apply for renewal of the licence or BYO permit by 30 June next following the day on which the licence or permit ceased to be in force, the Director must give notice of the failure to the owner or mortgagee of the licensed premises or to any other person who, to his or her knowledge, may be prejudicially affected by the failure.
- (2) Subsection (1) does not apply to the failure to renew a limited licence.

62 Power to owner and others to renew licence

- (1) If a licensee or permittee has failed to renew the licence or BYO permit by 30 June next following the day on which the licence or permit ceased to be in force—
 - (a) the owner of the licensed premises (if he or she was not that licensee or permittee); or
 - (b) a mortgagee of the licensed premises; or
 - (c) any other person prejudicially affected by the failure—

may apply to the Director for renewal of the licence in the name of the applicant or a person nominated by the applicant if the applicant is entitled to possession of the premises.

- (2) An application under subsection (1) must be—
 - (a) made by 30 September next following the day on which the licence or permit ceased to be in force or within such later time as the Director determines; and
 - (b) in a form approved by the Director; and
 - (c) accompanied by the prescribed renewal fee.

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- (3) The Director must give a copy of an application under this section to the Chief Commissioner.
 - (4) The Chief Commissioner may object to the application on the ground that the applicant or nominated person is not a suitable person to hold the licence or permit.
 - (5) An objection must—
 - (a) be made to the Director in writing within 21 days after the day on which a copy of the application was given to the Chief Commissioner; and
 - (b) state the reasons for the objection.
 - (6) After the period referred to in subsection (5)(a) (or that period as extended under section 174) has expired, the Director may grant a renewal of the licence or BYO permit to the applicant or nominated person, after considering any objection made under subsection (4), if satisfied that the applicant or nominated person is a suitable person to hold the licence or permit.
 - (7) Section 44(3) applies to the determination of an application under this section.
 - (8) This section does not apply to a limited licence.

Division 9—Surrender and lapse of licence or BYO permit

63 Surrender of licence or BYO permit

- (1) A licensee or permittee may apply to the Director to surrender the licence or BYO permit.
- (2) The Director must give notice of the application to any person to whom the Director considers the surrender would cause material detriment.

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- (3) A person who is given notice under subsection (2) may make a written objection to the Director within 14 days stating the grounds of the objection.
- (4) After the period referred to in subsection (3) (or that period as extended under section 174) has expired, the Director—
- (a) must accept the surrender if no objections have been made; or
 - (b) if any objection has been received, must decide whether or not to accept the surrender after considering the objection.

64 Release of licensee or permittee

- (1) A licensee or permittee who desires to vacate licensed premises of which the licensee or permittee has been a tenant may apply to the Director for release from their obligations under this Act.
- (2) On an application under subsection (1), the Director, if satisfied that the tenancy of the premises has expired, may—
- (a) release the licensee or permittee from their obligations under this Act in respect of the licensed premises; and
 - (b) suspend the licence or BYO permit until it has been transferred or another person has been authorised under this Act to carry on the business under the licence or permit.

65 Partner leaving partnership

- (1) If the Director is satisfied that a member of a partnership that is a licensee or permittee has left the licensed premises and has no intention of returning to the premises to take up his or her duties as a licensee or permittee, the Director may remove the name of that person from the licence or BYO permit.
- (2) If a person's name is removed from a licence or BYO permit under subsection (1)—
 - (a) the remaining members of the partnership are deemed to be the licensees or permittees; or
 - (b) if the partnership is dissolved, the former member or members remaining in occupation of the licensed premises are deemed to be the licensees or permittees.

66 Licence or permit lapses if not endorsed

If a licensee or permittee—

- (a) dies; or
- (b) becomes an insolvent under administration; or
- (c) becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**; or

(d) becomes an externally-administered body corporate within the meaning of the Corporations Act—

S. 66(d)
amended by
No. 44/2001
s. 3(Sch.
item 73.5).

the licence or BYO permit ceases to have force at the end of the period of 90 days after the happening of the event or such longer period as the Director in any particular case allows, unless the licence or permit is endorsed under Part 4.

**PART 3—SPECIAL PROCEDURES FOR CERTAIN
LICENCES**

Division 1—Club licences for amalgamated clubs

67 Application by amalgamated club for a club licence

- (1) If two or more clubs, at least one of which holds a club licence, amalgamate under Part VII of the **Associations Incorporation Act 1981**, the amalgamated club may apply to the Director under this Division for a club licence.
- (2) An application must—
 - (a) be in the form, and include the particulars, approved by the Director; and
 - (b) state the conditions that the amalgamated club wishes the licence to be subject to; and
 - (c) be accompanied by—
 - (i) a copy of the certificate of incorporation and the rules of the amalgamated club; and
 - (ii) any other information required by the Director; and
 - (iii) the prescribed fee.
- (3) The Director must give a copy of the application to the Chief Commissioner.
- (4) The following provisions of this Act do not apply to an application under this section—
 - (a) Divisions 4 and 5 of Part 2 (applications and objections);
 - (b) Division 6 of Part 2 (determination of applications), except sections 48, 49, 50, 51, 52, 53 and 54.

68 Objection to grant of licence to amalgamated club

- (1) The Chief Commissioner may object to an application under section 67 on any ground he or she thinks fit.
- (2) A licensing inspector may object to an application under section 67 on any ground referred to in section 41(1).
- (3) An objection must—
 - (a) be made to the Director in writing within 14 days after the day on which a copy of the application was given to the Chief Commissioner; and
 - (b) state the grounds of, and the reasons for, the objection.

69 Grant of licence to amalgamated club

- (1) After the period referred to in section 68(3)(a) (or that period as extended under section 174) has expired, the Director may grant a club licence to the applicant if satisfied—
 - (a) that the application was made in accordance with this Division; and
 - (b) that the rules of the applicant comply with Schedule 1 (except to the extent that the Director determines it is appropriate that they should not so comply); and
 - (c) that it is appropriate to grant the application in the circumstances.
- (2) In making his or her decision, the Director must consider any objection made under section 68.

70 Division does not affect Division 4 of Part 2

Nothing in this Division prevents an amalgamated club from applying for a club licence in accordance with Division 4 of Part 2.

Division 2—Casino premises

71 Definitions

In this Division—

Authority has the same meaning as in the **Casino Control Act 1991**;

casino area means the Melbourne Casino area or the temporary casino site within the meaning of the **Casino Control Act 1991**;

casino operator has the same meaning as in the **Casino Control Act 1991**.

72 Application of Division

This Division applies to an application by a casino operator for—

- (a) the grant or variation of an on-premises licence in respect of premises within the casino area approved by the Authority; or
- (b) the relocation of such a licence to other premises within the casino area approved by the Authority.

73 Requirements for an application to which this Division applies

- (1) An application to which this Division applies must be accompanied by copies of plans of the premises to which the application relates showing to the satisfaction of the Director the area or proposed area of the licensed premises.

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- (2) The following provisions of this Act do not apply to an application to which this Division applies—
- (a) section 28(1)(c)(i) (information to accompany application);
 - (b) sections 33, 34, 35 and 36 (notification, display and advertisement requirements);
 - (c) Division 5 of Part 2 (objections);
 - (d) sections 44, 45, 46 and 47 (determination of applications).

74 Grant of application

If the Director is satisfied that a casino operator has made an application to which this Division applies in accordance with this Act, the Director must grant the application.

Division 3—Australian Grand Prix

75 Definitions

In this Division—

declared area and *race period* in respect of a year, have the same respective meanings as in the **Australian Grands Prix Act 1994**;

Corporation means the Australian Grand Prix Corporation established under that Act.

76 Application of Division

This Division applies to an application by the Corporation or a person with the consent of the Corporation for the grant of a limited licence for the whole or any part of the race period for a year in respect of premises within the declared area in respect of that year.

77 Requirements for an application to which this Division applies

- (1) An application to which this Division applies must be accompanied by copies of plans of the premises to which the application relates showing to the satisfaction of the Director the area or proposed area of the licensed premises.
- (2) The Director must give a copy of each application to which this Division applies to the Chief Commissioner.
- (3) The following provisions of this Act do not apply to an application to which this Division applies—
 - (a) section 28(1)(c)(i) (information to accompany application);
 - (b) sections 33, 34, 35 and 36 (notification, display and advertisement requirements);
 - (c) Division 5 of Part 2 (objections);
 - (d) sections 44, 45, 46 and 47 (determination of applications).

78 Objection by Chief Commissioner

- (1) The Chief Commissioner may object to the grant of an application to which this Division applies on any grounds he or she thinks fit.
- (2) An objection must—
 - (a) be made to the Director in writing within 21 days after the day on which a copy of the application was given to the Chief Commissioner under section 77(2); and
 - (b) state the grounds of, and the reasons for, the objection.

79 Grant of application

- (1) If no objection to an application under this Division is received within the period referred to in section 78(2)(a) (or that period as extended under section 174), the Director must grant the application if satisfied that it was made in accordance with this Act.
 - (2) If an objection to an application under this Division is received within the period referred to in section 78(2)(a) (or that period as extended under section 174), the Director must grant or refuse the application after considering the objection.
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**PART 4—AUTHORISATION OF OTHERS TO CARRY ON
LICENSED BUSINESS**

**80 Application by executors, trustees and
administrators for endorsement on licence or BYO
permit**

- (1) Any of the following persons may apply to the Director to have their name or the name of their agent endorsed on a licence or BYO permit—
 - (a) a person who is, or intends to become, the legal personal representative of a deceased licensee or permittee;
 - (b) the guardian or administrator appointed under the **Guardianship and Administration Act 1986** in respect of a licensee or permittee who is a represented person within the meaning of that Act;
 - (c) subject to subsection (2), the official receiver, trustee or assignee of a licensee or permittee who becomes an insolvent under administration;
 - (d) subject to subsection (2), a person who is administering a licensee or permittee that is an externally-administered body corporate within the meaning of the Corporations Act.
- (2) A person referred to in paragraph (c) or (d) of subsection (1) may apply under that subsection only if they are in possession of the licensed premises.
- (3) An application under this section must be accompanied by the fee specified in the regulations for the purposes of this section.

S. 80(1)(d)
amended by
No. 44/2001
s. 3(Sch.
item 73.5).

S. 80(3)
inserted by
No. 92/2004
s. 18(1)(3).

81 Application by owner or mortgagee of licensed premises for endorsement on licence or BYO permit

S. 81
amended by
No. 92/2004
s. 18(1)(4) (ILA
s. 39B(1)).

- (1) The owner or a mortgagee of licensed premises may apply to the Director to have their name or the name of their agent endorsed on a licence or BYO permit if—
 - (a) the licensee or permittee has been legally evicted from, or has deserted, the licensed premises; and
 - (b) the owner or mortgagee is in possession of the licensed premises.
- (2) An application under this section must be accompanied by the fee specified in the regulations for the purposes of this section.

S. 81(2)
inserted by
No. 92/2004
s. 18(1)(4).

82 Application procedure

- (1) An application under section 80 or 81 must—
 - (a) be in the form, and contain the particulars, approved by the Director; and
 - (b) be accompanied by the prescribed fee.
- (2) The Director must give a copy of each application under section 80 or 81 to the Chief Commissioner.

83 Objection by Chief Commissioner

- (1) The Chief Commissioner may object to the grant of an application under section 80 or 81 on the ground that the applicant or agent is not a suitable person to carry on business under the licence or BYO permit.
- (2) An objection must—
 - (a) be made to the Director in writing within 21 days after the day on which a copy of the application was given to the Chief Commissioner under section 82(2); and
 - (b) state the reasons for the objection.

84 Grant of application

- (1) After the end of the period specified in section 83(2)(a) (or that period as extended under section 174), the Director must grant the application if satisfied—
 - (a) that it was made in accordance with this Part; and
 - (b) that the applicant or agent is a suitable person to carry on business under the licence or BYO permit.
- (2) In making his or her decision, the Director must consider any objection made under section 83.
- (3) Section 44(3) applies to the determination of an application under this section.

85 Endorsement at initiative of Director

If—

- (a) a licensee or permittee—
 - (i) dies; or
 - (ii) becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**; or
 - (iii) becomes an insolvent under administration; or
 - (iv) becomes an externally-administered body corporate within the meaning of the Corporations Act; and
- (b) an application is not made under section 80 for endorsement of the licence or BYO permit—

the Director may endorse the licence or permit with the name of a person nominated by the Director.

S. 85(a)(iv)
amended by
No. 44/2001
s. 3(Sch.
item 73.5).

86 Effect of endorsement

A person whose name is endorsed on a licence or BYO permit under this Part or under section 93—

- (a) may carry on the business under the licence or permit; and
 - (b) is liable under this Act as if the person were the licensee or permittee; and
 - (c) may apply for renewal of the licence or permit under Division 8 of Part 2 in the person's name as if the person were the licensee or permittee.
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PART 5—TRIBUNAL REVIEWS

87 Application for review of licence and permit decisions

- (1) Any of the following may apply to the Tribunal for review of a decision of the Director in respect of an application for the grant, variation, transfer or relocation of a licence or BYO permit, including a decision to impose a condition on the grant, variation, transfer or relocation—
 - (a) the applicant;
 - (b) a person who made an objection to the application under this Act;
 - (c) a person who requested the Director to extend time for making an objection, or to accept a late objection, to the application under section 174.
- (2) A licensee or permittee may apply to the Tribunal for review of a decision of the Director under Division 7 of Part 2 to vary the licence or BYO permit.
- (3) A licensee may apply to the Tribunal for review of a decision of the Director to vary or suspend a licence under section 97B.

S. 87(3)
inserted by
No. 73/2007
s. 16(1).

S. 87A
inserted by
No. 8/2006
s. 10.

87A Application for review of late hour entry declaration

- (1) A licensee of licensed premises to which a late hour entry declaration applies may apply to the Tribunal for review of the decision of the Director to make or vary the declaration as it applies to the licensed premises of the licensee.

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- (2) In determining an application for review under subsection (1), the Tribunal may—
- (a) in relation to an application for review of the decision to make a late hour entry declaration, make an order that, in relation to the applicant's licensed premises, the declaration—
 - (i) continues to apply; or
 - (ii) continues to apply subject to any variation (including any conditions) that the Tribunal thinks fit; or
 - (iii) does not continue to apply; or
 - (b) in relation to an application for review of the decision to vary a late hour entry declaration, make an order that the declaration continues to apply to the applicant's licensed premises—
 - (i) as varied; or
 - (ii) as in force before the variation; or
 - (iii) subject to any other variation (including any conditions) that the Tribunal thinks fit.
- (3) Sections 51(2) and 51(3) of the **Victorian Civil and Administrative Tribunal Act 1998** do not apply to an application for review under this section.

87B Time limit for applying for review of late hour entry declaration

S. 87B
inserted by
No. 8/2006
s. 10.

- (1) An application for review of a decision of the Director to make or vary a late hour entry declaration as it applies to particular licensed premises must be made within 28 days of the later of—

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- (a) if the licensed premises are licensed premises to which the declaration applies at the time the declaration is made or varied—
- (i) the day on which the declaration is made or varied; or
 - (ii) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given;
- (b) if the premises in the area or locality specified in the declaration become licensed premises to which the declaration applies after the time the declaration is made or varied—
- (i) the day on which the premises become licensed premises; or
 - (ii) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
- (2) Despite section 45(2) of the **Victorian Civil and Administrative Tribunal Act 1998**, a licensee of licensed premises to which subsection (1)(b) applies may request in writing a statement of reasons under section 45(1) of that Act within 28 days after the day on which the premises of the licensee become licensed premises to which the relevant late hour entry declaration applies.
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88 Application for review of other decisions

- (1) A person who made an application under section 54, 62, 63, 64, 80, 81 or 104 may apply to the Tribunal for review of a decision of the Director in respect of the application.
- (2) A person who requests the Director's consent under section 105 or 106 may apply to the Tribunal for review of a decision of the Director in respect of that request.
- (3) A person who requests the Director's approval under section 120(2) may apply to the Tribunal for review of a decision of the Director in respect of that request, including a decision to impose any conditions on the approval.

(4) If—

- (a) the Chief Commissioner lodges an objection to an application, or the grant of an application, under section 54, 62, 83 or 104; and
- (b) the Director grants or approves the application—

the Chief Commissioner may apply to the Tribunal for a review of the Director's decision in respect of the application.

(5) If—

- (a) a person objects to the giving of a consent under section 105 or 106; and
- (b) the consent is given; and
- (c) the objection was considered by the Director before the consent was given—

the person who lodged the objection may apply to the Tribunal for a review of the Director's decision in respect of the giving of the consent.

S. 88(4)
inserted by
No. 92/2004
s. 21.

S. 88(5)
inserted by
No. 92/2004
s. 21.

S. 88(6)
inserted by
No. 73/2007
s. 16(2).

S. 89
amended by
No. 8/2006
s. 11.

- (6) A licensee whose interests are affected by a ban under section 115A may apply to the Tribunal for review of the Director's decision to make the ban.

89 Time limit for applying for review

An application for review, other than an application for review of a decision of the Director to make or vary a late hour entry declaration, must be made within 28 days after the later of—

- (a) the day on which the decision is made;
- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

PART 6—INQUIRIES AND DISCIPLINARY PROVISIONS

Division 1—Inquiries

90 Application for inquiry

- (1) If a person referred to in subsection (2) considers that a licensee or permittee—
- (a) has contravened this Act, the regulations, the licence or BYO permit, or a condition of the licence or BYO permit; or S. 90(1)(a) substituted by No. 92/2004 s. 22(a).
 - (b) has contravened a condition of any other approval or consent of the Director under this Act; or
 - (ba) has contravened section 118A or a regulation made under section 118B; or S. 90(1)(ba) inserted by No. 88/2001 s. 6.
 - (bb) has contravened an undertaking given under section 133F; or S. 90(1)(bb) inserted by No. 73/2007 s. 17(1).
 - (c) has been convicted of an offence under this Act; or
 - (d) has been convicted of an offence under Part 2 of the **Food Act 1984** in relation to liquor supplied by him, her or it; or S. 90(1)(d) substituted by No. 92/2004 s. 22(b).
 - (e) has been convicted of an offence under the **Police Regulation Act 1958** relating to bribery of a member of the police force; or
 - (f) has been convicted, whether in Victoria or elsewhere, of an offence punishable by a maximum term of imprisonment of 3 years or more; or

Liquor Control Reform Act 1998
No. 94 of 1998
Part 6—Inquiries and Disciplinary Provisions

s. 90

S. 90(1)(fa)
inserted by
No. 21/2001
s. 10,
amended by
No. 92/2004
s. 22(c),
repealed by
No. 39/2002
s. 16(b), new
s. 90(1)(fa)
inserted by
No. 73/2007
s. 17(2)(a).

