

Version No. 003
Liquor Control Reform Act 1998

Act No. 94/1998

Version incorporating amendments as at 1 July 2000

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
PART 1—PRELIMINARY	1
1. Purpose	1
2. Commencement	1
3. Definitions	1
4. Objects	8
5. Co-ordinating Council	9
6. Act not to apply in certain cases	10
PART 2—LICENCES AND BYO PERMITS	13
Division 1—Categories of Licences and Permits	13
7. What are the categories of licences and permits that may be issued under this Act?	13
8. General licence	13
9. On-premises licence	14
10. Club licence	15
11. Packaged liquor licence	17
12. Pre-retail licence	18
13. Vigneron's licence	19
14. Limited licence	20
15. BYO permit	21
16. Licence and permit condition—compliance with planning scheme	21
17. Licence condition—extended hours	22
18. Licence and permit condition—approval of directors	22
Division 2—Additional Authority of Licences and BYO Permits	23
19. 30-minute period for consumption of liquor after hours	23
20. Gratuitous supply of liquor	23
21. Bringing of liquor onto licensed premises	23

<i>Section</i>	<i>Page</i>
Division 3—Restrictions on Grant of Licences and BYO Permits	24
22. Certain premises not to be licensed	24
23. Limit on packaged liquor licences held by the same or related persons	25
24. Further restriction on grant of packaged liquor licence	25
25. Restrictions on grant of club licences	25
26. Restriction on grant of limited licence	26
Division 4—Applications for Grant, Variation, Transfer and Relocation of Licences and BYO Permits	26
27. Who can apply for a licence or BYO permit?	26
28. Form of application	27
29. Application for variation of licence or BYO permit	27
30. Procedure on application for variation by Chief Commissioner or licensing inspector	28
31. Application for relocation of licence or BYO permit	29
32. Application for transfer of licence or BYO permit	29
33. Copy of application to be given to police and local council	30
34. Public display of licence application	31
35. Advertisement of licence application	33
36. Notification of particular persons	33
37. Guidelines	33
Division 5—Objections	34
38. Objection on ground of amenity	34
39. Objection by Chief Commissioner	34
40. Objection by local council	35
41. Objection to licence by licensing inspector	36
42. Director may refuse to accept objection	37
43. Withdrawal of objection	37
Division 6—Determination of applications	37
44. Determination of uncontested applications	37
45. Referral of contested applications to Panel	40
46. What does the Panel do?	40
47. Determination of contested application after Panel report	40
48. Director may permit amendments and disregard errors	41
49. Licence and BYO permit conditions	41
50. Period of licence or BYO permit	41
51. Form of licence or BYO permit and endorsements	42
52. Copy of licence or BYO permit	42
53. Liability of joint and incorporated licensees or permittees and unincorporated clubs	42
54. Nominee of licensee or permittee	43
55. Transfer of club licence to incorporated association	44

<i>Section</i>	<i>Page</i>
56. Concurrent dealing with transfer and relocation	44
57. Effect of transfer or relocation	44
Division 7—Variation of Licence or BYO Permit by Director	45
58. Variation of licence or BYO permit at initiative of Director	45
Division 8—Renewal of Licences and BYO Permits	46
59. Licence to be renewed within 21 days	46
60. Licence renewal after 21 days	46
61. Notice of failure to renew licence or BYO permit	47
62. Power to owner and others to renew licence	47
Division 9—Surrender and Lapse of Licence or BYO Permit	49
63. Surrender of licence or BYO permit	49
64. Release of licensee or permittee	49
65. Partner leaving partnership	50
66. Licence or permit lapses if not endorsed	50
PART 3—SPECIAL PROCEDURES FOR CERTAIN LICENCES	52
Division 1—Club Licences for Amalgamated Clubs	52
67. Application by amalgamated club for a club licence	52
68. Objection to grant of licence to amalgamated club	53
69. Grant of licence to amalgamated club	53
70. Division does not affect Division 4 of Part 2	54
Division 2—Casino premises	54
71. Definitions	54
72. Application of Division	54
73. Requirements for an application to which this Division applies	54
74. Grant of application	55
Division 3—Australian Grand Prix	55
75. Definitions	55
76. Application of Division	55
77. Requirements for an application to which this Division applies	55
78. Objection by Chief Commissioner	56
79. Grant of application	56
PART 4—AUTHORISATION OF OTHERS TO CARRY ON LICENSED BUSINESS	58

