

Version No. 041
Liquor Control Act 1987

Act No. 97/1987

Version incorporating amendments as at 1 July 1998

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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purpose

The purpose of this Act is to make provision relating to the sale, disposal and consumption of liquor.

2. Commencement

This Act comes into operation on a day or days to be proclaimed.

3. Definitions

In this Act—

"Assistant Commissioner" means Assistant Commissioner appointed under this Act;

"authorised gaming visitor" means a person—

- (a) who is on licensed premises in respect of which a venue operator's licence under the **Gaming Machine Control Act 1991** is in force; and
- (b) in the case of licensed premises within the municipal district of a council mentioned in the Schedule to the **Public Holidays Act 1993**, who resides more than 5 kilometres from the licensed premises; and

S. 3 def. of "authorised gaming visitor" inserted by No. 55/1992 s. 3, amended by No. 46/1998 s. 7(Sch. 1).

- (c) in the case of licensed premises which 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 section 4A, from the licensed premises; and
- (d) whose name and 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 58(1)(c)(ii);

"authorised member of the police force" means a member of the police force authorised by the Chief Commissioner of Police to enforce the provisions of this Act;

"authorised premises" in relation to a licensee or permittee, means premises (other than the licensed premises) on which the licensee or permittee is authorised under the licence or permit—

- (a) to sell and dispose of liquor; or
- (b) to permit liquor to be consumed, possessed or controlled;

"book" includes any register or other record of information and any accounts or accounting records, however compiled, recorded or stored and also includes any document;

"Chief Executive Officer" means the Chief Executive Officer of the Commission;

"Commission" means the Liquor Licensing Commission established under this Act;

"Commissioner" means the Commissioner appointed under this Act;

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* * * * *

S. 3 def. of
"Com-
missioner of
State
Revenue"
inserted by
No. 83/1994
s. 4,
repealed by
No. 94/1997
s. 12(a)(i).

"corporation" has the same meaning as in the
Companies (Victoria) Code;

"Deputy Commissioner" means the Deputy
Commissioner appointed under this Act;

"director" in relation to a corporation,
includes—

- (a) any person occupying or acting in the
position of director of the corporation,
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 corporation are accustomed to
act;

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

S. 3 def. of
"driver
licence"
inserted by
No. 96/1995
s. 4.

"evidence of age document" means a document
that is—

- (a) a proof of age card or a card which is
the equivalent of a proof of age card
issued in another State or a Territory; or

S. 3 def. of
"evidence
of age
document"
inserted by
No. 96/1995
s. 4.

- (b) a document issued—
 - (i) by a person; or
 - (ii) on behalf of a government department or agency—
approved by the Minister indicating that the person to whom the document is issued is of or over the age of 18 years; or
- (c) a driver licence or a licence which is the equivalent of a driver licence issued in another State or a Territory; or
- (d) an Australian or foreign passport—
which—
 - (e) bears a photograph of the person to whom it is issued; and
 - (f) enables the age of the person to whom it is issued to be determined, whether by reference to the person's date of birth or otherwise;

"guest"—

- (a) in relation to licensed premises under a residential licence or 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;

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"interest of the community" in relation to an area includes the interest of the community in protection of the amenity of the area;

* * * * *

S. 3 def. of "legal practitioner" repealed by No. 35/1996 s. 453(Sch. 1 item 51).

"licence" means a licence granted or having effect under this Act;

"licensed premises" means the premises in respect of which a licence or permit is granted;

"licensee" means the holder of a licence granted or having effect under this Act;

* * * * *

S. 3 def. of "licensing fund assessor" repealed by No. 122/1992 s. 26(a).

"licensing inspector" in relation to licensed premises, means the licensing inspector for the division of the police district in which the premises are situated;

"liquor" means a beverage, or other prescribed substance, intended for human consumption with an alcoholic content greater than 0.5 per centum by volume at a temperature of 20 degrees celsius;

S. 3 def. of "liquor" amended by No. 122/1993 s. 3.

"ordinary trading hours" means—

- (a) the hours between 7 a.m. and 11 p.m. on each day, other than Sunday, Good Friday or Anzac Day; and
- (b) the hours between 10.00 a.m. and 11.00