(fa) is a body corporate a director of which has been convicted, whether in Victoria or elsewhere, of an offence punishable by a maximum term of imprisonment of 3 years or more; or

S. 90(1)(fb)
inserted by
No. 73/2007
s. 17(2)(a).

(fb) is a club that is not a body corporate, a member of the committee of management of which has been convicted, whether in Victoria or elsewhere, of an offence punishable by a maximum term of imprisonment of 3 years or more; or

(g) has knowingly assisted a person to breach a disqualification order made under section 92; or

S. 90(1)(h)
substituted by
No. 32/2006
s. 87(1),
amended by
No. 73/2007
s. 26.

(h) has paid a penalty for an offence under this Act for which an infringement notice within the meaning of the **Infringements Act 2006** has been served; or

S. 90(1)(ha)
inserted by
No. 92/2004
s. 22(d).

(ha) has altered the licensed premises in a way that would have prevented the granting of the licence under section 22 had the alterations been in place immediately before the licence was granted; or

(i) has obtained the licence or BYO permit by fraud or false representations; or

(j) has conducted the business under the licence or BYO permit, or allowed it to be conducted, in a manner that detracts from or

- is detrimental to the amenity of the area in which the licensed premises are situated; or
- (k) is otherwise not a suitable person to hold a licence or BYO permit—
- the person may apply to the Tribunal to conduct an inquiry into the licensee or permittee.
- (2) The persons who may apply under this section are—
- (a) the Director;
 - (b) the Chief Commissioner;
 - (c) a licensing inspector;
 - (d) the Council of the municipal district in which the licensed premises are situated.
- (3) A reference in subsection (1)(f), (fa) or (fb) to the maximum term of imprisonment for an offence, in the case of an indictable offence that may be heard and determined summarily under section 53(1) of the **Magistrates' Court Act 1989**, is a reference to the maximum term of imprisonment for the offence if it were not dealt with summarily.

S. 90(3)
amended by
No. 73/2007
s. 17(2)(b).

91 What may Tribunal do on an inquiry?

- (1) After conducting an inquiry under this Division and if satisfied that any of the grounds set out in section 90(1) exist, the Tribunal—
- (a) if section 90(1)(f) applies—must make an order—
 - (i) cancelling the licence or permit; or
 - (ii) suspending the licence or permit for the period specified by the Tribunal; or
 - (iii) endorsing the licence or permit under section 93;

S. 91(1)(b)(iv)
substituted by
No. 92/2004
s. 23(1).

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- (b) in any other case—may make any one or more of the following orders—
- (i) an order cancelling the licence or permit;
 - (ii) an order suspending the licence or permit for the period specified by the Tribunal;
 - (iii) an order endorsing the licence or permit under section 93;
 - (iv) an order imposing a fine on the licensee or permittee not exceeding \$30 000;
 - (v) an order varying the licence or permit.
- (2) An order varying the licence or BYO permit may include—
- (a) a variation of the times outside ordinary trading hours at which the licence or permit authorises the supply of liquor;
 - (b) a variation of the size or perimeter of the licensed premises;
 - (c) a variation of a condition of the licence or permit (other than a condition imposed by this Act);
 - (d) the imposition of a new condition on the licence or permit;
 - (e) the removal of a condition of the licence or permit (other than a condition imposed by this Act).

92 Disqualification

- (1) If satisfied that a ground for making an order under section 91 exists, the Tribunal may also order that the licensee or permittee or any director or nominee of the licensee or permittee (if it is a body corporate) or any member of the committee of management or nominee of the licensee or permittee (if it is a club) or any person who, whether directly or indirectly, is concerned in or takes part in the management of licensed premises be disqualified—
 - (a) from holding a licence or BYO permit;
 - (b) from being a director in any body corporate that holds a licence or BYO permit;
 - (c) from being a partner in any partnership that holds a licence or BYO permit;
 - (d) from having a beneficial interest (whether directly or indirectly) in the shares of any body corporate that holds a licence or BYO permit;
 - (e) from in any way (whether directly or indirectly) taking part in, or being concerned in, the management of any licensed premises or any body corporate that holds a licence or BYO permit or any licensed club;
 - (f) from being employed by any licensed club or any person that holds a licence or BYO permit.
 - (2) The Tribunal may disqualify a person in all or any of the ways listed in subsection (1) and may make an order under this section even though it does not make any order under section 91.
 - (3) In imposing a disqualification, the Tribunal must specify the period for which the disqualification is to apply.
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93 Endorsement of licence or permit by Tribunal

- (1) In any inquiry, the Tribunal may make an order for the endorsement of the name of the owner or a mortgagee of the licensed premises or their agent on the licence or BYO permit if the Tribunal is satisfied—
 - (a) that a ground for making an order under section 91 exists; and
 - (b) that the owner or mortgagee is in possession, or has the legal right to possession, of the licensed premises; and
 - (c) that the owner, mortgagee or agent (as the case may be) is a suitable person to carry on business under the licence or BYO permit.
- (2) An order under this section may be made on the application of the owner or mortgagee or on the Tribunal's own initiative.
- (3) If the Tribunal makes an order under this section, the Director must endorse the licence or permit to that effect.

Division 2—Licence or permit cancellation or suspension in other circumstances

94 Application by Director

If the Director is satisfied—

- (a) that the continuation in force of a licence or BYO permit would detract from or be detrimental to the amenity of the area in which the licensed premises are situated; or

- (b) that, during a continuous period of 12 months, a licence or BYO permit has not been used—

the Director may apply to the Tribunal for an order cancelling or suspending the licence or permit.

95 Application by others

- (1) If a person referred to in subsection (2) considers that the continuation in force of a licence or BYO permit would detract from or be detrimental to the amenity of the area in which the licensed premises are situated, the person may apply to the Tribunal for an order cancelling or suspending the licence or permit.
- (2) The persons who may apply under this section are—
- (a) the Chief Commissioner;
 - (b) a licensing inspector;
 - (c) the Council of the municipal district in which the licensed premises are situated.

96 Cancellation or suspension by Tribunal

- (1) If the Tribunal on an application under section 94 or 95 is satisfied that the grounds set out in the application exist, the Tribunal may make an order—
- (a) cancelling the licence or BYO permit; or
 - (b) suspending the licence or permit for the period specified by the Tribunal; or
 - (c) varying the licence or permit.
- (2) Section 91(2) applies for the purposes of subsection (1)(c).

S. 96A
inserted by
No. 73/2007
s. 18.

96A Suspension by police

- (1) A senior police member, by notice in writing to a licensee, may suspend the licensee's licence for a period not exceeding 24 hours, if the member believes on reasonable grounds that—
 - (a) the licensee has engaged in conduct that would constitute grounds for an application under section 90 for an inquiry into the licensee; and
 - (b) it is likely that the licensee will continue to engage in that conduct; and
 - (c) there is a danger that a person may suffer substantial harm, loss or damage as a result of the licensee's conduct unless the licence is suspended.
- (2) A notice of suspension under this section must specify the conduct which the licensee is believed to have engaged in and the grounds for the senior police member's belief.
- (3) In this section—

senior police member means the Chief Commissioner, a Deputy Commissioner of Police or an Assistant Commissioner of Police.

Division 3—Effect of suspension

97 Effect of suspension of licence or permit

- (1) A licensee who supplies liquor under a licence that is suspended under this Act, is deemed not to be a licensee for the purposes of section 107.
- (2) If a BYO permit is suspended, it is deemed not to be in force in respect of any premises for the purposes of section 113(1)(c) or (d).

Division 4—Breach notices

Pt 6 Div 4
(Heading and
ss 97A, 97B)
inserted by
No. 73/2007
s. 19.

97A Service of breach notice

S. 97A
inserted by
No. 73/2007
s. 19.

- (1) The Director may serve a breach notice in writing on a licensee if the Director believes on reasonable grounds that—
 - (a) the licensee has engaged in conduct that would constitute grounds for an application under section 90 for an inquiry into the licensee; and
 - (b) it is likely that the licensee will continue to engage in that conduct.
- (2) A breach notice may be served on a licensee whether or not an application has been made to the Tribunal—
 - (a) under section 90 for an inquiry in respect of the alleged conduct; or
 - (b) under section 94 or 95 for an order cancelling or suspending the licence.
- (3) A breach notice must—
 - (a) specify the conduct which the licensee is believed to have engaged in and the grounds for the Director's belief;
 - (b) state the time period within which the licensee must respond to the notice, that time period being not less than 14 days from the date of service of the notice;
 - (c) state what steps need to be taken by the licensee to respond to the notice;
 - (d) state the consequences for the licensee of not responding to the notice.

S. 97B
inserted by
No. 73/2007
s. 19.

97B Variation or suspension of licence

- (1) If a licensee does not respond to a breach notice within the period stated in the notice, or if the Director is not satisfied with the licensee's response, the Director may, by notice in writing to the licensee—
 - (a) vary the licence; or
 - (b) suspend the licence.
- (2) The Director may suspend a licence under this section only if the Director believes on reasonable grounds that there is a danger that a person may suffer substantial harm, loss or damage as a result of the licensee's conduct unless the licence is suspended.
- (3) The variation of a licence under this section may include—
 - (a) a variation of the times at which the licence authorises the supply of liquor (including a variation reducing the times to less than ordinary trading hours);
 - (b) a variation of a condition of the licence (other than a condition imposed by this Act);
 - (c) the imposition of a new condition on the licence.
- (4) The variation or suspension of a licence—
 - (a) takes effect when notice of it is given to the licensee or at the later time specified in the notice; and
 - (b) ceases to have effect 7 days after the day on which it takes effect.
- (5) If a licence is varied under this section, the licence has effect after the variation ceases to have effect as if the variation had never been made.

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- (6) No compensation is payable in respect of any loss or damage resulting from or arising out of the suspension of a licence in accordance with this section.
- (7) Nothing in this Division affects the power of the Director to vary a licence under section 58.
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**PART 7—OBLIGATIONS OF OWNERS, MORTGAGEES,
LICENSEES AND PERMITTEES**

98 Owners and mortgagees of licensed premises

A person who is the owner or a mortgagee of licensed premises—

- (a) must register with the Director their name and their address for service within Victoria; and
- (b) must notify any change of address to the Director.

Penalty: 5 penalty units.

99 Refreshments to be available

The licensee under a licence that authorises the licensee to supply liquor for consumption on the licensed premises or on any authorised premises must have available on those premises for purchase, and must provide on request, refreshments at any time at which liquor is available for supply.

Penalty: 5 penalty units.

100 Residents' register

A licensee under a general licence or an on-premises licence relating to licensed premises where accommodation for residents is provided—

- (a) must keep a residents' register in a form approved by the Director;
- (b) must cause to be entered in the register the particulars determined by the Director relating to residents of the licensed premises;

- (c) must keep the register on the licensed premises;
- (d) must not make or cause or permit to be made in the register any false or misleading entry;
- (e) must produce the register for inspection if asked to do so by a member of the police force.

S. 100(d)
amended by
No. 92/2004
s. 24(a).

S. 100(e)
inserted by
No. 92/2004
s. 24(b).

Penalty: 10 penalty units.

101 Copy of licence or permit to be displayed on premises

A licensee or permittee must cause a copy of the licence or BYO permit to be displayed in a conspicuous place on the licensed premises in a manner that invites public attention.

Penalty: 5 penalty units.

101A Plan of premises to be given to the Director if requested

S. 101A
inserted by
No. 92/2004
s. 25.

- (1) The Director may, at any time, require a licensee or permittee to give to the Director a current plan or depiction of the licensed premises in a form specified by the Director.
- (2) A requirement must be made in writing and must specify the form in which the plan or depiction is required.
- (3) As soon as is practicable after receiving a written requirement under this section, a licensee or permittee must comply with the requirement.

Penalty: 10 penalty units.

- (4) The Director may certify that a plan or depiction provided to him or her under this section is in the required form.

s. 101B

S. 101B
inserted by
No. 92/2004
s. 25.

101B Plan of premises to be retained and produced for inspection

- (1) A licensee or permittee must keep on the licensed premises at all times a copy of the last plan or depiction of the licensed premises that was—
 - (a) submitted to the Director under Division 4 of Part 2 as part of an application that was granted; or
 - (b) that was certified by the Director under section 101A—

(whichever is the later document).

Penalty: 10 penalty units.

- (2) The licensee or permittee must produce a copy of the plan or depiction for inspection if asked to do so by a member of the police force.

Penalty: 10 penalty units.

102 Notices required by the Director must be displayed

- (1) A licensee or permittee must cause to be displayed on the licensed premises any notice that the Director requires the licensee or permittee to display.

Penalty: 5 penalty units.

- (2) In displaying a notice, the licensee or permittee must comply with any requirements imposed by the Director concerning the size, format or manner of display of the notice.

Penalty: 5 penalty units.

103 Change of directors

- (1) If a person ceases to be a director of a body corporate that is a licensee or permittee, the licensee or permittee must notify the Director in writing within 14 days after the person so ceases.

Penalty: 5 penalty units.

- (2) A body corporate that is a licensee or permittee must not appoint a person as, or allow a person to become, a director of the body corporate without the approval of the Director under section 104.

Penalty: 5 penalty units.

- (3) This section does not apply to—

- (a) a licensee or permittee that is—

(i) a Council; or

(ii) a university or a TAFE institute within the meaning of the **Education and Training Reform Act 2006**; or

S. 103(3)(a)(ii) substituted by No. 24/2006 s. 6.1.2(Sch. 7 item 26).

* * * * *

S. 103(3)(a)(iii) repealed by No. 24/2006 s. 6.1.2(Sch. 7 item 26).

- (b) a licensee under a club licence.

103A Change of associates

S. 103A inserted by No. 92/2004 s. 26.

- (1) This section applies if a licensee or permittee has previously given the Director the names and addresses of his, her or its associates.
- (2) The licensee or permittee must, within 14 days after the occurrence of either of the following events, notify the Director in writing of the event—
- (a) that a person has ceased to be his, her or its associate; or
- (b) that a person has become his, her or its associate.

Penalty: 5 penalty units.

s. 104

104 Approval of directors

S. 104(1A)
inserted by
No. 92/2004
s. 18(1)(5).

- (1) A licensee or permittee that is a body corporate may apply to the Director for the approval of a person to be a director of the licensee or permittee.
- (1A) An application under this section must be accompanied by the fee specified in the regulations for the purposes of this section.
- (2) The Director must give a copy of an application under this section to the Chief Commissioner.
- (3) The Chief Commissioner may object to the application on the ground that the person is not a suitable person to be a director of the licensee or permittee.
- (4) An objection must—
 - (a) be made to the Director in writing within 21 days after the day on which a copy of the application was given to the Chief Commissioner; and
 - (b) state the reasons for the objection.
- (5) After the period referred to in subsection (4)(a) (or that period as extended under section 174) has expired, the Director must approve or refuse to approve the person as a director, after considering any objection made under subsection (3).

105 No letting or sub-letting without consent

S. 105(1)
amended by
No. 92/2004
ss 23(2)(a), 27.

- (1) A licensee or permittee must not let or sub-let any part of the licensed premises or assign the right to supply liquor without the consent of the Director.

Penalty: 60 penalty units.

S. 105(1A)
inserted by
No. 92/2004
s. 18(1)(6).

- (1A) A request for the Director's consent must be accompanied by the fee specified in the regulations for the purposes of this section.

- (2) The Director may require the licensee or permittee to give notice of a request for consent under this section to a specified person, or persons in a specified area, in the manner approved by the Director.
- (3) The Director may—
 - (a) consent in writing under this section and impose any conditions he or she thinks fit on that consent, including a condition that the consent is not effective until any requirements specified in it have been met; or
 - (b) refuse consent.
- (4) In doing so, the Director must consider any objections made to him or her against the giving of consent.
- (5) The consent of the Director is valid for the period specified in the consent.

S. 105(4)
amended by
No. 39/2002
s. 12(a).

106 Control of business of supply of liquor

- (1) A licensee or permittee must not—
 - (a) permit any other person to carry on a business of supplying liquor on the licensed premises; or
 - (b) permit any person who is not employed by the licensee or permittee to be engaged in the carrying on of such a business—except in accordance with the consent of the Director given to the licensee or permittee.

S. 106(1)
amended by
No. 92/2004
s. 23(2)(a).

Penalty: 60 penalty units.

- (1A) A request for the Director's consent must be accompanied by the fee specified in the regulations for the purposes of this section.

S. 106(1A)
inserted by
No. 92/2004
s. 18(1)(7).

s. 106A

- (2) The Director may require the licensee or permittee to give notice of a request for consent under this section to a specified person, or persons in a specified area, in the manner approved by the Director.
- (3) The Director may—
 - (a) consent in writing under this section and impose any conditions he or she thinks fit on that consent, including a condition that the consent is not effective until any requirements specified in it have been met; or
 - (b) refuse consent.
- (4) In doing so, the Director must consider any objections made to him or her against the giving of consent.
- (5) The consent of the Director is valid for the period specified in the consent.

S. 106(4)
amended by
No. 39/2002
s. 12(a).

S. 106A
inserted by
No. 92/2004
s. 28.

106A Lessees etc. are liable for offences

- (1) This section applies to a person—
 - (a) who, under a consent given under section 105, lets or sub-lets any part of any licensed premises or is assigned the right to supply liquor; or
 - (b) who, under a consent given under section 106, carries on the business of supplying liquor on any licensed premises.
- (2) This section applies if the person does, or omits to do, anything while operating under the consent given under section 105 or 106 that would be an offence under this Act if the person were the licensee or permittee of the premises in respect of which the consent was given.