<i>Section</i>	<i>Page</i>
80. Application by executors, trustees and administrators for endorsement on licence or BYO permit	58
81. Application by owner or mortgagee of licensed premises for endorsement on licence or BYO permit	58
82. Application procedure	59
83. Objection by Chief Commissioner	59
84. Grant of application	59
85. Endorsement at initiative of Director	60
86. Effect of endorsement	60
PART 5—TRIBUNAL REVIEWS	62
87. Application for review of licence and permit decisions	62
88. Application for review of other decisions	62
89. Time limit for applying for review	63
PART 6—INQUIRIES AND DISCIPLINARY PROVISIONS	64
Division 1—Inquiries	64
90. Application for inquiry	64
91. What may Tribunal do on an inquiry?	65
92. Disqualification	67
93. Endorsement of licence or permit by Tribunal	68
Division 2—Licence or permit cancellation or suspension in other circumstances	68
94. Application by Director	68
95. Application by others	69
96. Cancellation or suspension by Tribunal	69
Division 3—Effect of Suspension	69
97. Effect of suspension of licence or permit	70
PART 7—OBLIGATIONS OF OWNERS, MORTGAGEES, LICENSEES AND PERMITTEES	71
98. Owners and mortgagees of licensed premises	71
99. Refreshments to be available	71
100. Residents' register	71
101. Copy of licence or permit to be displayed on premises	72
102. Notices required by the Director must be displayed	72
103. Change of directors	72
104. Approval of directors	73
105. No letting or sub-letting without consent	74
106. Control of business of supply of liquor	74
PART 8—OFFENCES AND ENFORCEMENT	76

<i>Section</i>	<i>Page</i>
Division 1—General Offences	76
107. Unlicensed selling of liquor	76
108. Offences by licensee and permittee	76
109. Taking orders for liquor at unlicensed premises	78
110. Holding out	78
111. Bringing liquor to premises outside trading hours	78
112. Keeping liquor in unlicensed club	79
113. Consuming or having liquor on unlicensed premises	79
114. Offences by persons other than licensee or permittee	80
115. Betting on licensed premises	81
116. Falsely indicating that premises are licensed	82
117. Procuring transfer by fraud	82
118. False or misleading statements	83
Division 2—Underage Drinking	84
119. Supplying liquor to minors	84
120. Allowing minors on licensed or authorised premises	85
121. Sending minor to obtain liquor	87
122. Permitting minor to supply liquor	87
123. Offences by minors	88
124. Wrongful dealing in evidence of age document	90
125. Offence of falsely procuring proof of age card	91
Division 3—Investigatory powers	92
126. Power to demand suspected minor to give his or her age	92
127. Seizure of evidence of age document	93
128. Seizure of liquor from minors	94
129. Entry to licensed premises	95
130. General warrant to enter and search	96
131. Power to seize liquor in certain cases	97
132. Police to assist if person asked to leave premises	98
133. Further search and seizure powers	98
Division 4—Legal Proceedings	100
134. Presumption as to holder of licence or permit	100
135. Averments	100
136. Sufficient evidence of certain matters	101
137. Copies of certain documents	103
138. Property forfeited	103
139. Concurrent proceedings	104
140. Notice of conviction	104
Division 5—Infringement Notices	104
141. Power to serve an infringement notice	104

<i>Section</i>	<i>Page</i>
142. Form of notice	105
143. Withdrawal of notice	106
144. Infringement penalties	106
145. Late payment of penalty	106
146. Payment expiates offence	107
147. Application of penalty	107
148. Prosecution after service of infringement notice	108
PART 9—ADMINISTRATION	109
Division 1—Director of Liquor Licensing	109
149. Director of Liquor Licensing	109
150. Terms of appointment	109
151. Resignation and removal from office	109
152. Acting Director	110
153. Functions and powers	110
154. Director's investigatory function	111
155. Delegation	111
156. Validity of acts and decisions	111
Division 2—Liquor Licensing Panel	111
157. Establishment and membership	111
158. Terms of appointment	111
159. Resignation and removal	112
160. Functions of Panel	112
161. Constitution of Panel for considering applications	113
Division 3—Hearings	113
162. Directions about hearings	113
163. Hearings to be in public	113
164. General procedure for hearings	114
165. Who may appear before a panel?	114
166. Effect of failure to attend hearing	114
167. Adjournment of hearings	115
168. Panel may regulate its own procedure	115
169. Panel may take into account any relevant matter	115
170. Evidence inadmissible in Tribunal proceedings	115
171. Power of entry and inspection	115
Division 4—Licensing Inspectors	116
172. Licensing inspectors	116
PART 10—GENERAL	117
173. Service of notices and other documents	117