S. 3 def. of "ordinary trading hours" amended by No. 122/1993 s. 4(1).

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p.m. on Sunday; and

(c) the hours between 12 noon and 11.00 p.m. on Good Friday and Anzac Day;

S. 3 def. of "owner" amended by No. 70/1988 s. 4(a)(i).

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

S. 3 def. of "permit" amended by No. 70/1988 s. 4(a)(ii).

"permit" means a BYO permit granted under this Act;

S. 3 def. of "permittee" amended by No. 70/1988 s. 4(a)(iii).

"permittee" means the holder of a BYO permit;

"premises" includes a vehicle, vessel and aircraft;

"prescribed" means prescribed by this Act or the regulations;

S. 3 def. of "prescribed area" inserted by No. 97/1995 s. 4, repealed by No. 94/1997 s. 20(a).

* * * * *

S. 3 def. of "prescribed liquor" amended by No. 94/1997 s. 12(a)(ii).

"prescribed liquor" means—

- (a) undiluted and unadulterated liquor with an alcoholic content of not more than 3.5 per centum by volume at a temperature of 20 degrees celsius; and
- (b) undiluted and unadulterated wine of the grape with an alcoholic content of not

more than 6.5 per centum by volume at a temperature of 20 degrees celsius;

"proof of age card" means a document issued by the Chief Executive Officer under section 151A;

S. 3 def. of "proof of age card" inserted by No. 96/1995 s. 4.

"proprietary company" means proprietary company within the meaning of the **Companies (Victoria) Code** or a corresponding law in force in another State or in a Territory;

"Registrar" means Registrar of the Commission;

"related corporation" in relation to a corporation, means a corporation that is deemed to be related to the first-mentioned corporation by virtue of section 7(5) of the **Companies (Victoria) Code**;

"relevant planning law" means the **Planning and Environment Act 1987** or, if the relevant provisions of that Act are not in force, the **Town and Country Planning Act 1961**;

"residence" 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 residing or lodging in the licensed premises;

"**secretary**" in relation to a club, means the principal executive officer of the club, for the time being, by whatever name called, and whether or not he or she is a member of the club;

"**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.

S. 4 amended by No. 122/1993 s. 19(4), repealed by No. 94/1997 s. 12(b).

* * * * *

S. 4A inserted by No. 55/1992 s. 4.

4A. Minister empowered to reduce distances for purposes of definition of authorised gaming visitor

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.

S. 4B inserted by No. 97/1995 s. 5, repealed by No. 94/1997 s. 20(b).

* * * * *

5. Object

The object of this Act is to respond to community interest by—

- (a) promoting economic and social growth in Victoria by encouraging the proper development of the liquor, hospitality and related industries; and
- (b) facilitating the development of a diversity of licensed facilities reflecting consumer demand; and
- (c) providing adequate controls over the sale, disposal and consumption of liquor; and
- (d) contributing to the effective co-ordination of the efforts of government and non-government agencies in the prevention and control of alcohol abuse and misuse.

6. Co-ordinating Council

- (1) There shall be a Co-ordinating Council appointed by the Governor in Council to advise the Minister on problems of liquor abuse and on any other matters referred to the Council by the Minister.
- (2) The members of the Co-ordinating Council shall include—
 - (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 Welfare Services Act 1970¹**;
- (f) three persons nominated by the Minister from a panel of names submitted to the Minister by representatives of the liquor industry;

S. 6(2)(g) repealed by No. 44/1996 s. 20(2).

* * * * *

- (h) two persons nominated by the Minister from a panel of names submitted to the Minister by trade union organisations involved in the liquor industry;
 - (i) two persons nominated by the Minister as persons representing community interests;
 - (j) a person with special expertise in the problems of under-age drinking nominated by the Minister;
 - (k) a person nominated by the Minister from a panel of names submitted to the Minister by youth organisations;
 - (l) a person with special expertise in the problems of drink-driving nominated by the Minister;
 - (m) a person with special knowledge of matters affecting residential amenities nominated by the Minister;
 - (n) a person with special expertise in the social and medical aspects of liquor abuse and misuse nominated by the Minister.
- (3) A member shall be appointed for such period, not exceeding five years, as is specified in the

instrument of appointment but is eligible for re-appointment.