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- (3) The person is liable for his, her or its act or omission as if he, she or it were the licensee or permittee.
 - (4) If the person is a body corporate, the directors of the body corporate at the time of the act or omission are severally liable for the act or omission as if they were the licensee or permittee.
 - (5) Nothing in this section is intended to affect or reduce the liability of the licensee or permittee with respect to the act or omission of the person.
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PART 8—OFFENCES AND ENFORCEMENT

Division 1—General offences

107 Unlicensed selling of liquor

S. 107(1)
amended by
No. 92/2004
s. 23(2)(b),
substituted by
No. 73/2007
s. 20(1).

- (1) A person who is not a licensee must not sell liquor or offer liquor for sale.

Penalty: 240 penalty units or imprisonment for 2 years.

S. 107(2)
amended by
No. 73/2007
s. 20(2).

- (2) Subsection (1) does not apply to the sale of liquor, or the offer of liquor for sale, by an employee or agent of a licensee if the sale or offer is in accordance with the licence and this Act.
- (3) If a person is convicted of an offence under this section, the court must also order all liquor which is found in the possession of the person and the vessels containing it to be forfeited.
- (4) For the purposes of this section, proof of consumption or intended consumption of liquor on any premises by a person other than the occupier of the premises is, as against the occupier, evidence that the liquor was sold to the person consuming or intending to consume it.
- (5) The fact of there being on any premises more liquor than is reasonably required for the use of the persons residing on those premises is evidence of the sale of liquor by the occupier.
- (6) Subsections (4) and (5) do not apply to premises if the court is satisfied that the premises are used solely for residential purposes.
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108 Offences by licensee and permittee

(1) A licensee or permittee—

S. 108(1)
amended by
No. 92/2004
s. 23(2)(a).

(a) must not, except in accordance with the licence or BYO permit and this Act—

(i) supply liquor; or

(ii) permit or cause liquor to be supplied; or

(iii) permit liquor to be consumed—

on the licensed premises or on any authorised premises;

(b) must not use any place or premises, other than the licensed premises or authorised premises, for the supply of liquor;

* * * * *

S. 108(1)(c)
repealed by
No. 73/2007
s. 21(1)(a).

(d) must not permit a person to play any unlawful game on the licensed premises or on any authorised premises.

* * * * *

S. 108(1)(d)
amended by
No. 73/2007
s. 21(1)(b).

S. 108(1)(e)
repealed by
No. 73/2007
s. 21(1)(c).

Penalty: 60 penalty units.

(2) Subsection (1)(b) does not apply to—

(a) a licensee of a pre-retail licence; or

(b) a licensee of a vigneron's licence in respect of the supply of liquor under that licence to a person who holds a licence under this Act.

(3) Despite subsection (1)(d), the game of two-up may be played—

(a) on ANZAC Day on any premises being used by any sub-branch of the Returned and Services League; and

S. 108(3)(a)
amended by
No. 96/2003
s. 14(2).

s. 108A

S. 108(3)(b)
amended by
Nos 96/2003
s. 14(2),
114/2003
s. 12.1.3
(Sch. 6
item 9.2(a)).

(b) on ANZAC Day on any premises approved under section 2.3.2(1)(b) of the **Gambling Regulation Act 2003**; and

S. 108(3)(c)
amended by
Nos 96/2003
s. 14(2),
114/2003
s. 12.1.3
(Sch. 6
item 9.2(b)).

(c) not more than 7 days before ANZAC Day on any premises at which a function is being held to which section 2.3.2(1)(b) of the **Gambling Regulation Act 2003** applies.

S. 108(4)
inserted by
No. 73/2007
s. 21(2).

(4) A licensee or permittee—

- (a) must not supply liquor to a person who is in a state of intoxication;
- (b) must not permit drunken or disorderly persons to be on the licensed premises or on any authorised premises.

Penalty: 120 penalty units.

S. 108(5)
inserted by
No. 73/2007
s. 21(2).

(5) It is a defence to a prosecution for an offence under subsection (4)(b) for the defendant to prove that—

- (a) the defendant did not know that drunken or disorderly persons were on the premises; or
- (b) the defendant had taken reasonable steps to ensure that drunken or disorderly persons were not on the premises.

S. 108A
inserted by
No. 92/2004
s. 29.

108A Evidence to be produced that responsible service programs undertaken

(1) This section applies if it is a condition of a licence or permit that the licensee or permittee, or a person acting on behalf of the licensee or permittee under the licence or permit, has completed a responsible service of alcohol program or course.

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- (2) The licensee or permittee must, on being asked by a member of the police force, produce for inspection—
- (a) evidence that the licensee, permittee or person acting on behalf of the licensee or permittee has completed the required program or course; and
 - (b) if the relevant licence or permit condition requires that the licensee, permittee or person have completed the required program or course during a particular period of time, evidence that the program or course was completed by that person within that period.

Penalty: 5 penalty units.

- (3) Subsection (2) does not apply if the licensee, permittee or person acting on behalf of the licensee or permittee has not completed the required program or course, or did not complete the program or course within a required period.

Note

Subsection (3) ensures that a person does not commit an offence by failing to produce evidence that does not exist. If the evidence does not exist the person would have committed a more serious offence under section 108 in not complying with the licence or permit conditions.

108B Corporate licensee must provide details of directors

S. 108B
inserted by
No. 92/2004
s. 29.

- (1) A licensee who is a body corporate (other than a club) must give a list of the names and addresses of its directors as at a specified date to a member of the police force within 48 hours after being asked to do so by the member.

Penalty: 10 penalty units.

- (2) A licensee who is a club must give a list of the names and addresses of the members of its committee of management as at a specified date to a member of the police force within 48 hours after being asked to do so by the member.

Penalty: 10 penalty units.

- (3) In responding to a request under this section, a licensee must not give the member any information that is false or misleading.

Penalty: 20 penalty units.

- (4) It is a defence to a prosecution under subsection (3) for the defendant to prove that when the information was given the defendant—

- (a) believed on reasonable grounds that the false matter was true; or
- (b) believed on reasonable grounds that the misleading matter was not misleading.

109 Taking orders for liquor at unlicensed premises

- (1) If a licensee carries on a business at licensed premises and at other premises, the licensee must not take or receive an order for liquor, or cause or permit an employee or agent to take or receive an order for liquor, at any of those premises that are not licensed premises or authorised premises.

Penalty: 15 penalty units.

- (2) Subsection (1) does not apply to—

- (a) a licensee of a pre-retail licence; or
- (b) a licensee of a vigneron's licence in respect of orders for liquor by holders of licences under this Act.

109A Sale of liquor through vending machines

S. 109A
inserted by
No. 92/2004
s. 30.

A person must not sell liquor by means of a vending machine unless—

- (a) it is specified by the Director in a licence that the person may do so; and
- (b) the vending machine is on the licensed premises; and
- (c) the person complies with any conditions specified by the Director in the licence concerning the use of the vending machine.

Penalty: 60 penalty units.

110 Holding out

A person must not, in the course of carrying on a business, hold themselves out as being prepared to order or purchase packaged liquor from a licensee on behalf of another person.

Penalty: 15 penalty units.

111 Bringing liquor to premises outside trading hours

A person must not—

- (a) bring into or consume, supply or have in his or her possession or under control any liquor on; or
- (b) permit or allow any liquor to be brought into, or consumed or supplied in—

any licensed premises under a licence or BYO permit at any time otherwise than in accordance with the licence or permit.

Penalty: 25 penalty units.

112 Keeping liquor in unlicensed club

- (1) If liquor is kept for supply or consumption in premises occupied by a club in respect of which a licence is not in force, each director or member of the committee of management of the club is guilty of an offence.

Penalty: 25 penalty units.

- (2) It is a defence to a prosecution under subsection (1) for the defendant to prove that the liquor was kept in the club without their knowledge or contrary to their orders.

113 Consuming or having liquor on unlicensed premises

- (1) A person must not—
- (a) consume or supply liquor; or
 - (b) have in possession or under control any liquor other than liquor in a sealed container; or
 - (c) permit or allow any liquor to be consumed or supplied; or
 - (d) permit or allow any liquor other than liquor in a sealed container to be in the possession or under the control of a person—

on any premises to which this section applies unless a licence or BYO permit is in force in respect of those premises.

Penalty: 50 penalty units.

- (2) This section applies to the following premises—
- (a) premises that are a milk bar, convenience store or mixed business;
 - (b) premises where meals are ordinarily served to the public for consumption on the premises;

- (c) premises occupied by a club;
- (d) premises where light refreshments and non-intoxicating drinks are sold to the public for consumption on the premises but where meals are not ordinarily served to the public for consumption on the premises.

114 Offences by persons other than licensee or permittee

A person—

- (a) must not on licensed premises—
 - (i) obtain liquor from the licensee, or an employee or agent of the licensee; or
 - (ii) consume liquor—
except at a time and in the manner authorised under the licence or BYO permit and this Act;
- (b) must not, on licensed premises—
 - (i) procure liquor for a person in a state of intoxication; or
 - (ii) aid or abet a person in a state of intoxication to obtain liquor;
- (c) must not obtain liquor from a licensee under a general licence or from an employee or agent of such a licensee by fraudulently representing himself or herself to be a resident of the licensed premises;
- (d) who is drunk, violent or quarrelsome, must not refuse or fail to leave licensed premises if requested to do so by the licensee or permittee, an employee or agent of the licensee or permittee or a member of the police force.

Penalty: 20 penalty units.

115 Betting on licensed premises

- (1) A licensee or permittee must not bet or allow a person to bet on the licensed premises or any authorised premises.

Penalty: 20 penalty units.

- (2) Subsection (1) does not apply to betting on licensed premises or on any authorised premises—

(a) if—

- (i) the premises are on a licensed racecourse within the meaning of the **Racing Act 1958**; and
- (ii) the betting is engaged in during the holding of a race meeting within the meaning of that Act on the licensed racecourse; or

(b) if—

- (i) a betting facility of the holder of the wagering licence or the wagering operator under Chapter 4 of the **Gambling Regulation Act 2003** is established in the premises; and
- (ii) the betting takes place through that licence holder or wagering operator; or

(c) if—

- (i) the premises are being used by any sub-branch of the Returned and Services League or are approved under section 2.3.2(1)(b) of the **Gambling Regulation Act 2003**; and

S. 115(2)(b)(i) substituted by No. 114/2003 s. 12.1.3 (Sch. 6 item 9.3(a)).

S. 115(2)(b)(ii) substituted by No. 114/2003 s. 12.1.3 (Sch. 6 item 9.3(a)).

S. 115(2)(c)(i) amended by No. 114/2003 s. 12.1.3 (Sch. 6 item 9.3(b)).

- (ii) the betting is engaged in during a game of two-up on ANZAC Day; or

S. 115(2)(c)(ii) amended by No. 96/2003 s. 14(3).

(d) if—

- (i) the betting is engaged in during a game of two-up not more than 7 days before ANZAC Day; and
- (ii) a function to which section 2.3.2(3) of the **Gambling Regulation Act 2003** applies is being held on the premises.

S. 115(2)(d)(i) amended by No. 96/2003 s. 14(3).

S. 115(2)(d)(ii) amended by No. 114/2003 s. 12.1.3 (Sch. 6 item 9.3(c)).

115A Prohibited advertising or promotion

S. 115A inserted by No. 73/2007 s. 22.

- (1) The Director may give a notice to a licensee banning the licensee from advertising or promoting—

- (a) the supply of liquor by the licensee; or
- (b) the conduct of licensed premises by the licensee—

if, in the opinion of the Director, the advertising or promotion, or the proposed advertising or promotion, is likely to encourage irresponsible consumption of alcohol or is otherwise not in the public interest.

- (2) A licensee to whom a notice applies must comply with the notice.

Penalty: 120 penalty units.

116 Falsely indicating that premises are licensed

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

- (a) indicate that premises are licensed premises or are licensed premises under a particular kind of licence or under a BYO permit if they are not such licensed premises; or

- (b) that a person is authorised under a licence or BYO permit to supply liquor or permit liquor to be brought onto or consumed on premises if the person is not so authorised.

Penalty: 15 penalty units.

117 Procuring transfer by fraud

- (1) A person must not procure the transfer of a licence or BYO permit by fraud or false representation.

Penalty: 50 penalty units.

- (2) If a person is convicted of an offence under subsection (1), the Director, the Chief Commissioner or a licensing inspector may apply to the Tribunal for a declaration that the transfer is void.

- (3) On an application under subsection (2), the Tribunal may—

(a) declare the transfer void; and

(b) if it does so, may make an order that the person convicted under subsection (1) be disqualified from holding a licence or BYO permit for a period not exceeding 3 years.

- (4) The power of the Tribunal under this section is in addition to any of the powers of the Tribunal under Part 6.

118 False or misleading statements

- (1) A person must not in, or in relation to, an application or notice under this Act, make a statement that is false or misleading by reason of the inclusion in the statement of false or misleading matter or of the omission from the statement of any material matter.

Penalty: 60 penalty units.

S. 118(1)
amended by
No. 92/2004
s. 23(2)(a).

- (2) It is a defence to a prosecution under subsection (1) for the defendant to prove that when the application was made or the notice was given the defendant—
- (a) believed on reasonable grounds that the false matter was true; or
 - (b) believed on reasonable grounds that the misleading matter was not misleading; or
 - (c) in the case of an omission, believed on reasonable grounds that no material had been omitted, being material matter the omission of which would make the statement false or misleading; or
 - (d) in the case of an omission, did not know that the omitted matter was material.

Division 1A—Restrictions on the supply of liquor and other alcoholic products

Pt 8 Div. 1A
(Heading and
ss 118A,
118B)
inserted by
No. 88/2001
s. 7.

118A Restrictions on retail supply of alcohol-based food essences

S. 118A
inserted by
No. 88/2001
s. 7.

A person must not supply by retail an alcohol-based food essence that is packaged—

- (a) in the case of vanilla essence (whether natural or imitation)—in a container of more than 100 millilitres capacity;
- (b) in any other case—in a container of more than 50 millilitres capacity.

Penalty: 30 penalty units.

s. 118B

S. 118B
inserted by
No. 88/2001
s. 7.

118B Regulations prohibiting supply of classes of liquor

- (1) The Governor in Council, on the recommendation of the Minister, may make regulations prohibiting the supply of any class of liquor.
- (2) The Minister may recommend the making of regulations under this section only if he or she is satisfied that it is in the interest of the community to do so.
- (3) Regulations under this section—
 - (a) may impose a penalty not exceeding 30 penalty units for a breach of the regulations;
 - (b) may be of general or of specially limited application;
 - (c) may differ according to differences in time, place or circumstances.
- (4) Regulations under this section are subject to disallowance by a House of the Parliament.

Division 2—Underage drinking

119 Supplying liquor to minors

S. 119(1)
amended by
No. 92/2004
s. 23(2)(a).

- (1) A licensee or a permittee must not—
 - (a) supply liquor; or
 - (b) permit liquor to be supplied—to a person under the age of 18 years.

Penalty: 60 penalty units.

S. 119(2)
amended by
No. 92/2004
s. 23(2)(a).

- (2) If liquor is supplied to a person under the age of 18 years on the licensed premises or any authorised premises of a licensee or permittee, the licensee or permittee is guilty of an offence.

Penalty: 60 penalty units.

(3) A person, other than—

- (a) a licensee or permittee; or
- (b) an employee of a licensee acting or purporting to act in the course of his or her employment—

must not supply liquor to a person under the age of 18 years.

Penalty: 60 penalty units.

S. 119(3)
amended by
No. 92/2004
s. 23(2)(a).

(4) An employee of a licensee acting or purporting to act in the course of his or her employment must not supply liquor to a person under the age of 18 years.

Penalty: 10 penalty units.

S. 119(4)
amended by
No. 92/2004
s. 23(2)(c).

(5) Subsections (1), (2), (3) and (4) do not apply—

- (a) to the supply of liquor to a person under the age of 18 years for consumption as part of a meal if the person is accompanied by his or her spouse, being a person of or over the age of 18 years, or his or her parent or guardian; or
- (b) to the supply of liquor to the spouse or a member of the family of the licensee or permittee; or
- (c) to the supply of liquor on licensed premises to a spouse of a resident of those premises if the resident is of or over the age of 18 years; or

s. 120

S. 119(5)(d)
amended by
No. 92/2004
s. 6(1)(a)(b).

(d) to the supply of packaged liquor to a person who is—

(i) a member of the family of the licensee or permittee; or

(ii) an employee or apprentice of the licensee or permittee—

if the member or employee is employed to deliver that liquor to a person of or over the age of 18 years for consumption off the licensed or authorised premises; or

(e) to the supply of liquor in a residence.

(6) It is a defence to a prosecution under this section for the defendant to prove that, at the time of the alleged offence the defendant had seen an evidence of age document of the person whose age is material to the offence, indicating that that person is of or over the age of 18 years.

120 Allowing minors on licensed or authorised premises

S. 120(1)
amended by
No. 92/2004
s. 23(2)(a).

(1) If a person under the age of 18 years—

(a) is on licensed premises or any authorised premises; and

(b) is not—

(i) in the company of a responsible adult; or

(ii) on the premises for the purpose of partaking of a meal; or

(iii) in the case of a licence under which accommodation is provided, a resident of those premises—

the licensee or permittee is guilty of an offence.

Penalty: 60 penalty units.

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- (2) Subsection (1) does not apply—
- (a) to the presence on any part of the licensed premises or authorised premises of a person under the age of 18 years at any time at which—
 - (i) entertainment for or mainly for people under the age of 18 years is provided on that part of the premises in accordance with the approval of the Director and any conditions to which that approval is subject; and
 - (ii) liquor is not supplied, consumed or made available on that part of the premises; or
 - (b) to the presence on licensed premises or authorised premises of a person who is engaged in a training program in hospitality or in training for the purposes of employment or work experience, if the person is so present in accordance with any conditions to which that program or training is subject; or
 - (c) to the presence on licensed premises or authorised premises of persons employed on the premises otherwise than in the supply of liquor; or
 - (ca) to the presence on licensed premises or authorised premises of a person who is employed to deliver packaged liquor for consumption off the premises to people of or over the age of 18 years and who is on the premises by reason of that employment; or

S. 120(2)(ca)
inserted by
No. 92/2004
s. 6(2).

- (d) to the presence during ordinary trading hours on licensed premises or authorised premises of a person under the age of 18 years if the licence in respect of the premises is an on-premises licence that is subject to the conditions set out in section 9(3); or
- (e) to the presence on licensed premises or authorised premises of a person under the age of 18 years in accordance with the approval of the Director and any conditions to which that approval is subject.