<i>Section</i>	<i>Page</i>
174. Extension of time for objections	118
175. Application of Lotteries Gaming and Betting Act 1966	118
176. Issue of proof of age cards	119
177. Treasurer may make payments	120
178. Treasurer may require information	120
179. Records to be made and kept by certain licensees	120
180. Regulations	121
PART 11—REPEALS, CONSEQUENTIAL AMENDMENTS AND TRANSITIONALS	123
181. Repeals	123
182. Savings and transitional provisions	123
183. Consequential amendments	123
—————	
SCHEDULES	124
SCHEDULE 1—Club licences	124
SCHEDULE 2—Repeals	126
SCHEDULE 3—Savings and transitional provisions	127
SCHEDULE 4—Consequential amendments	136
=====	
NOTES	139
1. General Information	139
2. Table of Amendments	140
3. Explanatory Details	141

Version No. 003
Liquor Control Reform Act 1998

Act No. 94/1998

Version incorporating amendments as at 1 July 2000

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purpose¹

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 sub-section (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 sub-section (2) does not come into operation before 1 July 1999, it comes into operation on that day.

3. Definitions

- (1) In this Act—

"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

Liquor Control Reform Act 1998
Act No. 94/1998

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 sub-section (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);

"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 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);

"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**;

"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;

"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
- (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;

"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—
 - (i) a person introduced to the club by a member in accordance with the rules of the club; or
 - (ii) a person who is a member of the club by reason only of reciprocal arrangements with another club;

"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;

"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;
- (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;

"permittee" means the holder of a BYO permit;

"premises" includes a vehicle, vessel and aircraft;

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

"related entity", in relation to a body corporate, has the same meaning as in the Corporations Law;

"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;

"supply", in relation to liquor, includes sell, offer or expose for sale, exchange, dispose of and give away;

"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);

"venue operator's licence" has the same meaning as in the **Gaming Machine Control Act 1991**;

"vigneron" 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.
- (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.

4. Objects

The objects of this Act are—

- (a) to contribute to minimising harm arising from the misuse and abuse of alcohol by—
-

Liquor Control Reform Act 1998

Act No. 94/1998

- (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
- (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. Co-ordinating Council

- (1) A Co-ordinating Council is established to advise the Minister on problems of alcohol abuse and on any other matters referred to it by the Minister.
- (2) The members of the Co-ordinating Council are—
 - (a) a person nominated by the Minister;
 - (b) a person nominated by the Minister administering the **Police Regulation Act 1958**;
 - (c) a person nominated by the Minister administering the **Health Act 1958**;
 - (d) a person nominated by the Minister administering the **Education Act 1958**;
 - (e) a person nominated by the Minister administering the **Community Services Act 1970**;
 - (f) three people nominated by the Minister from a panel of names submitted to the Minister by representatives of the liquor industry;
 - (g) two people nominated by the Minister as people representing community interests;

- (h) a person with special expertise in the problems of underage drinking nominated by the Minister;
 - (i) a person nominated by the Minister from a panel of names submitted to the Minister by youth organisations;
 - (j) a person with special expertise in the problems of drink-driving nominated by the Minister;
 - (k) a person with special knowledge of matters affecting residential amenities nominated by the Minister;
 - (l) a person with special expertise in the social and medical aspects of alcohol abuse and misuse nominated by the Minister.
- (3) Members are to be appointed by the Governor in Council and one of the members is to be appointed as chairperson.
 - (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 Sector Management and Employment Act 1998** does not apply to a member of the Council in respect of the office of member.
 - (7) The Governor in Council may remove a member from office.
 - (8) The Council may regulate its own procedure.

6. Act not to apply in certain cases

This Act does not apply—

Liquor Control Reform Act 1998

Act No. 94/1998

- (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 registered medical practitioner within the meaning of the **Medical Practice Act 1994** or registered pharmaceutical chemist; 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
- (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 the sheriff or a person authorised by the sheriff or to a bailiff or member of the police force selling by auction any liquor taken in execution or under any warrant of distress or forfeited; or
 - (k) to the granting of allowances of liquor to the crew of a vessel.
-

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 sub-section (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.

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
- (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.
- (2) An on-premises licence is subject to—
- (a) the conditions set out in sub-section (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.