- (4) A member shall be paid such travelling and other allowances as are approved by the Minister.
- (5) The Governor in Council may remove a member from office.
- (6) The Governor in Council shall appoint one of the members to be chairperson.
- (7) The procedure of the Council is in its discretion.
- (8) A member is not, by reason only of appointment as a member, subject to the **Public Sector Management and Employment Act 1998**.

S. 6(8)
amended by
No. 46/1998
s. 7(Sch. 1).

7. Act not to apply in certain cases

This Act does not apply—

- (a) to a person selling spirituous or distilled perfume bona fide as perfumery; or
- (b) to liquor supplied or consumed as part of a religious service; or
- (c) to the sale 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 sale 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 Commission on account of—

S. 7(c)
amended by
No. 23/1994
s. 118(Sch. 1
item 31).

- (i) a person—
 - (A) who has failed to renew his or her licence; or
 - (B) who has surrendered his or her licence; or
 - (C) whose licence has been cancelled—
within the preceding three months; or
- (ii) a person who intends to surrender his or her licence within three months after the sale; or
- (iii) a person whose licence will expire within three 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 he or she has acquired title by virtue of a settlement of a bona fide claim made under a policy of insurance but not by purchase; or
- (i) to a person not carrying on a business of selling liquor who sells 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

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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—LIQUOR LICENSING COMMISSION²

Division 1—The Commission

8. *The Commission*

- (1) There shall be a Liquor Licensing Commission.
- (2) The Commission shall consist of—
 - (a) a Commissioner; and
 - (b) a Deputy Commissioner; and
 - (c) not more than 3 Assistant Commissioners.
- (3) The Commission has the functions and powers conferred on it by this Act.
- (4) In addition to its other functions and powers, the Commission—
 - (a) may collect and use data for the compilation of statistics relating to the liquor industry; and
 - (b) may maintain public awareness of the Commission and the operation of this Act; and
 - (c) has such other powers as are necessary to enable the Commission to carry out its functions.
- (5) The Commission must consult with the Minister from time to time in relation to the performance of its functions and exercise of its powers under this Act.
- (6) In carrying out its functions and powers, the Commission must observe the rules of natural justice.

S. 8(2)(c)
amended by
No. 122/1993
s. 5.

9. Investigations by Commission

- (1) The Commission may investigate any matter relevant to the operation of this Act, whether generally or in particular circumstances, including its own practices and the conduct and practices of any licensee or permittee.
- (2) For the purposes of an investigation under subsection (1), the Commission—
 - (a) may proceed in such manner as it thinks fit; or
 - (b) may proceed in accordance with Division 3; or
 - (c) may proceed partly in such manner as it thinks fit and partly in accordance with Division 3.

Division 2—The Commissioner, Deputy Commissioner and Assistant Commissioners

10. Appointment

- (1) The Commissioner, Deputy Commissioner and each Assistant Commissioner shall be appointed by the Governor in Council.
- (2) The Commissioner shall be appointed as a full-time Commissioner.
- (3) The Deputy Commissioner may be appointed as a full-time or part-time Deputy Commissioner.
- (4) An Assistant Commissioner may be appointed as a full-time or part-time Assistant Commissioner.
- (5) A person who is the Commissioner, Deputy Commissioner or an Assistant Commissioner is not, in respect of the office of Commissioner, Deputy Commissioner or Assistant Commissioner, subject to the provisions of the

S. 10(5)
amended by
No. 46/1998
s. 7(Sch. 1).

Public Sector Management and Employment Act 1998.

11. Qualification for appointment of Commissioner and Deputy Commissioner

A person shall not be appointed as the Commissioner or Deputy Commissioner unless he or she is a legal practitioner of not less than five years standing.

12. Terms of appointment

(1) Subject to this Part, a Commissioner, Deputy Commissioner or Assistant Commissioner holds office for such period not exceeding five years as is specified in the instrument of appointment but is eligible for re-appointment.

S. 12(2)(3) repealed by No. 83/1994 s. 5(a).

* * * * *

(4) Subject to this Part, the Commissioner, Deputy Commissioner and each Assistant Commissioner holds office on such terms and conditions as are determined by the Governor in Council.

13. Remuneration and allowances

(1) The Commissioner shall be paid such remuneration and allowances as are determined by the Governor in Council.