S. 120(2A)
inserted by
No. 92/2004
s. 18(1)(8).

- (2A) A request for the Director's approval for the purposes of subsection (2)(a)(i) must be accompanied by the fee specified in the regulations for the purposes of that subsection.
- (3) If the Director grants or revokes an approval for the purposes of subsection (2)(a) or (e), the Director must cause the licence or permit to be endorsed accordingly.
- (4) It is a defence to a prosecution under this section for the defendant to prove that, at the time of the alleged offence, the defendant had seen an evidence of age document of the person whose age is material to the offence, indicating that that person is of or over the age of 18 years.
- (5) If an issue arises under this section as to whether a person accompanying a person under the age of 18 years is a responsible adult or not, the test to be used is whether or not a reasonable person would be justified in assuming at the relevant time that the accompanying person was a responsible adult.

S. 120(5)
inserted by
No. 92/2004
s. 4(2).

121 Sending minor to obtain liquor

A person must not send another person whom he or she knows or believes to be under the age of 18 years to a place where liquor is supplied, delivered or distributed for the purpose of obtaining liquor.

Penalty: 60 penalty units.

S. 121
amended by
No. 92/2004
s. 23(2)(a).

122 Permitting minor to supply liquor

- (1) A licensee must not permit a person under the age of 18 years to supply liquor on the licensed premises or on any authorised premises.

Penalty: 60 penalty units.

S. 122(1)
amended by
No. 92/2004
s. 23(2)(d).

- (2) Subsection (1) does not apply to the supply of liquor on licensed or authorised premises by a person under the age of 18 years if the person is engaged in a training program approved by the Director and is supplying the liquor in accordance with any conditions to which the Director has determined that the training program is subject.

123 Offences by minors

- (1) A person under the age of 18 years—
- (a) must not purchase or receive liquor from another person; and
 - (b) must not possess or consume liquor; and
 - (c) must not enter or remain on any part of premises where liquor is served by a licensee—
 - (i) except for the purpose of partaking of a meal; or
 - (ii) unless the person is an employee or agent of the licensee or is acting under, or employed in connection with, a contract with the licensee; or

S. 123(1)(c)(v)
substituted by
No. 92/2004
s. 4(1)(b).

- (iii) in the case of a general licence or an on-premises licence under which accommodation is provided, unless the person is a resident of the licensed premises; or
- (iv) unless, in accordance with the approval of the Director under section 120(2)(a) or (e) and any conditions to which that approval is subject, the person is authorised to be present on the premises; or
- (v) unless he or she is in the company of a responsible adult; or
- (vi) unless the person is engaged in a training program in hospitality or in training for the purposes of employment or work experience and the person is so present in accordance with any conditions to which that program or training is subject.

Penalty: 5 penalty units.

(2) Subsection (1) does not apply—

- (a) to the receipt, possession or consumption of liquor by a person under the age of 18 years as part of a meal if the person is accompanied by his or her spouse, being a person of or over the age of 18 years or his or her parent or guardian; or
- (b) to the purchase, receipt, possession or consumption of liquor by the spouse or a member of the family of a licensee or permittee; or

(c) to the purchase, receipt, possession or consumption of liquor in licensed premises under a general licence by the spouse of a resident who is of or over the age of 18 years; or

(d) to the receipt or possession of packaged liquor from a licensee or permittee by a person who is—

S. 123(2)(d)
amended by
No. 92/2004
s. 6(3)(a)(b).

(i) a member of the family of the licensee or permittee; or

(ii) an employee or apprentice of the licensee or permittee—

if the member or employee is employed to deliver that liquor to a person of or over the age of 18 years for consumption off the licensed or authorised premises; or

(e) to the receipt, possession or consumption of liquor in a residence; or

(f) to the possession or consumption of liquor by a person under the age of 18 years in licensed premises under a general licence if the person—

(i) is a resident; or

(ii) is accompanied by his or her spouse, being a person of or over the age of 18 years or his or her parent or guardian—

and is in possession of or consumes the liquor while partaking of a meal.

(3) Subsection (1)(c) does not apply to a person under the age of 18 years who enters or remains on premises during ordinary trading hours if the licence in respect of the premises is an on-premises licence that is subject to the conditions set out in section 9(3).

- (4) A person must not falsely represent himself or herself to be of or over the age of 18 years for the purpose of avoiding being found to be in contravention of subsection (1).

Penalty: 5 penalty units.

124 Wrongful dealing in evidence of age document

- (1) A person must not give an evidence of age document which has been issued to that person to another person, if the person giving the document knows or has reasonable grounds to suspect that the document may be used—
- (a) as an evidence of age document for the purposes of this Act by a person other than the person to whom it was issued; or
 - (b) to obtain a proof of age card for a person other than the person to whom the document was issued.

Penalty: 20 penalty units.

- (2) A person must not wilfully or negligently deface or interfere with an evidence of age document.

Penalty: 20 penalty units.

- (3) A person must not—

- (a) make a false document that could reasonably be taken to be an evidence of age document; or
- (b) give such a false document to another person—

knowing the document to be false and with the intent that the document be used as an evidence of age document.

Penalty: 20 penalty units.

125 Offence to falsely procure proof of age card

S. 125
substituted by
No. 92/2004
s. 7.

- (1) A person who applies for a proof of age document must not, in support of that application—
- (a) supply any information, document or material that he or she knows is false or misleading; or
 - (b) pass off any document or material that does not relate to him or her as a document or material that does relate to him or her.

Penalty: 20 penalty units.

- (2) A person must not give a document or other material to another person if he or she knows—
- (a) both that the other person intends to use the document or material to support an application for a proof of age document, and that the document or material contains information that is false or misleading; or
 - (b) that the other person intends to use the document or material contrary to subsection (1)(b).

Penalty: 20 penalty units.

Division 3—Investigatory powers

126 Power to demand suspected minor to give his or her age

- (1) If—
- (a) a member of the police force has reason to believe that a person appearing to be under the age of 18 years—
 - (i) has requested or received a supply of liquor; or
 - (ii) has consumed, is consuming or is about to consume liquor; or

s. 126

(iii) is on licensed premises or on any authorised premises—

in contravention of this Act; or

(b) a licensee, permittee or employee or agent of a licensee or permittee has reason to believe that a person appearing to be under the age of 18 years is on the licensed premises or on any authorised premises in contravention of this Act—

the member of the police force, licensee, permittee, employee or agent may demand particulars of the person's age, name and address.

S. 126(2)(3)
repealed by
No. 92/2004
s. 31.

* * * * *

(4) A person must not—

(a) refuse to give particulars of his or her age, name and address;

(b) give any false particulars of his or her age, name and address; or

(c) give any false evidence as to his or her age, name or address—

S. 126(4)(c)
amended by
No. 88/2001
s. 8.

pursuant to a demand made under this section.

Penalty: 15 penalty units.

(5) If a person refuses to give his or her name and address on being required to do so under this section, a member of the police force may caution him or her and if he or she persists in the refusal, may arrest him or her without a warrant.

127 Seizure of evidence of age document

- (1) A document (except a driver licence), that is represented to be an evidence of age document, may be seized by the person to whom it has been produced if that person is—
 - (a) a member of the police force; or
 - (b) the licensee or permittee or an employee of the licensee or permittee of the licensed premises in or in the vicinity of which the document has been produced.
- (2) A person must not seize a document under subsection (1) unless that person reasonably believes that—
 - (a) the person who produced the document is not the person to whom the document was issued; or
 - (b) the document contains false or misleading information about the name or age of the person who produced the document; or
 - (c) the document has been forged or fraudulently altered; or
 - (d) the document is being used in contravention of this Act.
- (3) If a document has been seized under subsection (1) by a person other than a member of the police force, that person must give the document to a member of the police force.
- (4) A member of the police force who has seized a document under subsection (1) or to whom a document has been given under subsection (3) must return the document within 28 days to the person who produced it unless—

- (a) the person who produced the document is not the person to whom the document was issued; or
- (b) the document contains false or misleading information about the name or age of the person who produced the document; or
- (c) the document has been forged or fraudulently altered; or
- (d) the document is being used in contravention of this Act.

S. 128
amended by
No. 92/2004
s. 8 (ILA
s. 39B(1)).

128 Seizure of liquor from minors

- (1) If a member of the police force reasonably believes that a person under the age of 18 years is in possession of liquor in contravention of this Act, the member may seize and take away the liquor or cause the liquor to be seized and taken away, together with any vessel containing it.
- (2) If a person from whom liquor was seized under subsection (1) is found guilty by a court of possessing the liquor in contravention of this Act, the court may order that the liquor be forfeited to the Crown or be destroyed or otherwise disposed of.

S. 128(2)
inserted by
No. 92/2004
s. 8.

129 Entry to licensed premises

- (1) An authorised person may demand entry at any time to any licensed premises.
- (2) A person must not refuse or delay admittance for such time as reasonably to lead to the inference that wilful delay is intended.
- (3) If admittance is refused or wilfully delayed, the person demanding entry may break into the premises.

(4) A person may not, under this section, break into a room in licensed premises under a general licence which is occupied by or set apart for the private use of a resident or is occupied by or reserved for the private use of the licensee or permittee unless the person—

- (a) has first given notice of his or her intention to the resident, licensee or permittee or (in the absence of the resident, licensee or permittee) to the person appearing to be in charge of the licensed premises and has given the resident, licensee, permittee or person an opportunity to be present; or
- (b) has obtained the consent of the resident, licensee, permittee or person to break into the room.

(5) A person must not—

- (a) prevent an authorised person from entering licensed premises in accordance with this section; or
- (b) obstruct or hinder an authorised person in the execution of his or her duties under this Act.

S. 129(5)
amended by
No. 92/2004
s. 23(2)(e).

Penalty: 60 penalty units.

(6) The Director may give an authority in writing to the Commissioner of State Revenue to authorise tax officers to exercise powers under this section.

(7) In this section *authorised person* means—

- (a) the Director;
- (b) a person employed under Part 3 of the **Public Administration Act 2004** in the administration of this Act authorised in writing by the Director;
- (c) an authorised member of the police force;

S. 129(7)(b)
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 115.1).

- (d) a licensing inspector;
- (e) a tax officer authorised in writing by the Commissioner of State Revenue acting under an authority given under subsection (6).

130 General warrant to enter and search

(1) If a magistrate is satisfied, by the evidence on oath or by affidavit of any person, that there is reasonable ground for suspecting that—

S. 130(1)(a)
substituted by
No. 92/2004
s. 32(1)(a).

- (a) in any premises liquor is supplied by a person—
 - (i) who does not hold a licence authorising the supply; and
 - (ii) who is required under this Act to hold such a licence to supply the liquor; or
- (b) liquor is supplied or kept for supply on premises occupied by a club in respect of which a licence is not in force—

the magistrate may issue a warrant authorising a member of the police force, together with any other person named in the warrant—

- (c) to enter those premises (using such force as is necessary for the purpose); and
- (d) to search the premises; and
- (e) to take possession of all liquor on the premises and all vessels containing the liquor; and
- (f) to take possession of any documents relating to the supply or purchase of liquor; and
- (g) to detain any liquor, vessels and documents possession of which is so taken.

S. 130(1)(f)
substituted by
No. 92/2004
s. 32(1)(b).

(1A) The person to whom a warrant is issued must ensure that any thing that was seized under the warrant is brought before the Magistrates' Court as soon as is practicable after the seizure to enable the thing to be dealt with according to law.

S. 130(1A)
inserted by
No. 92/2004
s. 32(2).

(2) A person must not obstruct or hinder a person executing a warrant under this section.

Penalty: 15 penalty units.

(3) A person in any premises entered by a member of the police force under this section, on being asked by the member to give his or her name or address must not—

(a) refuse or fail to give his or her name or address; or

(b) give a false name or address.

Penalty: 15 penalty units.

130A Details of warrant to be given to occupier

S. 130A
inserted by
No. 92/2004
s. 33.

(1) If the occupier is present at the premises where a search warrant is being executed, the member of the police force must—

(a) identify himself or herself to the occupier if he or she is not in uniform; and

(b) give to the occupier a copy of the warrant.

(2) If the occupier is not present at the premises where a search warrant is being executed but another person is present, the member of the police force must—

(a) if he or she is not in uniform, identify himself or herself to that person; and

(b) give the person a copy of the warrant.

131 Power to seize liquor in certain cases

- (1) If, at a time when liquor is not authorised to be supplied on licensed premises under the licence or this Act—
- (a) any liquor is served for supply on the licensed premises; or
 - (b) any liquor is being carried away from the licensed premises by a person other than, in the case of a general licence or an on-premises licence relating to licensed premises where accommodation for residents is provided, a resident—

a member of the police force may seize or cause to be seized any such liquor together with the vessel containing it.

- (2) If a member of the police force reasonably believes that any liquor is brought into or consumed, supplied, possessed or controlled in any restaurant or club at any time otherwise than in accordance with a licence or BYO permit, the member may seize or cause to be seized any such liquor together with the vessel containing it.

132 Police to assist if person asked to leave premises

All members of the police force are required, on the request of the licensee or permittee or their employee or agent, to expel or assist in expelling any person whose presence on the licensed premises or any authorised premises would subject the licensee or permittee to a penalty under this Act and whom the licensee or permittee has asked to leave the licensed premises or authorised premises.

S. 131(1)(b)
amended by
No. 39/2002
s. 12(b).

133 Further search and seizure powers

- (1) In the execution of powers and duties under this Act, an authorised person at any reasonable time—
- (a) may enter and remain on any licensed premises or other place at or on which the authorised person reasonably believes the business of supplying liquor is carried on or any liquor or documents relating to the supply or purchase of liquor are kept or stored; and
 - (b) may take copies of, or extracts or notes from, any such documents; and
 - (c) may seize any such documents; and
 - (d) may request any licensee or other person reasonably believed by the authorised person to be involved in the supply, purchase or storage of liquor—
 - (i) to produce any documents which relate or are reasonably believed by the authorised person to relate to the supply or purchase of liquor and which at the time of the request are in the possession of or under the control of the licensee or other person; and
 - (ii) to answer any questions with respect to any such documents or the supply, purchase or storage of liquor.
- (1A) Before exercising a power under subsection (1) (other than the initial entry on to any premises under subsection (1)(a))—
- (a) an authorised person who is not a member of the police force must produce for inspection evidence of his or her authority to act as an authorised person;

S. 133(1A)
inserted by
No. 92/2004
s. 34(1).

(b) a member of the police force must produce for inspection his or her identification as a member of the police force if he or she is not in uniform.

(2) A person must not—

- (a) prevent an authorised person from exercising any power under subsection (1); or
- (b) hinder or obstruct an authorised person in the exercise of any such power; or
- (c) fail to comply with a request under subsection (1)(d); or
- (d) give an authorised person information which is false or misleading in a material particular.

Penalty: 20 penalty units, and in the case of an offence under paragraph (c), an additional penalty not exceeding 5 penalty units for each day on which the offence continues after conviction.

S. 133(2A)
inserted by
No. 92/2004
s. 34(2).

- (2A) A person is not guilty of an offence under subsection (2)(a), (2)(b) or (2)(c) in respect of an act or omission if the person was not warned by the authorised person that the act or omission constituted an offence under this Act.
- (3) A person is not guilty of an offence under subsection (2)(c) only because of a failure to answer a question under subsection (1)(d)(ii) if the person proves that the person did not know and could not with reasonable diligence ascertain the answer to the question.
- (4) If an authorised person makes a report with respect to any licensed premises or licensee he or she must send a copy to the licensee.

- (5) The Director must make available during usual business hours at his or her office a copy of any report made under subsection (4) for inspection or copying by the licensee or a person authorised in writing by the licensee.
- (6) The Director may give an authority in writing to the Commissioner of State Revenue to authorise tax officers to exercise powers under this section.
- (7) In this section, *authorised person* means—
- (a) a person employed under Part 3 of the **Public Administration Act 2004** in the administration of this Act authorised in writing by the Director;
 - (b) a tax officer authorised in writing by the Commissioner acting under an authority given under subsection (6);
 - (c) the Chief Commissioner;
 - (d) a licensing inspector.

S. 133(7)(a)
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 115.1).

S. 133(7)(b)
amended by
No. 92/2004
s. 34(3)(a).

S. 133(7)(c)
inserted by
No. 92/2004
s. 34(3)(b).

S. 133(7)(d)
inserted by
No. 92/2004
s. 34(3)(b).

133A Meaning of *authorised person* in sections 133B to 133E

S. 133A
inserted by
No. 92/2004
s. 35.

In sections 133B to 133E *authorised person* means—

- (a) in the case of a seizure under section 130, the member of the police force executing the warrant;
- (b) in the case of a seizure under section 133, the person exercising the power conferred by that section.

s. 133B

S. 133B
inserted by
No. 92/2004
s. 35.

133B Copies of certain seized things to be given

- (1) If, in exercising a power under section 130 or 133, an authorised person seizes a document, he or she must give a copy of the document to the owner or custodian of the document as soon as is practicable after the seizure, and in any event no later than 21 days after the seizure.
- (2) Subsection (1) does not apply if the authorised person is unable to discover the identity of the owner or custodian of the document.
- (3) If the authorised person does not give a copy of a document to the owner or custodian of the document before the authorised person leaves the premises, the authorised person must give a receipt for the document to the person from whom it is seized and removed.
- (4) In the case of a paper document, the authorised person must certify on any copy of the document given to a person under this section that the copy is an accurate copy of the document.
- (5) A copy of a document certified under subsection (4) is to be received in all courts and tribunals as evidence of equal validity to the original.

S. 133C
inserted by
No. 92/2004
s. 35.

133C Access to seized documents

- (1) If a document is seized under this Part, the authorised person who seized the document must, if practicable, allow the person who would normally be entitled to possession of the document reasonable access to it while it remains in the possession, or under the control, of the authorised person.
- (2) This section does not apply if the authorised person has given the person an accurate copy of the document.