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

(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 Sector Management and Employment Act 1998** 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 sub-section (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 sub-section (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.

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—
- (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.

12. *Pre-retail licence*

- (1) A pre-retail licence authorises the licensee to supply liquor at any time and on any premises to a person who holds a licence under this Act.

-
- (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 sub-section (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
 - (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 sub-section (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.
- (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 sub-section (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) Sub-section (1) does not apply to a pre-retail licence or a limited licence.

17. Licence condition—extended hours

- (1) Subject to sub-section (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) Sub-section (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 sub-section (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) Sub-section (1) does not apply to—
 - (a) a licence or BYO permit held by—
 - (i) a Council; or
 - (ii) a university within the meaning of the **Tertiary Education Act 1993**; or

-
- (iii) a TAFE college within the meaning of the **Vocational Education and Training Act 1990**; or
 - (b) a club licence.

Division 2—Additional Authority of Licences and BYO Permits

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
 - (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 sub-section (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.

23. *Limit on packaged liquor licences held by the same or related persons*

The Director must not grant or transfer to a person a packaged liquor licence if, at the time of the application for the grant or transfer—

- (a) in the case of a natural person, the person holds more than 8% of all packaged liquor licences granted and in force under this Act; or
- (b) in the case of a body corporate, the sum of the number of packaged liquor licences held by the body corporate and by any related entities is more than 8% of all packaged liquor licences granted and in force under this Act.

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.
- (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.

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.

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
 - (b) include the prescribed particulars; and
 - (c) be accompanied by—
 - (i) the prescribed information (if any); 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.

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
 - (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 sub-section (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
 - (ii) (except in the case of an application by the Chief Commissioner or a licensing inspector) the prescribed variation fee.
- (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 give a copy of the application to the licensee or permittee not later than 14 days after the application is received by the Director;
- (b) the licensee or permittee, within 14 days after receiving the copy of the application, may give notice in writing to the Director of an objection to the application;
- (c) the Director must give a copy of any objection under paragraph (b) to the Chief Commissioner or the inspector within 7 days after he or she receives the objection.

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
 - (c) be accompanied by—
 - (i) the prescribed information (if any); 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
 - (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.

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.

- (3) Sub-sections (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 sub-section (1) if the notice is conspicuously displayed in accordance with sub-section (2) on any adjoining premises.
- (5) An applicant is deemed to have complied with sub-sections (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 sub-sections; and
 - (b) that any failure to keep the notice so displayed was not the fault of the applicant.
- (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.
-

35. *Advertisement of licence application*

- (1) The Director may direct an applicant for a licence or for a variation or relocation of a licence to cause notice of the application to be advertised in a newspaper, or a newspaper specified by the Director, 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 any other manner the Director thinks fit.

- (2) The Director may refuse to consider an application until a direction under sub-section (1) is complied with.

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 sub-section (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 sub-section (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.
- (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.
 - (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.
- (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;
 - (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 the day on which notice of the application for the grant, variation, transfer or relocation was first displayed under section 34(1); 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.

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;
 - (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.
- (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.
- (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 sub-section (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) Sub-section (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 sub-section (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.
- (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.
- (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 sub-section (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.
- (7) In making his or her decision, the Director must consider any objection made under sub-section (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.

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.
- (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 sub-section (3), the licensee or permittee may give the Director written notice of objection to the proposed variation.

- (5) If the licensee or permittee gives notice of objection in accordance with sub-section (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.

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.
- (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 sub-section (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 sub-section (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.

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) Sub-section (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 sub-section (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.
 - (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 sub-section (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 sub-section (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.
- (3) A person who is given notice under sub-section (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 sub-section (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 sub-section (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 sub-section (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 Law—

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.
 - (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*

Liquor Control Reform Act 1998

Act No. 94/1998

- (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.
-

**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 sub-section (2), the official receiver, trustee or assignee of a licensee or permittee who becomes an insolvent under administration;
 - (d) subject to sub-section (2), a person who is administering a licensee or permittee that is an externally-administered body corporate within the meaning of the Corporations Law.
- (2) A person referred to in paragraph (c) or (d) of sub-section (1) may apply under that sub-section only if they are in possession of the licensed premises.

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

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.

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 Law; 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.

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.
-

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.