(2) The Deputy Commissioner shall be paid such remuneration and allowances as are determined by the Governor in Council.

(3) Each Assistant Commissioner shall be paid such remuneration and allowances as are determined by the Governor in Council.

14. Superannuation

If a person who is the Commissioner or Deputy Commissioner or an Assistant Commissioner was, immediately before his or her appointment, an officer within the meaning of the **State Superannuation Act 1988**, the person continues, subject to that Act, to be an officer within the meaning of that Act while the person continues to be the Commissioner or Deputy Commissioner or an Assistant Commissioner.

S. 14
amended by
No. 50/1988
s. 93(2)(Sch. 2
item 31).

15. Acting appointments

- (1) The Governor in Council may appoint a person who is a legal practitioner of not less than five years' standing to act as Commissioner during any period, or during all periods, when the Commissioner is absent from duty or during a vacancy in the office of Commissioner.
- (2) The Governor in Council may appoint a person who is a legal practitioner of not less than five years' standing to act as Deputy Commissioner during any period, or during all periods, when the Deputy Commissioner is absent from duty or during a vacancy in the office of Deputy Commissioner.
- (3) The Governor in Council may appoint a person to act as an Assistant Commissioner during any period, or during all periods, when an Assistant Commissioner is absent from duty.
- (4) If a person has been appointed under this section to act as Commissioner, Deputy Commissioner or Assistant Commissioner during the absence from duty of a person who is the Commissioner, Deputy Commissioner or an Assistant Commissioner and the Commissioner, Deputy Commissioner or Assistant Commissioner ceases to hold office without having resumed duty, the

period of appointment of the person so appointed is deemed to continue, subject to this Part, until—

- (a) the person resigns the appointment; or
- (b) the appointment is terminated by the Governor in Council; or
- (c) a period of twelve months elapses from the day on which the absent person ceases to hold office—

whichever first happens.

- (5) A person acting as Commissioner or Deputy Commissioner or an Assistant Commissioner shall act in that capacity on such terms and conditions as the Minister determines.
 - (6) A person acting as the Commissioner, Deputy Commissioner or an Assistant Commissioner may resign the acting appointment by writing signed by the person and delivered to the Governor in Council.
 - (7) A person acting as the Commissioner, Deputy Commissioner or an Assistant Commissioner has and may exercise all the powers, and shall perform all the functions and duties, conferred or imposed by this Act on the Commissioner, Deputy Commissioner or an Assistant Commissioner, as the case may be, and, for the purposes of the exercise of those powers, or the performance of those functions and duties, this Act has effect as if a reference to the Commissioner, Deputy Commissioner or an Assistant Commissioner included a reference to a person acting as the Commissioner, Deputy Commissioner or an Assistant Commissioner, as the case may be.
 - (8) Where—
 - (a) the Commission is constituted for the purposes of a proceeding by a person acting
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or purporting to be appointed under this section; or

- (b) a person so acting or purporting to be appointed has done any act—

the validity of, or of any decision of, or of any direction given or other act done by, the Commission as so constituted or of the act done by the person so acting or purporting to be appointed shall not be called in question in any proceeding on the ground that the occasion for the person to act or for the appointment of the person had not arisen or the occasion for the appointment had passed or the appointment had ceased to have effect.

16. Delegation

- (1) The Commissioner may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Commissioner, delegate to the Deputy Commissioner or an Assistant Commissioner all or any of the powers of the Commissioner under this Act, other than this power of delegation.
- (2) The Commissioner may, by writing signed by the Commissioner, delegate all or any of the following powers to the Chief Executive Officer or any other officer of the Commission—
- (a) the power to approve forms under sections 63(2), 64(2) and 65(2);
 - (b) the power to request information under sections 63(6), 64(4) and 65(3);
 - (c) the power of exemption in section 73(1) and the power of declaration in section 73(2);
 - (d) the power to transfer a licence and grant a limited licence under section 77;

S. 16 amended by No. 122/1993 s. 6(a).

S. 16(2) inserted by No. 122/1993 s. 6(b).

- (e) the power to grant, vary, transfer or remove a BYO permit under section 77;
- (f) the power to remove the name of a partner under section 100;
- (g) the power to determine fees under section 115.