133D Use of equipment to examine or process documents

S. 133D
inserted by
No. 92/2004
s. 35.

- (1) An authorised person may bring on to any premises any equipment reasonably necessary for the examination or processing of documents found at the premises in order to determine whether they are documents that may be seized.
- (2) If—
 - (a) it is not practicable to examine or process the documents at the premises; or
 - (b) the occupier of the premises consents in writing—

the documents may be moved to another place so that the examination or processing can be carried out in order to determine whether they are documents that may be seized.
- (3) The authorised person, or a person assisting the authorised person, may operate equipment already at the premises to carry out the examination or processing of a document found at the premises in order to determine whether it is a document that may be seized, if the authorised person or person assisting believes on reasonable grounds that—
 - (a) the equipment is suitable for the examination or processing; and
 - (b) the examination or processing can be carried out without damage to the equipment or the document.

133E Use or seizure of electronic equipment at premises

S. 133E
inserted by
No. 92/2004
s. 35.

- (1) If—
 - (a) a thing found at any premises is, or includes, a disk, tape or other device for the storage of information; and
 - (b) equipment at the premises may be used with the disk, tape or other storage device; and
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- (c) the authorised person believes on reasonable grounds that the information stored on the disk, tape or other storage device is relevant to furthering the purpose of the authorised person's inspection—

the authorised person or a person assisting the authorised person may operate, or may require the occupier or an employee of the occupier to operate, the equipment to access the information.

- (2) If the authorised person or a person assisting the authorised person finds that a disk, tape or other storage device at the premises contains information of the kind referred to in subsection (1)(c), he or she may—
- (a) put the information in documentary form and seize the documents so produced; or
 - (b) copy the information to another disk, tape or other storage device and remove that storage device from the premises; or
 - (c) if it is not practicable to put the information in documentary form nor to copy the information, seize the disk, tape or other storage device and the equipment that enables the information to be accessed.
- (3) An authorised person or a person assisting an authorised officer must not operate or seize equipment for the purpose mentioned in this section unless the authorised person or person assisting believes on reasonable grounds that the operation or seizure of the equipment can be carried out without damage to the equipment.

Division 3A—Undertakings by licensees

Pt 8 Div. 3A
(Heading and
ss 133F,
133G)
inserted by
No. 73/2007
s. 23.

133F Undertakings

S. 133F
inserted by
No. 73/2007
s. 23.

- (1) The Director may accept a written undertaking given by a licensee in connection with—
 - (a) a matter in relation to which the Director has a power or function under this Act; or
 - (b) a matter relating to a contravention of this Act.
- (2) The Director must give a copy of the undertaking to the licensee.
- (3) A licensee may withdraw or vary an undertaking at any time, if the licensee has first obtained the consent of the Director.

133G Register of undertakings

S. 133G
inserted by
No. 73/2007
s. 23.

- (1) The Director must—
 - (a) maintain a register of undertakings; and
 - (b) register each undertaking in the register of undertakings.
- (2) The register of undertakings must include the following—
 - (a) the name and address of the licensee who gave the undertaking;
 - (b) the date of the undertaking;
 - (c) a copy of the undertaking.
- (3) The register of undertakings may be inspected by any person at any reasonable time, without charge.

Division 4—Legal proceedings

134 Presumption as to holder of licence or permit

In a proceeding under this Act against a person as the holder of a licence or BYO permit, the person is to be taken to be the holder of that licence or permit until the contrary is shown.

135 Averments

For the purposes of this Act, if an informant avers—

- (a) that any liquid is or may be liquor; or
- (b) that a person present on licensed premises under a general licence or an on-premises licence relating to licensed premises where accommodation for residents is provided is not a resident; or
- (c) that premises on which an alleged offence took place were licensed premises or authorised premises; or
- (d) that a person had not attained the age of 18 years—

the averment is evidence—

- (e) that the liquid is liquor; or
- (f) that the person is not a resident; or
- (g) that the premises on which the alleged offence took place were licensed premises or authorised premises; or
- (h) that the person had not attained that age—

as the case requires.

S. 135(b)
amended by
No. 39/2002
s. 12(b).

136 Sufficient evidence of certain matters

- (1) For the purposes of this Act—
- (a) proof of the delivery of liquor is evidence of the supply of liquor and of money or other consideration having been given for the liquor;
 - (b) proof that a transaction in the nature of a sale or other supply of liquor took place is evidence of the sale or other supply of liquor;
 - (c) proof that consumption of liquor was about to take place is evidence of the consumption of liquor;
 - (d) proof that liquor was consumed or intended to be consumed by a person on licensed premises contrary to the provisions of the licence or BYO permit or this Act is evidence that the licensee or permittee supplied liquor to that person.
- (2) In any proceeding against a person under this Act, an allegation in a charge or an oral allegation by the informant or a licensing inspector that—
- (a) a person is a licensee or permittee in relation to any licensed premises; or
 - (b) a person is not a licensee or permittee; or
 - (c) a person is a person to whom a licence or permit has been transferred; or
 - (d) a person is, or is not, a licensee or permittee; or

(e) a person is the Director or acting Director, a licensing inspector or an authorised member of the police force—

is admissible in evidence and, in the absence of evidence to the contrary, is proof of the matter alleged.

(3) Each of the following certificates is admissible in evidence in any proceeding against a person under this Act and, in the absence of evidence to the contrary, is proof of the matters stated in it—

(a) a certificate purporting to be under the hand of the Director stating that on a day specified in the certificate a person named in the certificate was a delegate of the Director to whom the powers of the Director specified in the certificate were delegated on terms, if any, so specified;

(b) a certificate purporting to be under the hand of the Director stating that on a day specified in the certificate the Commissioner of State Revenue had an authority referred to in section 129(6) or 133(6);

(c) a certificate purporting to be under the hand of the Commissioner of State Revenue stating that on a day specified in the certificate a person named in the certificate was an authorised person within the meaning of section 129(7)(e) or 133(7)(b).

137 Copies of certain documents

(1) The production of a document under the hand of the Director purporting to be a copy of a document issued by the Director is evidence that the document was so issued.

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- (2) The production of a document under the hand of the Director (that document purporting to be a copy of or extract from any document, statement, licence, note or memorandum furnished to, or of any document issued by, the Director) is for all purposes sufficient evidence of the matters set forth in it, without production of the original.

138 Property forfeited

- (1) The Magistrates' Court may order that any property that is or includes liquor that is seized or of which possession is taken under this Act is forfeited if the Court is satisfied that the liquor was supplied, or intended to be supplied, contrary to the provisions of any relevant licence or BYO permit.
- (2) An appeal lies to the County Court against an order of forfeiture under subsection (1).
- (3) Any property forfeited under this section—
- (a) must be sold or otherwise disposed of in accordance with the directions of the Magistrates' Court; and
 - (b) the proceeds (if any) of the sale or disposal are to be applied as if they were penalties.

139 Concurrent proceedings

If, in respect of anything done or omitted to be done under this Act—

- (a) proceedings are brought against a person; and
- (b) the Director wishes to make a decision under this Act—

the Director may make the decision despite the bringing of the proceedings.

140 Notice of conviction

S. 140(1)
amended by
No. 88/2001
s. 9.

- (1) If a licensee or permittee is convicted of an offence against this Act or the regulations, the principal registrar of the Magistrates' Court must give written notice of the conviction to the Director as soon as practicable after the conviction.
- (2) If a notice under subsection (1) relates to a licensee or permittee of licensed premises of which the licensee or permittee is not the owner, the Director must send a copy of the notice to the owner of the licensed premises.

Division 5—Infringement notices

141 Power to serve an infringement notice

S. 141(1A)
inserted by
No. 32/2006
s. 87(2).

- (1) If a member of the police force has reason to believe that a person has committed an offence referred to in subsection (2), he or she may serve an infringement notice on that person.

(1A) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

- (2) An infringement notice may be served in respect of an offence against—

S. 141(2)(a)
substituted by
No. 92/2004
s. 36(a).

- (a) section 98 (owners and mortgagees of licensed premises);

S. 141(2)(aa)
inserted by
No. 92/2004
s. 36(a).

- (aa) section 99 (refreshments to be available);

S. 141(2)(ab)
inserted by
No. 92/2004
s. 36(a).

- (ab) section 100 (except paragraph (d)) (residents' register);

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- (b) section 101 (failure to display licence or permit on licensed premises);
- (ba) section 101B(2) (failure to produce plan of premises to police on request); **S. 141(2)(ba) inserted by No. 92/2004 s. 36(b).**
- (c) section 102 (failure to display notice on licensed premises or to comply with requirements for display);
- (d) section 103 (failure to notify change of director or obtain approval for new director);
- (daa) section 103A(2) (failure to notify the Director in writing within 14 days of a person ceasing to be an associate of a licensee or permittee or a person becoming an associate of a licensee or permittee); **S. 141(2)(daa) inserted by No. 32/2006 s. 86(1)(a).**
- (da) section 105 (no letting or sub-letting without consent); **S. 141(2)(da) inserted by No. 92/2004 s. 36(c).**
- (db) section 106(1) (permit any other person to carry on a business of supplying liquor on the licensed premises of a licensee or permittee or permit any person who is not employed by the licensee or permittee to be engaged in the carrying on of such a business other than in accordance with the written consent of the Director); **S. 141(2)(db) inserted by No. 32/2006 s. 86(1)(b).**
- (e) section 108 (certain offences by licensee or permittee);
- (ea) section 108A (licensee must produce evidence that responsible service programs undertaken); **S. 141(2)(ea) inserted by No. 92/2004 s. 36(d).**
- (eb) section 108B (except subsection (3)) (corporate licensee must provide details of directors); **S. 141(2)(eb) inserted by No. 92/2004 s. 36(d).**
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Liquor Control Reform Act 1998
No. 94 of 1998
Part 8—Offences and Enforcement

s. 141

S. 141(2)(fa)
inserted by
No. 92/2004
s. 36(e).

- (f) section 109 (taking orders at unlicensed premises);
- (fa) section 111(a) (certain offences at licensed premises contrary to the licence or permit);

S. 141(2)(ia)
inserted by
No. 88/2001
s. 10(1).

- (g) section 114 (except paragraph (d)) (certain offences by non-licensees);
- (h) section 115 (betting on licensed premises);
- (i) section 116 (falsely indicating premises as licensed);
- (ia) section 118A (supplying alcohol-based food essences);

S. 141(2)(ib)
inserted by
No. 88/2001
s. 10(1).

- (ib) a regulation made under section 118B (prohibition of the supply of liquor);

S. 141(2)(k)
amended by
No. 92/2004
s. 36(f).

- (j) Division 2 of Part 8 (offences in relation to underage drinking);
- (k) section 126(4) (name and address of minor);

S. 141(2)(l)
inserted by
No. 92/2004
s. 36(g),
amended by
No. 73/2007
s. 6(a).

- (l) section 130(3) (fail to give, or give false, name or address to police exercising search warrant);

S. 141(2)(m)
inserted by
No. 73/2007
s. 6(b).

- (m) section 148F(1) or (2) (contravening banning notice or failing to comply with police directions);

(n) section 148J(1) or (2) (contravening exclusion order or failing to comply with police directions).

S. 141(2)(n) inserted by No. 73/2007 s. 6(b).

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Ss 142, 143 repealed by No. 32/2006 s. 87(3).

144 Infringement penalties

(1) The infringement penalty for an offence against a provision of this Act or a regulation is one-tenth of the maximum penalty fixed by that provision or regulation for that offence.

S. 144 amended by Nos 88/2001 s. 10(2)(a)(b), 32/2006 s. 86(2) (ILA s. 39B(1)).

(2) Despite subsection (1), the infringement penalty for an offence against section 103A(2) is 1 penalty unit.

S. 144(2) inserted by No. 32/2006 s. 86(2).

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S. 145 repealed by No. 32/2006 s. 87(3).

146 Effect of expiation

Nothing in Division 5 of Part 2 of the **Infringements Act 2006** affects or takes away from section 90(1)(h).

S. 146 substituted by No. 32/2006 s. 87(4).

Division 6—Liquor accords

Pt 8 Div. 6 (Heading and ss 146A–146D) inserted by No. 73/2007 s. 24.

146A Definitions

In this Division—

agreement includes a contract, arrangement or understanding;

S. 146A inserted by No. 73/2007 s. 24.

liquor accord means a code of practice or an agreement—

- (a) that affects the supply of liquor, the opening and closing of licensed premises or other aspects of the management of or conduct of business on licensed premises; and
- (b) that is entered into in writing between 2 or more licensees or permittees (or both), with the approval of the Chief Commissioner and the Director, for the purpose of minimising harm arising from the misuse and abuse of alcohol;

liquor accord ban means a provision of a liquor accord referred to in section 146B(b).

S. 146B
inserted by
No. 73/2007
s. 24.

146B Liquor accord terms

Without limiting the terms that may be included in a liquor accord, a liquor accord may make provision for or with respect to authorising or requiring any licensees or permittees who are parties to it to do either or both of the following—

- (a) to cease to supply liquor or to allow the consumption of liquor at their licensed premises;
- (b) to ban access by the public, or individual members of the public, to their licensed premises in a manner and to the extent provided by the accord.

S. 146C
inserted by
No. 73/2007
s. 24.

146C Trade Practices Act and Competition Code

For the purposes of the Trade Practices Act 1974 of the Commonwealth and the Competition Code, the following conduct is authorised by this Act—

- (a) the entry by any person into a liquor accord;

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- (b) any conduct by any person engaged in for the purpose of promoting, performing, giving effect to or otherwise done in connection with the terms of a liquor accord.

146D Information disclosure in relation to liquor accord bans

S. 146D
inserted by
No. 73/2007
s. 24.

The Director or a member of the police force may disclose to a licensee or permittee who is a party to a liquor accord that contains a liquor accord ban, or to an employee or agent of such a licensee or permittee, any of the following information in respect of a person who is subject to the ban—

- (a) the person's name;
- (b) a photograph of the person;
- (c) the period for which the person is subject to the ban;
- (d) any other information that the Director or member considers necessary for the purposes of the effective and efficient enforcement of the ban.

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Ss 147, 148
repealed by
No. 32/2006
s. 87(5).

Pt 8A
(Heading and
ss 147–148R)
inserted by
No. 73/2007
s. 5.

PART 8A—BANNING NOTICES AND EXCLUSION ORDERS

Division 1—Designated areas

New s. 147
inserted by
No. 73/2007
s. 5.

147 Order declaring designated area

- (1) The Director, by Order published in the Government Gazette, may declare an area to be a designated area for the purposes of this Part if the Director believes that—
 - (a) alcohol-related violence or disorder has occurred in a public place that is in the immediate vicinity of licensed premises within the area; and
 - (b) the exercise of powers under Division 2 or 3 of this Part in relation to the area is reasonably likely to be an effective means of reducing or preventing the occurrence of alcohol-related violence or disorder in the area.
- (2) Before making an Order, the Director must consult the Chief Commissioner.
- (3) A reference in this section to the immediate vicinity of licensed premises means a place that is within 100 metres of the licensed premises.
- (4) In this section—

public place has the same meaning as in the **Summary Offences Act 1966**.

New s. 148
inserted by
No. 73/2007
s. 5.

148 Court proceedings regarding Order

- (1) In any proceeding in which the validity of an Order made under section 147 is called into question, the court hearing the proceeding must not stay the operation of the Order pending the final determination of the proceeding, unless the

court considers that there are exceptional circumstances.

- (2) If a court finds that an Order made under section 147 is invalid, that finding does not affect the validity, in relation to any period before that finding, of—
 - (a) any banning notice given or exclusion order made in relation to the designated area that is the subject of the Order; and
 - (b) anything done under this Part in reliance on that banning notice or exclusion order.

148A Variation and revocation of Order

S. 148A
inserted by
No. 73/2007
s. 5.

- (1) The Director, by Order published in the Government Gazette—
 - (a) may at any time vary or revoke an Order made under section 147; and
 - (b) must revoke an Order made under section 147 if the Director believes that the grounds for making the Order no longer exist.
- (2) This Division applies to the variation or revocation of an Order in the same way as it does to the making of the Order.

Division 2—Banning notices

148B Issue of banning notice

S. 148B
inserted by
No. 73/2007
s. 5.

- (1) A relevant police member who suspects on reasonable grounds that a person is committing or has committed a specified offence wholly or partly in a designated area may give the person a notice banning the person, for the period specified in the notice, from—
 - (a) the designated area; or
 - (b) all licensed premises in the designated area.

s. 148B

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- (2) The period specified in the banning notice must not exceed 24 hours starting from the time the notice is given to the person to whom it applies.
- (3) A relevant police member cannot give a banning notice to a person unless the member—
- (a) believes on reasonable grounds that the giving of the notice may be effective in preventing the person from—
 - (i) continuing to commit the specified offence; or
 - (ii) committing a further specified offence; and
 - (b) considers that the continuation of the commission of the specified offence or the commission of a further specified offence may involve or give rise to a risk of alcohol-related violence or disorder in the designated area.
- (4) In determining whether there are reasonable grounds for his or her belief under subsection (3)(a), the relevant police member must consider—
- (a) the apparent state of health of the person to whom the notice is to apply; and
 - (b) whether the person is likely to—
 - (i) continue to commit the specified offence; or
 - (ii) commit a further specified offence; and
 - (c) whether the person should be arrested or held in custody pending the hearing of any charges against the person in respect of the specified offence; and
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- (d) whether that person is capable of comprehending the nature and effect of the notice; and
 - (e) any other matters the member considers relevant.
- (5) A relevant police member must produce proof of his or her identity and official status before giving a banning notice to a person, unless the member is in uniform.
 - (6) A relevant police member cannot give a banning notice referred to in subsection (1)(a) to a person if the member believes or has reasonable grounds for believing that the person lives or works in the designated area.
 - (7) If a person to whom a banning notice applies lives or works in licensed premises in the designated area, the banning notice does not prevent him or her from entering those licensed premises during the period for which the notice applies.
 - (8) No more than one banning notice may be given to a person for a designated area, or licensed premises in the area, in respect of the same specified offence, but a banning notice may be given to a person who is already subject to a banning notice for the designated area, or licensed premises in the area, if the subsequent notice is given in respect of a separate specified offence.