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.
-

89. Time limit for applying for review

An application for review 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 sub-section (2) considers that a licensee or permittee—
- (a) has contravened the licence or BYO permit or a condition of the licence or permit; or
 - (b) has contravened a condition of any other approval or consent of the Director under this Act; or
 - (c) has been convicted of an offence under this Act; or
 - (d) has been convicted of an offence under the **Health Act 1958** relating to adulterated liquor; or
 - (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
 - (g) has knowingly assisted a person to breach a disqualification order made under section 92; or
 - (h) has paid a penalty for an offence for which an infringement notice under this Act has been issued; 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 sub-section (1)(f) 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.

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

Liquor Control Reform Act 1998
Act No. 94/1998

- (iii) endorsing the licence or permit under section 93;
- (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 not exceeding \$10 000 on the licensee or permittee;
 - (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 sub-section (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.
-

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 sub-section (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 sub-section (1)(c).

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).
-

**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.

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.

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 within the meaning of the **Tertiary Education Act 1993**; or
 - (iii) a TAFE college within the meaning of the **Vocational Education and Training Act 1990**; or
 - (b) a licensee under a club licence.

104. Approval of directors

- (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.
- (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 sub-section (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 sub-section (3).

105. *No letting or sub-letting without consent*

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

Penalty: 20 penalty units.

- (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 or representations 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.

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.

Penalty: 20 penalty units.

- (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 or representations 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.
-

PART 8—OFFENCES AND ENFORCEMENT

Division 1—General Offences

107. *Unlicensed selling of liquor*

- (1) A person who is not a licensee must not sell liquor.
Penalty: 50 penalty units or imprisonment for 12 months.
- (2) Sub-section (1) does not apply to the sale of liquor by an employee or agent of a licensee if the sale 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) Sub-sections (4) and (5) do not apply to premises if the court is satisfied that the premises are used solely for residential purposes.

108. *Offences by licensee and permittee*

- (1) A licensee or permittee—
 - (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;
 - (c) must not supply liquor to a person in a state
of intoxication;
 - (d) must not permit a person to play any
unlawful game on the licensed premises or
on any authorised premises;
 - (e) must not permit drunken or disorderly
persons to be on the licensed premises or on
any authorised premises.

Penalty: 20 penalty units.

- (2) Sub-section (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 sub-section (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
 - (b) on Anzac Day on any premises approved
under section 11A(1)(b) of the **Lotteries
Gaming and Betting Act 1966**; and

- (c) not more than 7 days before Anzac Day on any premises at which a function is being held to which section 11A(3) of the **Lotteries Gaming and Betting Act 1966** applies.

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) Sub-section (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.

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 sub-section (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) Sub-section (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 licensee or an operator under the **Gaming and Betting Act 1994** is established in the premises; and
- (ii) the betting takes place through the licensee or an operator in that betting facility; or

(c) if—

- (i) the premises are being used by any sub-branch of the Returned and Services League or are approved under section 11A(1)(b) of the **Lotteries Gaming and Betting Act 1966**; and
 - (ii) the betting is engaged in during a game of two-up on Anzac Day; or
- (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 11A(3) of the **Lotteries Gaming and Betting Act 1966** applies is being held on the premises.

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 sub-section (2), the Tribunal may—
 - (a) declare the transfer void; and
 - (b) if it does so, may make an order that the person convicted under sub-section (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: 20 penalty units.

- (2) It is a defence to a prosecution under sub-section (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 2—Underage Drinking

119. *Supplying liquor to minors*

- (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: 20 penalty units.
- (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: 20 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: 20 penalty units.
- (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: 5 penalty units.
- (5) Sub-sections (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
- (d) to the supply of 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; 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*

- (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 spouse, being a person of or over the age of 18 years, or his or her parent or guardian; 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: 20 penalty units.

(2) Sub-section (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
- (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.
- (3) If the Director grants or revokes an approval for the purposes of sub-section (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.

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: 20 penalty units.

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: 10 penalty units.

- (2) Sub-section (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
 - (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 his or her spouse (being a person of or over the age of 18 years) or parent or guardian; 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) Sub-section (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 liquor from a licensee or permittee by 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; 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) Sub-section (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 sub-section (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 of falsely procuring proof of age card*

- (1) A person must not give a document he or she knows to be false to another person with the intent of using the document to obtain a proof of age card.

Penalty: 20 penalty units.

- (2) A person must not give a document he or she knows to be false to another person if the first person knows that the other person intends to use the document to obtain a proof of age card.

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
 - (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.