17. *Outside employment*

The Commissioner or Deputy Commissioner or a full-time Assistant Commissioner shall not engage in paid employment outside the duties of the office of Commissioner or Deputy Commissioner or Assistant Commissioner, except with the consent of the Minister.

18. *Leave of absence*

The Minister may grant leave of absence to the Commissioner or Deputy Commissioner or a full-time Assistant Commissioner upon such terms and conditions as to remuneration or otherwise as the Minister determines.

19. *Removal from office*

- (1) The Governor in Council may remove the Commissioner, Deputy Commissioner or an Assistant Commissioner from office.
- (2) If the Commissioner, Deputy Commissioner or an Assistant Commissioner—
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
 - (b) is convicted of an indictable offence or an offence which, if committed in Victoria, would be an indictable offence—

the Governor in Council shall remove the Commissioner, Deputy Commissioner or Assistant Commissioner from office.

20. Resignation

The Commissioner, Deputy Commissioner or an Assistant Commissioner may resign office by writing signed by him or her and delivered to the Governor in Council.

21. Disclosure of interests

If the Commissioner, Deputy Commissioner or an Assistant Commissioner has or acquires an interest, pecuniary or otherwise, that could conflict with the proper performance of the functions of the Commissioner, Deputy Commissioner or Assistant Commissioner in relation to any proceedings of the Commission, the Commissioner, Deputy Commissioner or Assistant Commissioner—

- (a) must not take part in any such proceedings of the Commission or exercise any powers in relation to his or her office to which the proceedings relate; and
- (b) in the case of the Commissioner or Deputy Commissioner, must disclose the nature of the interest to the Minister; and
- (c) in the case of an Assistant Commissioner, must disclose the nature of the interest to the Commissioner.

22. Immunity

No action or suit shall be brought against the Commission or a person who is or has been the Commissioner, Deputy Commissioner or an Assistant Commissioner for any non-feasance or mis-feasance in connection with the duties of the

Commission or the Commissioner, Deputy Commissioner or Assistant Commissioner.

Division 3—Proceedings of the Commission

23. *Commission to be constituted by one member*

- (1) For the purpose of the exercise of its powers, the Commission shall be constituted by the Commissioner or the Deputy Commissioner or by an Assistant Commissioner.
- (2) The Full Commission shall be constituted by three members, being the Commissioner or the Deputy Commissioner and two other members.

24. *Procedure of Commission*

In a proceeding before the Commission—

- (a) the procedure of the Commission is, subject to this Act and the regulations and to any other enactment, within the discretion of the Commission; and
- (b) the proceeding shall be conducted with as little formality and technicality, and with as much expedition, as the requirements of this Act and of every other relevant enactment and a proper consideration of the matters before the Commission permit; and
- (c) the Commission is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks appropriate.

25. *Preliminary conferences*

- (1) If—
 - (a) an application is made for a determination of the Commission under this Act; and

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(b) the Commissioner thinks it desirable so to do after consideration of the application or notice—

the Commissioner may direct the holding of a conference of the parties presided over by the Commissioner, Deputy Commissioner or an Assistant Commissioner.

(2) If a notice of objection is given under section 66, 71 or 75 or a recommendation is made under section 76 that the grant of an application would not be in the community interest, the Commissioner must direct the holding of a conference of the parties presided over by the Commissioner, Deputy Commissioner or an Assistant Commissioner.

**S. 25(2)
amended by
No. 122/1993
s. 26(b).**

(3) If a conference is held in accordance with subsection (1) or (2) and—

(a) at or after the conference, agreement is reached between the parties as to the terms of a determination of the Commission in the proceeding that would be acceptable to the parties; and

(b) the terms of the agreement are reduced to writing, signed by the parties and lodged with the Commission; and

(c) the Commission is satisfied that a determination in those terms would be within the powers of the Commission—

the Commission, without holding a hearing, must make a determination in accordance with those terms.

(4) At the hearing of a proceeding before the Commission, unless the parties otherwise agree, evidence must not be given, and statements must not be made, concerning any word spoken or act

done at a conference held in accordance with subsection (1) or (2) if the words spoken or act done related to any question to be determined by the Commission in the proceeding.