148C Content of banning notice

A banning notice must state—

- (a) the name of the person to whom the notice applies; and
- (b) the specified offence that the relevant police member giving the notice suspects that person has committed and the grounds for the suspicion; and

S. 148C
inserted by
No. 73/2007
s. 5.

s. 148C

- (c) the name, rank and place of duty of the relevant police member giving the notice; and
 - (d) the designated area in which the notice applies; and
 - (e) the specified period for which the notice applies; and
 - (f) whether the notice bans the person from the designated area or from all licensed premises in the designated area; and
 - (g) if the notice bans the person from the designated area—
 - (i) that the person must not enter or re-enter the designated area during the specified period; and
 - (ii) that, if the person is in the designated area, the person must leave the designated area in accordance with a direction of a member of the police force to do so; and
 - (iii) that it is an offence not to comply with the notice or with a direction given by a member of the police force to leave the designated area; and
 - (iv) the maximum penalties for those offences; and
 - (h) if the notice bans the person from licensed premises in the designated area—
 - (i) that the person must not enter or re-enter any licensed premises in the designated area during the specified period; and
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- (ii) that, if the person is in any licensed premises in the designated area, the person must leave the licensed premises in accordance with a direction of a member of the police force to do so; and
- (iii) that it is an offence not to comply with the notice or with a direction given by a member of the police force to leave the licensed premises; and
- (iv) the maximum penalties for those offences; and
- (i) that a copy of the notice and, if available, a photograph of the person to whom the notice applies may be provided to licensees or permittees of licensed premises in the designated area and persons employed in those premises for the purpose of enforcement of the notice; and
- (j) that the notice may be varied or revoked under section 148E.

148D Requirement to give name and address

S. 148D
inserted by
No. 73/2007
s. 5.

- (1) A relevant police member who intends to give a banning notice to a person may request the person to state the person's name and address.
- (2) A relevant police member who makes a request under subsection (1) must inform the person of the member's intention to give the person a banning order.
- (3) A person must not, in response to a request made by a relevant police member in accordance with this section—
 - (a) refuse or fail to comply with the request without a reasonable excuse for not doing so; or

- (b) state a name that is false in a material particular; or
- (c) state an address other than the full and correct address of his or her ordinary place of residence or business.

Penalty: 5 penalty units.

- (4) A person who is requested to state his or her name and address may request the member who made the request to state, orally or in writing, the member's name, rank and place of duty.
- (5) A relevant police member must not, in response to a request under subsection (4)—
 - (a) refuse or fail to comply with the request; or
 - (b) state a name or rank that is false in a material particular; or
 - (c) state as his or her place of duty an address other than the name of the police station which is the member's ordinary place of duty; or
 - (d) refuse to comply with the request in writing if requested to do so.

Penalty: 5 penalty units.

- (6) If a person states a name and address in response to a request made under subsection (1) and the member who made the request suspects on reasonable grounds that the stated name or address may be false, the member may request the person to produce evidence of the correctness of the name and address.
- (7) The person must comply with the request, unless he or she has a reasonable excuse for not doing so.

Penalty: 5 penalty units.

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- (8) It is not an offence for a person to fail to comply with a request made under subsection (1) or (6) if the member who made the request did not inform the person, at the time the request was made, that it is an offence to fail to comply with the request.

148E Variation and revocation of banning notice

S. 148E
inserted by
No. 73/2007
s. 5.

- (1) A relevant police member of or above the rank of sergeant may vary or revoke a banning notice at any time, by notice in writing given to the person to whom the notice applies.
- (2) A banning notice cannot be varied under this section to extend the period for which the notice applies.

148F Offence to contravene banning notice or fail to comply with police directions

S. 148F
inserted by
No. 73/2007
s. 5.

- (1) A person to whom a banning notice applies must not enter or re-enter, or attempt to enter or re-enter, the designated area or licensed premises in contravention of the notice.

Penalty: 20 penalty units.

- (2) If the person is in the designated area or licensed premises in contravention of the notice, he or she must comply with any direction given by a member of the police force under section 148G.

Penalty: 20 penalty units.

- (3) It is a defence to a charge of an offence against subsection (1) or (2) for the defendant to prove that—
- (a) the defendant was under a mistaken but honest and reasonable belief about facts which, had they existed, would have meant that the conduct would not have constituted an offence; or

- (b) the conduct constituting the offence was caused by circumstances beyond the control of the defendant and the defendant had taken reasonable precautions to avoid committing an offence.
- (4) Despite subsection (2), it is not an offence for a person to fail to comply with a direction given by a member of the police force under section 148G if the member of the police force did not comply with section 148G(3).
- (5) Section 130 of the **Magistrates' Court Act 1989** applies in the circumstances referred to in subsection (4).

S. 148G
inserted by
No. 73/2007
s. 5.

148G Direction to leave designated area or licensed premises

- (1) This section applies if a person to whom a banning notice applies is in the designated area or licensed premises in contravention of the notice.
- (2) Subject to subsection (3), a member of the police force may direct the person to leave the designated area or the licensed premises (as the case requires) in the manner, if any, directed by the member.
- (3) A member of the police force must—
 - (a) produce proof of his or her identity and official status before exercising a power under subsection (2) unless the member is in uniform; and
 - (b) inform the person that—
 - (i) the member of the police force is empowered to direct the person to leave the designated area or licensed premises (as the case requires); and
 - (ii) it is an offence to fail to comply with the direction; and

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- (c) make all reasonable attempts to ensure that the person understands the direction.
 - (4) A direction under subsection (2)—
 - (a) may be given orally or in writing; and
 - (b) must be reasonable in all the circumstances.

148H Police may use reasonable force to remove person

S. 148H
inserted by
No. 73/2007
s. 5.

- (1) A member of the police force, using no more force than is reasonably necessary, may—
 - (a) prevent a person from entering or re-entering, or attempting to enter or re-enter, a designated area or licensed premises contrary to section 148F(1);
 - (b) remove a person from a designated area or licensed premises after the person has refused to comply with a direction under section 148G.
- (2) Nothing in this section limits any powers of arrest that a member of the police force has under any other law.
- (3) Any action taken under this section does not prevent the institution of proceedings in respect of an offence.

Division 3—Exclusion orders

148I Exclusion orders

S. 148I
inserted by
No. 73/2007
s. 5.

- (1) A court may make an exclusion order in respect of a person (the *offender*) if the court—
 - (a) finds the offender guilty of a specified offence that was committed wholly or partly in a designated area; and

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- (b) does not sentence the offender to serve a term of imprisonment of 12 months or more, or an indefinite term of imprisonment, in respect of the specified offence; and
- (c) is satisfied that the order may be an effective and reasonable means of preventing the commission by the offender of further specified offences in the designated area.
- (2) An *exclusion order* is an order excluding the offender, for the period specified in the order, from—
- (a) the designated area; or
- (b) all licensed premises in the designated area; or
- (c) specified licensed premises, or licensed premises of a specified class, in the designated area.
- (3) An exclusion order may be made on the application of a member of the police force or the Director of Public Prosecutions, or on the court's own initiative.
- (4) The period specified in the exclusion order must not exceed 12 months.
- (5) An exclusion order—
- (a) may exclude the offender from the designated area or licensed premises (as the case requires) at all times during the period of the order, or at the times specified in the order;
- (b) may allow the offender to enter the designated area or licensed premises (as the case requires) for specified purposes during the period of the order, subject to any conditions the court thinks fit;
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- (c) may be made subject to any other conditions the court thinks fit.
- (6) In determining whether it is satisfied under subsection (1)(c), the court must consider—
- (a) the nature and gravity of the specified offence; and
 - (b) whether the offender has previously been found guilty of a specified offence committed in the designated area (whether or not it was a designated area at the time the offence was committed); and
 - (c) whether the offender is or has been the subject of an exclusion order in relation to another specified offence committed in the designated area, or a specified offence committed in another designated area (whether or not they were designated areas at the time the offence was committed); and
 - (d) the likely impact of the exclusion order on—
 - (i) the offender; and
 - (ii) any victim of the specified offence; and
 - (iii) public safety and public order; and
 - (e) any other matters the court considers relevant.

148J Offence to contravene exclusion order or fail to comply with police directions

S. 148J
inserted by
No. 73/2007
s. 5.

- (1) A person to whom an exclusion order applies must not enter or re-enter, or attempt to enter or re-enter, the designated area or licensed premises in contravention of the order.

Penalty: 60 penalty units.

s. 148K

- (2) If the person is in the designated area, or licensed premises in contravention of the order, he or she must comply with any direction given by a member of the police force under section 148K.

Penalty: 60 penalty units.

- (3) It is a defence to a charge of an offence against subsection (1) or (2) for the defendant to prove that—
- (a) the defendant was under a mistaken but honest and reasonable belief about facts which, had they existed, would have meant that the conduct would not have constituted an offence; or
 - (b) the conduct constituting the offence was caused by circumstances beyond the control of the defendant and the defendant had taken reasonable precautions to avoid committing an offence.
- (4) Despite subsection (2), it is not an offence for a person to fail to comply with a direction given by a member of the police force under section 148K if the member of the police force did not comply with section 148K(3).
- (5) Section 130 of the **Magistrates' Court Act 1989** applies in the circumstances referred to in subsection (4).
- (6) Nothing in this section affects the powers of the court or of the Supreme Court in relation to contempt of court.

S. 148K
inserted by
No. 73/2007
s. 5.

148K Direction to leave designated area or licensed premises

- (1) This section applies if a person to whom an exclusion order applies is in the designated area or licensed premises in contravention of the order.

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- (2) Subject to subsection (3), a member of the police force may direct the person to leave the designated area or the licensed premises (as the case requires) in the manner, if any, directed by the member.
- (3) A member of the police force must—
- (a) produce proof of his or her identity and official status before exercising a power under subsection (2) unless the member is in uniform; and
 - (b) inform the person that—
 - (i) the member of the police force is empowered to direct the person to leave the designated area or licensed premises (as the case requires); and
 - (ii) it is an offence to fail to comply with the direction; and
 - (c) make all reasonable attempts to ensure that the person understands the direction.
- (4) A direction under subsection (2)—
- (a) may be given orally or in writing; and
 - (b) must be reasonable in all the circumstances.

148L Police may use reasonable force to remove person

- (1) A member of the police force, using no more force than is reasonably necessary, may—
- (a) prevent a person from entering or re-entering, or attempting to enter or re-enter, a designated area or licensed premises contrary to section 148J(1);
 - (b) remove a person from a designated area or licensed premises after the person has refused to comply with a direction under section 148K.

S. 148L
inserted by
No. 73/2007
s. 5.

s. 148M

- (2) Nothing in this section limits any powers of arrest that a member of the police force has under any other law.
- (3) Any action taken under this section does not prevent the institution of proceedings in respect of an offence.

S. 148M
inserted by
No. 73/2007
s. 5.

148M Variation of exclusion order

- (1) Any of the following may apply to the court that made an exclusion order for variation of the order—
 - (a) the person to whom the order applies;
 - (b) the Director of Public Prosecutions;
 - (c) a member of the police force.
- (2) On application under subsection (1), the court may vary the exclusion order in any way the court considers appropriate, if the court is satisfied that facts or circumstances have arisen since the making or last variation of the order that make it appropriate for the order to be varied.

Division 4—General

S. 148N
inserted by
No. 73/2007
s. 5.

148N Relevant police members

- (1) An authorised member of the police force of or above the rank of sergeant may authorise a member of the police force to be a relevant police member for the purposes of this Part.
- (2) An authorisation under subsection (1) may be given in writing or orally.

Note

A member of the police force who is authorised by the Chief Commissioner for the purposes of this Act is also a relevant police member for the purposes of this Part—see the definitions of *relevant police member* and *authorised member of the police force* in section 3(1).

148O Licensed premises include authorised premises

In the case of premises in respect of which an on-premises licence is in force, a reference in this Part to licensed premises includes a reference to authorised premises.

S. 148O
inserted by
No. 73/2007
s. 5.

148P Disclosure of information for enforcement purposes

The Director or a relevant police member may disclose the following information to a licensee or permittee, or an employee or agent of a licensee or permittee—

S. 148P
inserted by
No. 73/2007
s. 5.

- (a) the fact that a banning notice or an exclusion order has been given or made that bans or excludes the person to whom it applies from the licensed premises; and
- (b) the name of the person to whom the notice or order applies and, if available, a photograph of that person; and
- (c) the period for which the notice or order applies; and
- (d) a copy of the notice or order and of any variation or revocation of the notice or order; and
- (e) any other information in relation to the notice or order that the Director or member considers necessary for the purposes of the effective and efficient enforcement of the notice or order.

s. 148Q

S. 148Q
inserted by
No. 73/2007
s. 5.

148Q Offence to permit contravention of banning notice or exclusion order

- (1) A licensee or permittee must not knowingly permit a person to whom a banning notice or an exclusion order applies to enter or re-enter the licensed premises in contravention of the notice or order.

Penalty: 60 penalty units.

- (2) An employee or agent of a licensee or permittee must not knowingly permit a person to whom a banning notice or an exclusion order applies to enter or re-enter the licensed premises in contravention of the notice or order.

Penalty: 60 penalty units.

S. 148R
inserted by
No. 73/2007
s. 5.

148R Annual report by Chief Commissioner

- (1) The Chief Commissioner must submit a report to the Minister in respect of each financial year that includes the following information—
 - (a) in relation to banning notices—
 - (i) the number of banning notices given during that year;
 - (ii) the number of persons to whom banning notices were given during that year;
 - (iii) the number of banning notices given during that year to each person who was given more than one banning notice during that year;
 - (iv) the suspected specified offences in respect of which banning notices were given during that year;
 - (v) the designated areas in which those offences were suspected of being committed;

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- (vi) the ages of the persons to whom banning notices were given during that year;
 - (vii) whether any of the persons to whom banning notices were given during that year were of Koori origin;
 - (viii) the number of banning notices given during that year in relation to each designated area;
 - (ix) the number of persons charged with an offence against section 148F(1) or (2) during that year;
 - (x) the results of those charges;
 - (xi) the number of contraventions of section 148F(1) or (2) that were recorded by members of the police force during that year in respect of which no charges were laid;
- (b) in relation to exclusion orders—
- (i) the number of applications made by members of the police force for exclusion orders during that year;
 - (ii) the number of exclusion orders made during that year;
 - (iii) the number of persons in respect of whom exclusion orders were made during that year;
 - (iv) the number of exclusion orders made during that year in respect of each person in respect of whom more than one exclusion order was made during that year;
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- (v) the specified offences in respect of which exclusion orders were made during that year;
 - (vi) the designated areas in which those offences were committed;
 - (vii) the ages of the persons in respect of whom exclusion orders were made during that year;
 - (viii) whether any of the persons in respect of whom exclusion orders were made during that year were of Koori origin or were homeless persons;
 - (ix) the number of exclusion orders that were made during that year in relation to each designated area;
 - (x) the number of persons charged with an offence against section 148J(1) or (2) during that year;
 - (xi) the results of those charges;
 - (xii) the number of contraventions of section 148J(1) or (2) that were recorded by members of the police force during that year in respect of which no charges were laid.
- (2) The Chief Commissioner must cause the information to be collected that is necessary to enable reports to be prepared under this section.
 - (3) The Chief Commissioner must submit a report under this section to the Minister within 2 months after the end of the financial year to which the report relates.
 - (4) The Minister must cause a report under this section to be presented to each House of Parliament within 7 sitting days of that House after the report is received by the Minister.
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(5) In this section—

Minister means the Minister administering the
Police Regulation Act 1958.

PART 9—ADMINISTRATION

Division 1—Director of Liquor Licensing

149 Director of Liquor Licensing

A Director of Liquor Licensing is to be appointed by the Governor in Council.

150 Terms of appointment

- (1) The Director holds office for the period, not exceeding 5 years, specified in his or her instrument of appointment and is eligible for re-appointment.
- (2) The Director must be paid the remuneration and allowances that are determined by the Governor in Council.
- (3) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to the Director in respect of the office of Director.

S. 150(3)
substituted by
Nos 108/2004
s. 117(1)
(Sch. 3
item 115.2),
80/2006
s. 26(Sch.
item 61.1).

151 Resignation and removal from office

- (1) The Director may resign his or her office by delivering a signed letter of resignation to the Governor.
- (2) The Governor in Council may remove the Director from office.

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- (3) The office of Director becomes vacant if the Director—
- (a) becomes an insolvent under administration;
or
 - (b) is convicted of an indictable offence or an offence that, if committed in Victoria, would be an indictable offence.

152 Acting Director

- (1) The Minister may appoint a person to act as Director during any period, or during all periods, when the Director is absent from duty or during a vacancy in the office of Director.
 - (2) If an acting Director has been appointed during the absence from duty of the Director and the Director ceases to hold office without having resumed duty, the period of appointment of the acting Director is deemed to continue until—
 - (a) the acting Director resigns; or
 - (b) the appointment is terminated by the Minister; or
 - (c) a period of 12 months elapses from the day on which the absent Director ceased to hold office—whichever happens first.
 - (3) An acting Director—
 - (a) has all the powers and must perform all the functions and duties of the Director; and
 - (b) is entitled to be paid the remuneration and allowances determined by the Minister; and
 - (c) is eligible for re-appointment.
 - (4) An acting Director may resign the acting appointment by delivering a signed letter of resignation to the Minister.
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153 Functions and powers

- (1) The Director has the functions and powers conferred on him or her by or under this or any other Act.
- (2) It is a function of the Director to provide advice to the Minister on the operation of this Act.

154 Director's investigatory function

The Director may investigate any matter relevant to the operation of this Act, including the conduct and practices of any licensee or permittee.

155 Delegation

The Director may delegate in writing to a person employed under Part 3 of the **Public Administration Act 2004** in the administration of this Act any power of the Director under this Act, other than this power of delegation.

156 Validity of acts and decisions

An act or decision of the Director or an acting Director is not invalid—

- (a) only because of a defect or irregularity in, or in connection with, the appointment of the Director or acting Director; or
- (b) on the ground that the occasion for the acting Director to act had not arisen or had ceased.