- (2) A person demanding particulars under sub-section (1) may require the person from whom the particulars are demanded to complete and sign a statement in the form approved by the Director as to his or her age, name and address.
 - (3) If a person demanding particulars under sub-section (1) considers that any particulars supplied
-

by a person in response to the demand are false, he or she may require the person to give satisfactory evidence of the correctness of the particulars.

- (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) supply any false evidence as to his or her age, name or address—

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 sub-section (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 sub-section (1) or to whom a document has been given under sub-section (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.

128. *Seizure of liquor from minors*

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.

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.

Penalty: 15 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 Sector Management and Employment Act 1998** in the administration of this Act authorised in writing by the Director;
 - (c) an authorised member of the police force;
 - (d) a licensing inspector;
 - (e) a tax officer authorised in writing by the Commissioner of State Revenue acting under an authority given under sub-section (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—
- (a) in any premises liquor is supplied by a person without a licence authorising the supply; 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) in the case of premises referred to in paragraph (b), to take possession of any documents relating to the business of the club; and
 - (g) to detain any liquor, vessels and documents possession of which is so taken.
- (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.

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 residential licence, 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.

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.

(2) A person must not—

- (a) prevent an authorised person from exercising any power under sub-section (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 sub-section (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.

- (3) A person is not guilty of an offence under sub-section (2)(c) only because of a failure to answer a question under sub-section (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 sub-section (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 Sector Management and Employment Act 1998** 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 sub-section (6).

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 residential licence 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.

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.
- (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 sub-section (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*

- (1) If a licensee or permittee is convicted of an offence against this Act, 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 sub-section (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***

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

-
- (2) An infringement notice may be served in respect of an offence against—
- (a) section 100 (residents' register);
 - (b) section 101 (failure to display licence or permit on licensed premises);
 - (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);
 - (e) section 108 (certain offences by licensee or permittee);
 - (f) section 109 (taking orders at unlicensed premises);
 - (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);
 - (j) Division 2 of Part 8 (offences in relation to underage drinking);
 - (k) section 126(4) (name and address of minor).

142. Form of notice

An infringement notice must state—

- (a) the date of the notice;
 - (b) the provision that creates the offence;
 - (c) the nature, and a brief description, of the alleged offence;
 - (d) the date, time and place of the alleged offence;
 - (e) the infringement penalty for the offence;
-

- (f) the manner in which the infringement penalty may be paid;
- (g) the time (not being less than 28 days after the date on which the notice is served) within which the infringement penalty must be paid;
- (h) that if the infringement penalty is paid before the end of the time specified in the notice, the matter will not be brought before the Magistrates' Court unless the notice is withdrawn within 28 days after the date on which it was served;
- (i) that the person is entitled to disregard the notice and defend any proceedings in respect of the alleged offence in the Magistrates' Court;
- (j) any other prescribed particulars.

143. *Withdrawal of notice*

- (1) A member of the police force may withdraw an infringement notice at any time within 28 days after the notice was served by serving a withdrawal notice on the alleged offender.
- (2) An infringement notice may be withdrawn even if the infringement penalty has been paid.
- (3) If an infringement notice is withdrawn, the amount of any infringement penalty paid must be refunded and the Consolidated Fund is, to the necessary extent, appropriated accordingly.

144. *Infringement penalties*

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

145. *Late payment of penalty*

A member of the police force may accept payment of the infringement penalty even after the expiration of the time for payment stated in the infringement notice if—

- (a) a charge has not been filed in respect of the offence to which the infringement penalty relates; and
- (b) the infringement notice has not been withdrawn.

146. *Payment expiates offence*

- (1) If an infringement notice is not withdrawn and the infringement penalty is paid within the time for payment stated in the notice or payment is accepted in accordance with section 145, then—
 - (a) the alleged offender has expiated the offence; and
 - (b) no proceedings may be taken against that person in respect of the offence; and
 - (c) no conviction is to be taken to have been recorded against that person for the offence.
- (2) Nothing in this section affects or takes away from section 90(1)(h).

147. *Application of penalty*

- (1) An infringement penalty paid under this Division must be applied in the same way as a fine paid under an order of the Magistrates' Court made on an offender being convicted or found guilty of the offence to which the infringement penalty relates.
- (2) The payment of an infringement penalty under this Division is not and must not be taken to be—
 - (a) an admission of guilt in relation to the offence; or

- (b) an admission of liability for the purpose of any civil claim or proceeding arising out of the same occurrence and the payment does not in any way affect or prejudice any such claim or proceeding.
- (3) The payment of an infringement penalty under this Division must not be referred to in any report provided to a court for the purpose of determining sentence for any offence.
- (4) Nothing in this section affects or takes away from section 90(1)(h).