- (5) If a conference is held in accordance with subsection (1) or (2) in respect of any proceedings and a party to the proceeding who was present at the conference notifies the Commission before, or at the commencement of, the hearing that the party objects to the Commissioner or Deputy Commissioner or a particular Assistant Commissioner participating in the hearing, the Commission shall not be constituted by the Commissioner or Deputy Commissioner or that Assistant Commissioner, as the case may be, for the purpose of the proceeding.

26. *Hearings to be in public except in special circumstances*

- (1) Subject to this section, the hearing of a proceeding before the Commission shall be in public.
- (2) If the Commission is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter or for any other reason, the Commission may, by order—
- (a) direct that a hearing or part of a hearing shall take place in private and give directions as to the persons who may be present; and
 - (b) give directions prohibiting or restricting the publication of evidence given before the Commission, whether in public or in private, or of matters contained in documents lodged with the Commission or received in evidence by the Commission; and
 - (c) give directions prohibiting or restricting the disclosure to some or all of the parties to a

proceeding of evidence given before the Commission, or of the contents of a document lodged with the Commission or received in evidence by the Commission, in relation to the proceedings.

(3) In considering—

- (a) whether the hearing of a proceeding should be held in private; or
- (b) whether publication or disclosure to some or all of the parties, of evidence given before the Commission, or of a matter contained in a document lodged with the Commission or received in evidence by the Commission, shall be prohibited or restricted—

the Commission shall take as the basis of its consideration the principle that it is desirable that hearings of proceedings before the Commission should be held in public and that evidence given before the Commission and the contents of documents lodged with the Commission or received in evidence by the Commission should be made available to the public and to all the parties, but shall pay due regard to any reasons given to the Commission why the hearing should be held in private or why publication or disclosure of the evidence or the matter contained in the document should be prohibited or restricted.

27. Opportunity to make submissions concerning evidence

Subject to section 26, the Commission must ensure that each party to a proceeding before the Commission is given a reasonable opportunity to present the case and, in particular, to inspect any documents to which the Commission proposes to have regard in making a determination in the

proceedings and to make submissions in relation to those documents.

28. Powers of Commission

- (1) For the purposes of a proceeding, the Commission may—
 - (a) take evidence on oath or affirmation; and
 - (b) proceed in the absence of a person who has had reasonable notice of the proceeding; and
 - (c) adjourn the proceeding from time to time; and
 - (d) permit the amendment of any notice, application or other document; and
 - (e) disregard any omission, error, defect or insufficiency in a notice, application or other document or any failure, defect or insufficiency in giving, serving, displaying or advertising of a notice, application or other document.
- (2) For the purposes of the hearing of a proceeding before the Commission, the Chief Executive Officer shall, if directed to do so by the Commissioner, Deputy Commissioner or Assistant Commissioner who is to preside, or who presides, at the hearing, summon a person to appear before the Commission at that hearing to give evidence and to produce such documents (if any) as are referred to in the summons.
- (3) The person who presides at the hearing of a proceeding—
 - (a) may require the person appearing before the Commission at that hearing to give evidence either to take an oath or to make an affirmation; and

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- (b) may administer an oath or affirmation to a person so appearing before the Commission.
- (4) The oath or affirmation to be taken or made by a person for the purposes of this section is an oath or affirmation that the answers given to questions asked will be true.
- (5) A person summoned to appear before the Commission may request to be allowed to be represented by a legal practitioner and upon such request being made, the Commission may, in its discretion, allow the person to be so represented.
- (6) The power of the Commission under sub-section (1)(a) to take evidence on oath or affirmation may be exercised on behalf of the Commission in relation to a particular proceeding before the Commission by the person who is to preside at the hearing of the proceeding or by any other person authorised by the first-mentioned person but the Commission may direct that the power is to be exercised subject to limitations specified by the Commission.
- (7) Where a person other than a person who is to preside at the hearing of a proceeding is authorised to take the evidence in relation to the proceeding in accordance with sub-section (6)—
- (a) the person has, for the purposes of taking that evidence, all the powers of the Commission under sub-section (1) and all the powers under sub-section (2) of the person who is to preside at the hearing of the Commission; and
- (b) for the purpose of the exercise of those powers by that person, this Act has effect (except where the context otherwise requires) as if a reference to the Commission or to the person who is to preside at the
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hearing included a reference to the first-mentioned person.