Division 2—Liquor Licensing Panel

157 Establishment and membership

- (1) The Liquor Licensing Panel is established.
- (2) The Panel consists of a Chairperson and as many other members as the Minister determines.
- (3) The Chairperson and other members of the Panel are to be appointed by the Minister.

S. 155
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 115.1).

158 Terms of appointment

- (1) A member of the Panel—
 - (a) may be appointed for a period not exceeding 5 years; and
 - (b) may be appointed on a full-time or part-time basis; and
 - (c) is eligible for re-appointment.
- (2) Each member of the Panel must be paid the fees and allowances that are determined by the Minister in respect of that member unless the member is employed by or on behalf of the State.
- (3) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member of the Panel in respect of the office of member.

S. 158(3)
substituted by
Nos 108/2004
s. 117(1)
(Sch. 3
item 115.3),
80/2006
s. 26(Sch.
item 61.2).

159 Resignation and removal

- (1) A member of the Panel may resign his or her office by delivering a signed letter of resignation to the Minister.
- (2) The Minister may remove a member from office.
- (3) The office of a member becomes vacant if the member—
 - (a) becomes an insolvent under administration;
or
 - (b) is convicted of an indictable offence or an offence that, if committed in Victoria, would be an indictable offence.

160 Functions of Panel

The functions of the Panel are—

- (a) to consider contested applications referred to it by the Director; and
- (b) to report to the Director on those applications; and
- (c) any other functions conferred on it by or under this Act.

161 Constitution of Panel for considering applications

- (1) For the purpose of considering and reporting on each contested application referred to it, the Panel is to be constituted by one or more members as determined by the Chairperson.
- (2) If the Panel is constituted by more than one member—
 - (a) the Chairperson presides if he or she is on the Panel; or
 - (b) if the Chairperson is not on the Panel, a member chosen by the members constituting the Panel presides.

Division 3—Hearings

162 Directions about hearings

- (1) The Panel may give directions about—
 - (a) the times and places of hearings; and
 - (b) matters preliminary to hearings; and
 - (c) the conduct of hearings.
- (2) The Panel may refuse to hear any person who fails to comply with a direction of the Panel.

163 Hearings to be in public

The Panel must conduct its hearings in public unless any person appearing objects to giving evidence or making a submission in public and the Panel is satisfied that the evidence or submission is of a confidential nature.

164 General procedure for hearings

- (1) In a hearing, the Panel—
 - (a) must act according to equity and good conscience without regard to technicalities or legal forms; and
 - (b) is not required to conduct the hearing in a formal manner; and
 - (c) is not bound by the rules or practice as to evidence but may inform itself on any matter—
 - (i) in any way it thinks fit; and
 - (ii) without notice to any person who has made an objection.
- (2) The Panel may prohibit or regulate cross-examination in any hearing.
- (3) Submissions and evidence may be given to the panel orally or in writing or partly orally and partly in writing.

165 Who may appear before a panel?

A person who has a right to be heard by the Panel or who is called by the Panel may—

- (a) appear and be heard in person; or
- (b) be represented by any other person.

166 Effect of failure to attend hearing

The Panel may report and make recommendations on a contested application without hearing a person who has notice of the hearing if the person is not present or represented at the time and place appointed for the hearing.

167 Adjournment of hearings

The Panel may from time to time adjourn a hearing to any times and places and for any purposes it thinks necessary.

168 Panel may regulate its own procedure

Subject to this Division, the Panel may regulate its own procedure.

169 Panel may take into account any relevant matter

The Panel may take into account any matter it thinks relevant in making its report and recommendations.

170 Evidence inadmissible in Tribunal proceedings

Evidence of anything said or done at a hearing of the Panel into a contested application is not admissible in any proceeding in the Tribunal in respect of that application unless all parties to that proceeding agree to the giving of the evidence.

171 Power of entry and inspection

- (1) If the Panel thinks it desirable for the purposes of the consideration of any contested application, the Panel may—
 - (a) enter and inspect any land or premises; or
 - (b) authorise another person to enter and inspect any land or premises for the purpose of preparing a report to the Panel.

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- (2) If land or premises are occupied by a person who is not the applicant or an objector, a power of entry under subsection (1) may only be exercised—
- (a) with the consent of the occupier; or
 - (b) after 2 days' notice has been given to the occupier.
- (3) A power of entry under subsection (1) may be exercised at any reasonable time.

Division 4—Licensing inspectors

172 Licensing inspectors

- (1) The Chief Commissioner may appoint a member of the police force of or above the rank of inspector to be a licensing inspector for the purposes of this Act.
- (2) A licensing inspector has the functions and powers conferred on him or her by this Act.
- (3) In addition to his or her other functions and powers, a licensing inspector—
 - (a) may report to the Director any matter that may affect the attainment of the objects of this Act; and
 - (b) may appear personally or by an Australian lawyer (within the meaning of the **Legal Profession Act 2004**) or a person approved by the Chief Commissioner in proceedings under this Act.

S. 172(3)(b)
amended by
No. 18/2005
s. 18(Sch. 1
item 60).

PART 10—GENERAL

173 Service of notices and other documents

- (1) A notice or other document required or permitted to be given to or served on a person under this Act may be given or served—
- (a) if the person is a natural person, by giving it to, or serving it personally on, the person or by sending it by post to the person at his or her usual or last known place of residence or business; or
 - (b) if the person is a body corporate, by leaving it at or sending it by post to the registered office of the body corporate; or
 - (c) if the person is the owner or mortgagee of licensed premises, by leaving it at or sending it by post to the address registered with the Director under section 98.
- (2) In subsection (1), *registered office* means—
- (a) the office of the body corporate that is the registered office or principal office in accordance with the law of the State or Territory by or under which the body corporate is incorporated; or
 - (b) if the body corporate is not incorporated in Australia, an office registered under the law of a State or Territory as a registered office of the body corporate; or
 - (c) in the case of a body corporate that has no such registered office or principal office, the principal place of business of the body corporate in Victoria, or, if it has no place of business in Victoria, its principal place of business in Australia.

S. 173(1)(c)
amended by
No. 74/2000
s. 3(Sch. 1
item 72.2).

174 Extension of time for objections

At the request of any person, the Director may—

- (a) extend the time for making an objection under this Act in respect of any particular application; or
- (b) accept an objection made after the time under this Act for making that objection has expired.

175 Application of Gambling Regulation Act 2003

- (1) Sections 2.5.24 to 2.5.38 of the **Gambling Regulation Act 2003** with respect to, and so far as they relate to, a house or place which is, or is used as, a common gaming house or place or to any house or place which is suspected, upon reasonable grounds, by the owner to be used as a common gaming house or place, with such adaptations as are necessary—
 - (a) extend and apply also to any house or place which is, or is used as, a house or place for the supply of liquor without a licence authorising the supply or is suspected upon reasonable grounds by the owner to be used as such a house or place;
 - (b) extend and apply to any unlicensed club which is used for the supply of liquor without a licence authorising the supply or is suspected upon reasonable grounds by the owner to be used for such supply; and
 - (c) have effect accordingly as if enacted in this Act and as if, in those sections—
 - (i) a reference to an officer of police or a member of the police force were a reference to a licensing inspector;

S. 175(1)
amended by
No. 114/2003
s. 12.1.3
(Sch. 6
item 9.4).

- (ii) a reference to any instruments of gaming and any instruments of betting and documents relating to betting and any money and securities for money were a reference to all liquor and vessels used for containing, measuring or drinking liquor.
- (2) A person guilty of an offence under any of the sections referred to in subsection (1) as so extended and applied for which no penalty is expressly provided under this Act, is liable—
 - (a) for a first offence to a penalty of not more than 15 penalty units or to imprisonment for not more than 3 months;
 - (b) for a second offence to a penalty of not more than 30 penalty units or for a term of imprisonment of not more than 6 months;
 - (c) for any subsequent offence to 50 penalty units or imprisonment for a term of not more than 12 months.

176 Issue of proof of age cards

- (1) A person may apply to the Director for the issue of a document indicating that the person is of or over the age of 18 years.
- (2) An application must be—
 - (a) in a form approved by the Director; and
 - (b) accompanied by the information and material, if any, required by the Director; and
 - (c) accompanied by the fee specified in the regulations for the purposes of this section.

S. 176(2)(b)
amended by
No. 92/2004
s. 18(1)(9)(a).

S. 176(2)(c)
inserted by
No. 92/2004
s. 18(1)(9)(b).

- (3) On receiving an application, the Director may issue a document indicating that the person is of or over the age of 18 years if the Director is satisfied that the person is of or over that age.

177 Treasurer may make payments

- (1) The Treasurer may, from time to time, pay amounts determined by the Treasurer to persons who hold, or have held, licences (whether granted under the law of Victoria or of another State or of a Territory) relating to the sale of liquor in respect of which taxes have been paid to the Commonwealth.
- (2) The Consolidated Fund is appropriated to the necessary extent for the purposes of subsection (1).

S. 177(1)
amended by
No. 6/2000
s. 34(1).

178 Treasurer may require information

- (1) For the purpose of determining whether to make a payment under section 177, or the amount of a payment, the Treasurer may require a person referred to in section 177(1)—
- (a) to give the Treasurer any information required by the Treasurer; or
 - (b) to produce to the Treasurer any document required by the Treasurer.
- (2) A person must not give any information or produce any document under subsection (1) that is false or misleading in a material particular.

Penalty: 500 penalty units in the case of a body corporate;

100 penalty units in any other case.

179 Records to be made and kept by certain licensees

S. 179(1)
substituted by
No. 6/2000
s. 34(2).

- (1) A person who is in a class of persons determined by the Commissioner of State Revenue who hold, or have held, licences must make a record of sales and purchases of liquor and keep each record for a period of 5 years after it was made.

S. 179(1A)
inserted by
No. 6/2000
s. 34(2).

- (1A) A determination of the Commissioner of State Revenue for the purposes of subsection (1)—
- (a) must be published in the Government Gazette and in a newspaper generally circulating in Victoria;
 - (b) takes effect on the date it is published or on the later date specified in it.
- (2) A record under this section must be in the form, and contain the particulars, required by the Commissioner of State Revenue.
- (3) A person must not—
- (a) fail to make or keep a record as required by this section; or
 - (b) include in a record under this section any information that is false or misleading in a material particular.

Penalty: 500 penalty units in the case of a body corporate;

100 penalty units in any other case.

- (4) A record under this section need not be kept for 5 years if the Commissioner of State Revenue authorises its earlier destruction.

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S. 179A
inserted by
No. 21/2001
s. 11,
amended by
No. 39/2002
s. 13,
repealed by
No. 39/2002
s. 16(b).

180 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The Governor in Council may make regulations for or with respect to encouraging responsible practices in the service, supply and promotion of liquor.
- (3) The regulations—
 - (a) may impose a penalty not exceeding 5 penalty units for a breach of the regulations;
 - (b) may be of general or of specially limited application;
 - (c) may differ according to differences in time, place or circumstances;
 - (d) may exempt persons or things, or classes of persons or things, from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.

- (4) Regulations with respect to fees—
- (a) may provide for different fees for different classes of application;
 - (b) may provide for fees that vary according to time;
 - (c) may provide for the means of payment of fees;
 - (d) may provide for the Director to waive or reduce fees in specified circumstances.
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**PART 11—REPEALS, CONSEQUENTIAL AMENDMENTS
AND TRANSITIONALS**

* * * * *

S. 181
repealed by
No. 21/2001
s. 13.

182 Savings and transitional provisions

Schedule 3 has effect.

* * * * *

S. 183
repealed by
No. 21/2001
s. 13.

SCHEDULES

SCHEDULE 1

Section 10(4)(a)

CLUB LICENCES

The rules of a club—

- (a) must preclude the payment of any amount to an officer or servant of the club by way of commission or allowance from the receipts of the club for the supply of liquor;
- (b) must provide that a visitor to the club must not be supplied with liquor in the club premises unless the visitor is—
 - (i) a guest in the company of a member of the club; or
 - (ii) if the club admits authorised gaming visitors, an authorised gaming visitor admitted in accordance with the rules of the club;
- (c) must provide that a person cannot—
 - (i) be admitted as an honorary or temporary member of the club (if the club has these types of membership); or
 - (ii) be exempted from the obligation to pay the ordinary subscription for membership of the club—unless the person is of a class specified in the rules and the admission or exemption is in accordance with the rules;
- (d) except in the case of a club primarily for sporting purposes, must provide that a person under the age of 18 years cannot be admitted to membership of the club;
- (e) must provide for a management committee of the club with responsibility for the affairs of the club;

-
- (f) must provide that the members of the management committee of the club be elected for a term of not less than 12 months by members of a class of members that constitutes not less than 60% of the total membership of the club, excluding temporary or honorary members and persons who are members by reason only of reciprocal arrangements with another club and persons whose rights as members are limited to rights as social, gaming or neighbourhood members;
- (g) unless the club is a body corporate—
- (i) must provide that the facilities of the club are provided and maintained from the joint funds of the club;
 - (ii) except as otherwise permitted under the **Liquor Control Reform Act 1998**, must not enable any person to receive a greater profit, benefit or advantage from the club than that to which any member is entitled;
 - (iii) must provide for periodic meetings of the management committee and the recording of minutes of the meetings;
 - (iv) must provide—
 - (A) that not less than two weeks may elapse between the date of nomination and the date of election of ordinary members; and
 - (B) that the names and addresses of persons proposed for election as members of the management committee of the club shall be displayed in a conspicuous place in the club premises for not less than one week before the date of the election; and
 - (C) for the election of members of the management committee by the general body of members; and
-

Sch. 1

- (D) for the keeping of records of members voting at an election of members; and
- (h) must provide for the keeping of records of guests; and
- (i) in the case of a club in respect of which a venue operator's licence is in force, must provide that an authorised gaming visitor must—
- (i) produce evidence of his or her residential address before being admitted to the licensed premises; and
 - (ii) carry identification at all times whilst on the licensed premises; and
 - (iii) comply with any relevant rules of the club whilst on the licensed premises.
-

SCHEDULE 2

**SPECIFIED OFFENCES FOR THE PURPOSES OF BANNING
NOTICES AND EXCLUSION ORDERS**

The following offences are specified offences for the purposes of Part 8A—

- 1 Offences against the person
An offence against section 16, 17, 18, 19, 20, 21, 22, 23, 24, 30, 31 or 31B of the **Crimes Act 1958**.
- 2 Sexual offences
An offence against section 38, 38A, 39 or 40 of the **Crimes Act 1958**.
- 3 Destroying or damaging property and trespass
An offence against section 197 or 206 of the **Crimes Act 1958** or section 9 of the **Summary Offences Act 1966**.
- 4 Offences relating to drunkenness
An offence against section 14 or 16 of the **Summary Offences Act 1966**.
- 5 Offensive and obscene behaviour
An offence against section 17 or 19 of the **Summary Offences Act 1966**.
- 6 Assaults—summary offences
An offence against section 23 or 24 of the **Summary Offences Act 1966**.
- 7 Prohibited weapons offences
An offence against section 5(1A) of the **Control of Weapons Act 1990**.
- 8 Failure to leave licensed premises
An offence against section 114(d) of this Act.

Sch. 2
repealed by
No. 21/2001
s. 13,
new Sch. 2
inserted by
No. 39/2002
s. 14,
repealed by
No. 39/2002
s. 16(b), new
Sch. 2
inserted by
No. 73/2007
s. 7.

SCHEDULE 3

Section 182

SAVINGS AND TRANSITIONAL PROVISIONS

1 Definitions

In this Schedule—

commencement day means the day on which
Part 11 of this Act comes into operation;

Commission means the Liquor Licensing
Commission established under the repealed
Act;

licence includes a licence within the meaning of
the repealed Act;

licensed premises includes licensed premises
within the meaning of the repealed Act;

licensee includes a licensee within the meaning of
the repealed Act;

permit includes a permit granted under the
repealed Act;

repealed Act means the **Liquor Control Act
1987**;

Victorian Electoral Commission means the
Victorian Electoral Commission established
under section 6 of the **Electoral Act 2002**.

Sch. 3 cl. 1
def. of
repealed Act
amended by
No. 23/2002
s. 197(1)(a).

Sch. 3 cl. 1
def. of
*Victorian
Electoral
Commission*
inserted by
No. 23/2002
s. 197(1)(b).

2 Liquor Licensing Commission

- (1) On the commencement day—
 - (a) the Commission is abolished and its members go out of office;
 - (b) the office of Chief Executive Officer of the Commission is abolished and the person who held that office immediately before the commencement day goes out of office.
- (2) Despite subclause (1)(a), the Commission, as constituted immediately before the commencement day, may hear and determine any application or matter under the repealed Act that was made or had arisen before that commencement.
- (3) Subject to this clause, the repealed Act applies to the hearing and determination of an application or matter under subclause (2) as if this Act had not been enacted.
- (4) Subject to this clause a determination under the repealed Act made by reason of subclause (2) has effect—
 - (a) in the case of a determination relating to the grant, variation, transfer or removal of a licence or permit—as if it had been made under the repealed Act immediately before the commencement day; and
 - (b) in any other case—as if it had been made under this Act.
- (5) A person who would be entitled to apply for review of a determination of the Commission under subclause (2) by virtue of section 105 of the repealed Act may apply to the Tribunal for review of the determination and the repealed Act applies to that review as if a reference in the repealed Act

to the Full Commission were a reference to the Tribunal.

3 Licences and permits under repealed Act

A licence or permit of a kind, or having effect as if it were a licence or permit of a kind, specified in column 1 of an item in the Table that is in force immediately before the commencement day is deemed to be, on and after the commencement day, a licence or permit of the kind specified in column 2 of that item granted and in force under this Act.

TABLE

<i>Item</i>	<i>Column 1 Licence or permit under repealed Act</i>	<i>Column 2 Licence or permit under this Act</i>
1.	General (class 1) licence	General licence
2.	Residential licence	General licence
3.	On-premises licence	On-premises licence
4.	General (class 2) licence	On-premises licence
5.	Limited licence	Limited licence
6.	Full club licence	Full club licence
7.	Restricted club licence	Restricted club licence
8.	Producer's or distributor's licence—	
8.1	- granted to a producer	Pre-retail licence
8.2	- granted to a distributor	Pre-retail licence
8.3	- granted to a vigneron	Vigneron's licence
9.	Packaged liquor licence	Packaged liquor licence
10.	BYO permit	BYO permit

4 Conditions of licences and permits under the repealed Act

- (1) A licence or permit referred to in clause 3 is subject to the conditions to which it was subject immediately before the commencement day.
- (2) The Director may remove a condition from a licence or permit referred to in clause 3 (other than a condition referred to in clause 6(3)) on application by a licensee or permittee or on the Director's own initiative.