148. *Prosecution after service of infringement notice*

- (1) A charge may be filed in respect of an offence to which an infringement notice relates if—
 - (a) the infringement penalty has not been paid within the time for payment stated in the infringement notice or in accordance with section 145; or
 - (b) the notice is withdrawn.
 - (2) If a charge is filed in respect of an offence because the person has not paid the penalty specified in the infringement notice and a conviction is imposed by the court, the conviction must not be taken to be a conviction for any purpose except in relation to—
 - (a) the making of the conviction itself; and
 - (b) subsequent proceedings which may be taken in respect of the conviction itself, including proceedings by way of appeal.
-

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 Sector Management and Employment Act 1998** (except in accordance with Part 7 of that Act) does not apply to the Director in respect of the office of Director.

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.
- (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.

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 Sector Management and Employment Act 1998** 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.

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 Sector Management and Employment Act 1998** (except in accordance with Part 7 of that Act) does not apply to a member of the Panel in respect of the office of member.

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.
- (2) If land or premises are occupied by a person who is not the applicant or an objector, a power of entry under sub-section (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 sub-section (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 a legal practitioner or a person approved by the Chief Commissioner in proceedings under this Act.
-

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 80.
- (2) In sub-section (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.

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 Lotteries Gaming and Betting Act 1966

(1) Sections 48 to 59 of the **Lotteries Gaming and Betting Act 1966** 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;

-
- (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 sub-section (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.
- (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

S. 177(1)
amended by
No. 6/2000
s. 34(1).

- (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 sub-section (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 sub-section (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.

-
- (1A) A determination of the Commissioner of State Revenue for the purposes of sub-section (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.

S. 179(1A)
inserted by
No. 6/2000
s. 34(2).

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.
-

**PART 11—REPEALS, CONSEQUENTIAL AMENDMENTS
AND TRANSITIONALS**

181. *Repeals*

The Acts set out in Schedule 2 are **repealed**.

182. *Savings and transitional provisions*

Schedule 3 has effect.

183. *Consequential amendments*

On the coming into operation of an item in Schedule 4, the Act specified in the heading to that item is amended as set out in that item.

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—
-

Liquor Control Reform Act 1998

Act No. 94/1998

Sch. 1

-
- (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
 - (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.
-

Liquor Control Reform Act 1998
Act No. 94/1998

SCHEDULE 2

Section 181

REPEALS

<i>Act title</i>	<i>Act number</i>
Liquor Control Act 1987	97/1987
Liquor Control (Fees) Act 1990	59/1990
Liquor Control (Packaged Liquor Licences) Act 1990	68/1990
Liquor Control (Clubs) Act 1992	55/1992
Liquor Control (Amendment) Act 1993	122/1993
Liquor Control (Amendment) Act 1994	83/1994
Liquor Control (Further Amendment) Act 1995	96/1995
Liquor Control (Licences and Permits) Act 1995	97/1995

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**.

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 sub-clause (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 sub-clause (2) as if this Act had not been enacted.
- (4) Subject to this clause a determination under the repealed Act made by reason of sub-clause (2) has effect—

*Liquor Control Reform Act 1998**Act No. 94/1998*

-
- (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 sub-clause (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
<i>Item</i>	<i>Column 1 Licence or permit under repealed Act</i>	<i>Column 2 Licence or permit under this Act</i>

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.

Liquor Control Reform Act 1998
Act No. 94/1998

- (3) The Director cannot remove a condition of a licence referred to in sub-clause (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*

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 **Gaming Machine Control Act 1991** 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*

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.

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 sub-section (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 sub-clause (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 sub-clause (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-

Liquor Control Reform Act 1998

Act No. 94/1998

Sch. 3

- 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 Electoral Commissioner;
- (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);
- (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 Electoral Commissioner must take a vote of electors accordingly and for that purpose—
- (i) he or she 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 an electoral roll for the Legislative Assembly on the 60th day before the taking of the vote is qualified to vote but may vote once only;
- (iii) the manner of voting is to be similar to that followed in the election of members to serve in the Legislative Assembly but the voting paper is to be marked as prescribed thereon;
- (iv) subject to and for the purposes of this clause the provisions of any law relating to rolls, electors and elections for the Legislative

Sch. 3
cl. 17(2)(b)
amended by
No. 24/1999
s. 48.

Sch. 3
cl. 17(2)(e)
amended by
No. 24/1999
s. 48.

Assembly (including the provisions relating to compulsory voting and voting by post and the provisions relating to offences in connection with such elections but not including the provisions relating to absent voting) apply to the taking of a vote under this clause with any necessary adaptations.

- (v) the Electoral Commissioner must cause notice of the result of the voting to be published in the Government Gazette;
 - (vi) the Governor in Council may make regulations prescribing the form of voting paper and all matters and things authorised to be prescribed or necessary or convenient to be prescribed for the carrying out and giving effect to the provisions of this clause.
- (3) A reference in sub-clause (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.
 - (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
-

Liquor Control Reform Act 1998

Act No. 94/1998

Sch. 3

-
- (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.
-

SCHEDULE 4

Section 183

CONSEQUENTIAL AMENDMENTS

1. Club Keno Act 1993

For section 12ZC **substitute—**

"12ZC. Premises that may be approved

This Part applies to premises (other than approved venues) in respect of which there is in force—

- (a) a general licence under section 8 of the **Liquor Control Reform Act 1998**; or
- (b) a club licence (whether full or restricted) under section 10 of the **Liquor Control Reform Act 1998**; or
- (c) a licence under Part 1 of the **Racing Act 1958**."

2. Gaming Machine Control Act 1991

2.1 In section 3(1), in the definition of "liquor" for "**Liquor Control Act 1987**" **substitute "Liquor Control Reform Act 1998"**.

2.2 In section 12(1)(d) for sub-paragraphs (i) and (ii) **substitute—**

- "(i) a general licence under section 8 of the **Liquor Control Reform Act 1998** is in force; or
- (ii) a club licence (whether full or restricted) under section 10 of the **Liquor Control Reform Act 1998** is in force;"

2.3 In section 12A—

(a) in sub-section (1) for paragraphs (a), (b) and (c) **substitute—**

- "(a) a general licence under section 8 of the **Liquor Control Reform Act 1998**; or
- (b) a club licence (whether full or restricted) under section 10 of the **Liquor Control Reform Act 1998**; or";

- (b) in sub-section (2) for "section 48 of the **Liquor Control Act 1987**" substitute "section 10 of the **Liquor Control Reform Act 1998**".

2.4 In section 12L—

- (a) for "**Liquor Control Act 1987**" substitute "**Liquor Control Reform Act 1998**";
- (b) in paragraph (a) for "removed" substitute "relocated".

2.5 In section 28 for sub-section (1) substitute—

- "(1) The venue operator or applicant for a venue operator's licence must give notice in writing to the Authority if any of the following occurs—
- (a) an application is made under Division 4 of Part 2 of the **Liquor Control Reform Act 1998** for the grant, variation, transfer or relocation of a licence or BYO permit under that Act in respect of an approved venue;
 - (b) an application is made under section 63 of the **Liquor Control Reform Act 1998** for the surrender of a licence or BYO permit in respect of an approved venue;
 - (c) an application is made under section 64 of the **Liquor Control Reform Act 1998** for the release of a licensee or permittee from their obligations under that Act in respect of licensed premises that are an approved venue;
 - (d) a partner's name is removed from a licence or BYO permit under section 65 of the **Liquor Control Reform Act 1998** in respect of licensed premises that are an approved venue;
 - (e) an application for an inquiry under Division 1 of Part 6 of the **Liquor Control Reform Act 1998** in respect of a licensee or permittee of licensed premises that are an approved venue;
 - (f) an application for cancellation or suspension of a licence or BYO permit is made under Division 2 of Part 6 of the **Liquor Control**

Liquor Control Reform Act 1998

Act No. 94/1998

Reform Act 1998 in respect of licensed premises that are an approved venue;

- (g) an application is made under section 104 of the **Liquor Control Reform Act 1998** for approval of a person as a director of a licensee or permittee of premises that are an approved venue."

2.6 In section 28(2)—

- (a) for "**Liquor Control Act 1987**" substitute "**Liquor Control Reform Act 1998**";
- (b) in paragraph (a) for "removed" substitute "relocated".

3. *Planning and Environment Act 1987*

Section 55A is **repealed**.

NOTES

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
Act No. 94/1998

2. Table of Amendments

This Version incorporates amendments made to the **Liquor Reform Control 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 Reform Control Act 1998**

3. Explanatory Details