5 Extended hours permits

If, immediately before the commencement day, a licensee of a licence referred to in column 1 of the Table in clause 3 held an extended hours permit under the repealed Act in respect of the licensed premises, the licence held by the licensee under this Act as a result of the operation of clause 3 authorises the licensee to supply liquor, in accordance with the licence, at the times specified in that permit.

6 Additional authority and conditions for pre-retail licence for producers and distributors

- (1) A pre-retail licence held by a person as a result of the operation of item 8.1 of the Table in clause 3 (producer) authorises the licensee to do the things referred to in section 49(1)(a) of the repealed Act in addition to anything it authorises the person to do under this Act.
- (2) A pre-retail licence held by a person as a result of the operation of item 8.2 of the Table in clause 3 (distributor) authorises the licensee to do the things referred to in section 49(1)(c) of the repealed Act in addition to anything it authorises the person to do under this Act.

- (3) The Director cannot remove a condition of a licence referred to in subclause (2) requiring the business carried on by the licensee under the licence to be not less than 90% the business of supplying liquor to licensees.

7 Restriction on general licence that was previously a residential licence

If a residential licence granted under the repealed Act or a licence having effect as a residential licence under the repealed Act did not authorise the licensee to sell or dispose of liquor for consumption off the licensed premises, the general licence held by the licensee as a result of the operation of clause 3 does not authorise the licensee to sell or dispose of liquor for consumption off the licensed premises, unless the licence is varied under this Act.

8 Restriction of on-premises licence granted to restaurant under repealed Act

An on-premises licence held by a licensee as a result of the operation of clause 3 in respect of an on-premises licence granted under section 50(2)(d) of the repealed Act or having effect as such a licence is subject to the condition that—

- (a) the predominant activity carried on on the licensed premises must be the preparation and serving of meals for consumption on the licensed premises; and
- (b) tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time.

9 Premises under old general (class 2) licence that are approved for gaming

Sch. 3 cl. 9
amended by
No. 114/2003
s. 12.1.3
(Sch. 6
item 9.5).

If, immediately before the commencement day—

- (a) a licensee held a general (class 2) licence under the repealed Act in respect of licensed premises; and
- (b) an approval was in force under Part 2A of the **Gaming Machine Control Act 1991** in respect of those premises—

the on-premises licence held by the licensee on and after the commencement day as a result of the operation of clause 3, and that licence as renewed from time to time under this Act, is deemed for the purposes of the **Gambling Regulation Act 2003** to be a general licence.

10 Consents and approvals under repealed Act continue

- (1) A consent of the Commission under section 120 of the repealed Act that was in force immediately before the commencement day continues in accordance with its terms and conditions on and after the commencement day for the purposes of section 105 of this Act as if it were a consent of the Director under that section.
- (2) A consent of the Commission under section 121 of the repealed Act that was in force immediately before the commencement day continues in accordance with its terms and conditions on and after the commencement day for the purposes of section 106 of this Act as if it were a consent of the Director under that section.

- (3) An approval of the Commission under section 128(2)(a)(i) or 128(2)(d) of the repealed Act that was in force immediately before the commencement day continues in accordance with its terms and conditions (if any) on and after the commencement day for the purposes of section 120(2)(a)(i) or 120(2)(e) of this Act as if it were an approval of the Director under that section.

11 Nominees continue

A person who, immediately before the commencement day, was a nominee of a licensee or permittee under section 86 of the repealed Act continues to be a nominee of that licensee or permittee on and after the commencement day for the purposes of this Act as if he or she had been approved by the Director under section 54 of this Act.

12 Endorsements continue

Any endorsements on a licence or BYO permit under the repealed Act that were in force immediately before the commencement day continue in force on and after the commencement day in respect of the equivalent licence or permit under this Act as if they had been made under this Act.

13 Authorisation of person under section 102 of repealed Act

A person who, immediately before the commencement day, carried on business as a result of an authorisation under section 102 of the repealed Act in respect of a licence or BYO permit continues to be authorised to carry on business in respect of the equivalent licence or permit on and after the commencement day as if their name had been endorsed on the licence or permit under section 93 of this Act.

14 People disqualified under repealed Act

- (1) A reference in section 27 to a person who is disqualified from holding a licence or permit under this Act includes a reference to a person who was disqualified from holding a licence or permit under the repealed Act.
- (2) On or after the commencement of this subclause, a decision made under section 103 of the repealed Act that was in force immediately before the commencement day takes effect according to its terms as if it were an order made under section 92 of this Act.

Sch. 3 cl. 14
amended by
No. 8/2006
s. 12 (ILA
s. 39B(3)).

Sch. 3 cl. 14(2)
inserted by
No. 8/2006
s. 12.

15 Notices required to be displayed under section 110A of the repealed Act

A requirement of the Commission under section 110A of the repealed Act that a notice be displayed on licensed premises that was in force immediately before the commencement day continues in force on and after the commencement day for the purposes of section 102 of this Act as if it were a requirement of the Director under that section.

16 Members of former Co-ordinating Council

- (1) The members of the Co-ordinating Council under section 6 of the repealed Act who were in office immediately before the commencement day become members of the Co-ordinating Council under section 5 of this Act on the commencement day on the terms and conditions on which they were appointed under the repealed Act.
- (2) The members referred to in subsection (1) hold office for the remainder of the terms for which they were appointed under the repealed Act, unless removed sooner.

17 Transitional provision—dry areas

- (1) If, before the commencement of the Licensing Act 1928, a local opinion poll had been taken in an electoral district as constituted on 21 October 1920 and a resolution that no licence be granted in that district had been carried, a licence under this Act must not be granted in respect of, or relocated to, any premises in that district except in accordance with subclause (2).
- (2) The following provisions have effect for the purposes of the grant or relocation of a licence in respect of premises in a district referred to in subclause (1)—
 - (a) before a new licence is granted in or an existing licence is relocated to any part of that district, the Director must in the case of a general licence, an on-premises licence or a club licence and may if he or she thinks proper in the case of any other licence order a vote of electors to be taken in the neighbourhood surrounding the proposed site of the premises in respect of which a licence has been applied for or to which a licence is sought to be relocated (as the case may be);
 - (b) the neighbourhood is to be delineated by the Director after consultation with the Victorian Electoral Commission;
 - (c) the resolution to be submitted at the vote of electors is—

That a licence (nature of licence to be stated) be granted in [or relocated to] the neighbourhood (neighbourhood to be sufficiently indicated);

Sch. 3
cl. 17(2)(b)
amended by
Nos 24/1999
s. 48, 23/2002
s. 197(2).

- (d) if a majority of the electors voting formally vote against the resolution, the Director must not grant the application for the licence or for the relocation of the licence (as the case may be) nor may he or she grant any application for a licence in or the relocation of a licence to that neighbourhood within 3 years after the taking of such vote;
- (e) when the Director orders a vote to be taken under this clause, the Victorian Electoral Commission must take a vote of electors accordingly and for that purpose—
- (i) the Victorian Electoral Commission may make all proper arrangements for the taking of the vote;
 - (ii) every elector within the neighbourhood delineated who is entitled to be enrolled on the register of electors within the meaning of the **Electoral Act 2002** on the 60th day before the taking of the vote is qualified to vote but may vote once only;
 - (iii) the voting may be conducted by means of postal voting;

Sch. 3
cl. 17(2)(e)
amended by
Nos 24/1999
s. 48, 23/2002
s. 197(3)(a).

Sch. 3
cl. 17(2)(e)(i)
amended by
No. 23/2002
s. 197(3)(b).

Sch. 3
cl. 17(2)(e)(ii)
amended by
No. 23/2002
s. 197(3)(c).

Sch. 3
cl. 17(2)(e)(iii)
repealed by
No. 23/2002
s. 197(3)(d),
new Sch. 3
cl. 17(2)(e)(iii)
inserted by
92/2004
s. 37(a).

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Sch. 3
cl. 17(2)(e)(iv)
repealed by
No. 23/2002
s. 197(3)(d).

Sch. 3

Sch. 3
cl. 17(2)(e)(v)
amended by
No. 23/2002
s. 197(3)(a).

(v) the Victorian Electoral Commission must cause notice of the result of the voting to be published in the Government Gazette;

Sch. 3
cl. 17(2)(e)(vi)
substituted by
No. 23/2002
s. 197(3)(e).

(vi) the Governor in Council may make regulations for or with respect to any matter or thing necessary to be prescribed for the carrying out and giving effect to the provisions of this clause;

Sch. 3
cl. 17(2)(e)(vii)
inserted by
No. 23/2002
s. 197(3)(e).

(vii) the regulations may include regulations based on the **Electoral Act 2002** and on regulations made under that Act with any alterations and adaptations that, in the opinion of the Governor in Council, are necessary.

(3) A reference in subclause (1) to a licence does not include a reference to a licence of a kind mentioned in Column 2 of item 5 in the Table in clause 3 granted to a person for a purpose similar to the purpose for which a licence of a kind mentioned in Column 1 of that item was or could have been granted to that person under the repealed Act.

18 Councils may take poll of voters

(1) A Council in whose municipal district an electoral district or part of an electoral district referred to in clause 17 is situated may cause a poll of voters in that electoral district or part to be held to obtain the opinion of the voters on whether the provisions of clause 17 should be retained, altered or repealed in respect of that electoral district or part.

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- (2) A poll under this clause is to be held in accordance with the provisions of the **Local Government Act 1989**, except that clause 16 of Schedule 3 to that Act does not apply.
- (3) If a poll is held under this clause—
- (a) the relevant Council must give written notice of the result of the poll to the Minister; and
 - (b) if the result of the poll is that the provisions of clause 17 should be repealed in respect of an electoral district or part, that clause ceases to apply in respect of that district or part on and from the day on which the result of the poll is announced; and
 - (c) if the result of the poll is that the provisions of clause 17 should be altered in respect of an electoral district or part, that clause is altered in respect of that district or part in accordance with the result of the poll on and from the day on which the result of the poll is announced.

19 Transitional provisions—Liquor Control Reform (Amendment) Act 2001

Sch. 3 cl. 19
inserted by
No. 21/2001
s. 12.

- (1) Section 11(3)(aa), as inserted by section 5 of the **Liquor Control Reform (Amendment) Act 2001**, extends to packaged liquor licences in force at the commencement of that section 5.
- (2) Section 18A, as inserted by section 6 of the **Liquor Control Reform (Amendment) Act 2001**, applies to a general licence granted or transferred to a person on an application made on or after 23 January 2001.
- (3) Section 22(3), as inserted by section 7 of the **Liquor Control Reform (Amendment) Act 2001**, applies to the grant of a licence or BYO permit on or after the commencement of that

section 7 whether the application for the grant was made before, on or after that commencement.

- (4) Section 23, as amended by section 8 of the **Liquor Control Reform (Amendment) Act 2001**, applies to the grant or transfer of a licence to a person on an application made on or after 23 January 2001.
- (5) However, section 23(3), as inserted by section 8(3) of the **Liquor Control Reform (Amendment) Act 2001**, does not apply to a general licence that was in force on 23 January 2001.
- (6) If—
 - (a) an application was made on or after 23 January 2001 for the grant or transfer of a licence to a person; and
 - (b) the licence was granted or transferred to the person before the commencement of the **Liquor Control Reform (Amendment) Act 2001**; and
 - (c) the grant or transfer of the licence would have been prohibited by section 23 had the amendments to that section by section 8 of the **Liquor Control Reform (Amendment) Act 2001** been in operation at the time of the grant or transfer—

the licence ceases to be in force, by virtue of this subclause, on the commencement of that Act.

20 Transitional provision—Liquor Control Reform (Packaged Liquor Licences) Act 2002

- (1) Section 11(3)(aac) and (aad), as inserted by section 6(1) of the **Liquor Control Reform (Packaged Liquor Licences) Act 2002**, extends to packaged liquor licences in force at the commencement of that section 6(1).

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- (2) However, the licence condition referred to in section 11(3)(aac) does not apply to a packaged liquor licence until the financial year commencing on 1 July 2003.
- (3) Section 35, as substituted by section 10 of the **Liquor Control Reform (Packaged Liquor Licences) Act 2002**, applies to an application made on or after the commencement of that section 10.
- (4) If—
- (a) on or after 14 May 2002 but before the day on which the **Liquor Control Reform (Packaged Liquor Licences) Act 2002** receives the Royal Assent, the Director grants or transfers to a person a packaged liquor licence; and
 - (b) the grant or transfer would have been prohibited by section 23 had the **Liquor Control Reform (Packaged Liquor Licences) Act 2002** received the Royal Assent—

the grant or transfer (as the case requires) is, and must be taken always to have been, void.

21 Transitional provisions—Liquor Control Reform Amendment Act 2007

Sch. 3 cl. 21
inserted by
No. 73/2007
s. 25.

- (1) The condition referred to in section 9(3)(c), as inserted by section 13(1)(b) of the Amending Act, applies on and after the commencement of that section 13(1)(b) to an on-premises licence whether the licence was granted before, on or after that commencement.
- (2) Section 90(1)(fa) and (fb), as inserted by section 17(2)(a) of the Amending Act, apply only in the case of a director or member of a committee of management who is convicted of an offence on or after the commencement of that section 17(2)(a).

Liquor Control Reform Act 1998
No. 94 of 1998

Sch. 3

(3) In this clause—

Amending Act means the **Liquor Control Reform Amendment Act 2007**.

Sch. 4
repealed by
No. 21/2001
s. 13.

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ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 8 October 1998

Legislative Council: 10 November 1998

The long title for the Bill for this Act was "A Bill to reform the law relating to the supply and consumption of liquor, to repeal the **Liquor Control Act 1987**, to make consequential amendments to other Acts and for other purposes."

The **Liquor Control Reform Act 1998** was assented to on 24 November 1998 and came into operation as follows:

Part 1 (sections 1–6) on 24 November 1998: section 2(1); rest of Act on 17 February 1999: Special Gazette (No. 22) 16 February 1999 page 3.

Liquor Control Reform Act 1998
No. 94 of 1998

Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Liquor Control Reform Act 1998** by Acts and subordinate instruments.

The Constitution Act Amendment (Amendment) Act 1999, No. 24/1999

Assent Date: 25.5.99
Commencement Date: 8.6.99: s. 2
Current State: All of Act in operation

National Taxation Reform (Consequential Provisions) Act 2000, No. 6/2000

Assent Date: 11.4.00
Commencement Date: S. 34 on 1.7.00: s. 2(3)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 72) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Liquor Control Reform (Amendment) Act 2001, No. 21/2001

Assent Date: 29.5.01
Commencement Date: 30.5.01: s. 2
Current State: All of Act in operation

Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 73) on 15.7.01: s. 2
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Liquor Control Reform (Prohibited Products) Act 2001, No. 88/2001

Assent Date: 11.12.01
Commencement Date: 21.12.01: s. 2
Current State: All of Act in operation

Electoral Act 2002, No. 23/2002

Assent Date: 12.6.02
Commencement Date: S. 197 on 1.9.02: Government Gazette 29.8.02 p. 2333
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Liquor Control Reform (Packaged Liquor Licences) Act 2002, No. 39/2002

Assent Date: 18.6.02
Commencement Date: S. 4(2) on 14.5.02: s. 2(2); ss 4(1), 5–15 on 18.6.02: s. 2(1); s. 16 on 1.1.06: s. 2(3)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Liquor Control Reform Act 1998
No. 94 of 1998

Endnotes

Small Business Commissioner Act 2003, No. 6/2003

Assent Date: 15.4.03
Commencement Date: S. 15 on 1.5.03: s. 2(2)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

ANZAC Day (Amendment) Act 2003, No. 96/2003

Assent Date: 2.12.03
Commencement Date: S. 14 on 3.12.03: s. 2
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Gambling Regulation Act 2003, No. 114/2003

Assent Date: 16.12.03
Commencement Date: S. 12.1.3(Sch. 6 item 9) on 1.7.04: Government Gazette 1.7.04 p. 1843
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Liquor Control Reform (Underage Drinking and Enhanced Enforcement) Act 2004, No. 92/2004

Assent Date: 7.12.04
Commencement Date: Ss 3–36 on 8.12.04: s. 2(1); s. 37(a) on 1.3.06: Government Gazette 23.2.06 p. 366
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 115) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Legal Profession (Consequential Amendments) Act 2005, No. 18/2005

Assent Date: 24.5.05
Commencement Date: S. 18(Sch. 1 item 60) on 12.12.05: Government Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Health Professions Registration Act 2005, No. 97/2005

Assent Date: 7.12.05
Commencement Date: S. 182(Sch. 4 item 33) on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Liquor Control Reform (Amendment) Act 2006, No. 8/2006

Assent Date: 4.4.06
Commencement Date: Ss 4(1), 6–12 on 5.4.06: s. 2(1); ss 4(2), 5 on 1.12.06: s. 2(3)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Liquor Control Reform Act 1998
No. 94 of 1998

Endnotes

Education and Training Reform Act 2006, No. 24/2006

Assent Date: 16.5.06
Commencement Date: S. 6.1.2(Sch. 7 item 26) on 1.7.07: Government Gazette 28.6.07 p. 1304
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: Ss 86, 87 on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 61) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Liquor Control Reform Amendment Act 2007, No. 73/2007

Assent Date: 18.12.07
Commencement Date: Ss 4–10, 12, 14, 15, 17(2), 18, 24–26 on 19.12.07: Special Gazette (No. 342) 18.12.07 p. 1; s. 13 on 7.2.08: Government Gazette 7.2.08 p. 236; ss 11, 16, 17(1), 19–23 on 22.5.08: Special Gazette (No. 134) 21.5.08 p. 1
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Justice Legislation Amendment Act 2008, No. 21/2008

Assent Date: 2.6.08
Commencement Date: S. 27 on 3.6.08: s. 2(1)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

3. Explanatory Details

No entries at date of publication.