29. *Failure of witness to attend*

A person served with a summons to appear as a witness before the Commission shall not, without reasonable excuse—

- (a) fail to attend as required by the summons; or
- (b) fail to appear and report from day to day unless excused or released from further attendance by the Commission.

Penalty: 10 penalty units or imprisonment for three months.

30. *Refusal to be sworn or to answer questions*

A person appearing as a witness before the Commission shall not, without reasonable excuse—

- (a) when required in pursuance of section 28 either to take an oath or make an affirmation—refuse or fail to comply with the requirement; or
- (b) refuse or fail to answer a question that the person is required to answer by the Commissioner, Deputy Commissioner or Assistant Commissioner presiding at the proceeding; or
- (c) refuse or fail to produce a document that the person was required to produce by a summons under this Act served as prescribed.

Penalty: 10 penalty units or imprisonment for three months.

31. *Contempt of Commission*

A person shall not—

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- (a) insult the Commissioner, Deputy Commissioner or an Assistant Commissioner in or in relation to the exercise of the powers or functions as Commissioner, Deputy Commissioner or Assistant Commissioner; or
- (b) repeatedly interrupt the proceedings of the Commission; or
- (c) create a disturbance or take part in creating or continuing a disturbance in or near a place where the Commission is sitting; or
- (d) do any other act or thing that would, if the Commission were a Court of Record, constitute a contempt of court.

Penalty: 10 penalty units or imprisonment for three months.

32. *Power of Commission to dismiss application or strike out party*

(1) If—

- (a) all the parties to a proceeding before the Commission consent; or

- (b) the Commission decides that the application is vexatious or frivolous—

the Commission may dismiss the application without proceeding to a hearing or, if the Commission has commenced a hearing, without completing the hearing.

- (2) If a party to a proceeding before the Commission in respect of an application fails to appear at a preliminary conference held in relation to the

application under section 25 or at the hearing of the proceeding the Commission may—

- (a) if the party who failed to appear was the applicant, dismiss the application without proceeding to a hearing; or
- (b) direct that the person who failed to appear shall cease to be a party to the proceedings.

33. *Reasons for and effect of review of determination*

- (1) Subject to this section and to section 26 the Commission must give reasons either orally or in writing for its determination.
 - (2) If the Commission does not give reasons for its determination, a party to the proceeding may, within 28 days after the day on which a copy of the determination of the Commission is served on that party, request the Commission to furnish to that party a statement in writing of the reasons of the Commission for its determination and the Commission must, within 28 days after receiving the request, furnish to that party such a statement.
 - (3) If the Commission gives in writing the reasons for its determination, those reasons shall include its findings on material questions of fact and a reference to the evidence or other material on which those findings were based.
 - (4) The Commission must cause a copy of its determination to be served on each party to its proceedings.
 - (5) Without prejudice to any other method available by law for the proof of determinations of the Commission, a document purporting to be a copy of such a determination, and to be certified by the Chief Executive Officer to be a true copy of the determination, is in any proceeding evidence of the determination.
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- (6) Sub-sections (4) and (5) apply in relation to reasons given in writing by the Commission for its determination as they apply in relation to the determination.
 - (7) Subject to sub-section (8), a determination of the Commission comes into operation forthwith upon the giving of the determination.
 - (8) The Commission may specify in a determination that the determination is not to come into operation until a later date specified in the determination, and where a later date is so specified, the determination comes into operation on that date.

34. Costs

- (1) If the Commission is of the opinion in a particular case that there are circumstances that justify it so doing, the Commission may make such orders as to costs as the Commission thinks just.
- (2) Except as provided in sub-section (1), a party to a proceeding bears his or her own costs.
- (3) If the Commission makes an order as to costs, the person to whom payment is to be made under the order may enforce the order by filing free of charge in the Magistrates' Court or the County Court or the Supreme Court (as the case may be)—
 - (a) a copy of the order certified by the Chief Executive Officer to be a true copy; and
 - (b) that person's affidavit as to the amount remaining unpaid under the order.
- (4) On the filing of those documents, judgment for the unpaid amount set out in the affidavit is deemed to have been entered in the court at which the documents were filed and may be enforced accordingly.

S. 34(3)
inserted by
No. 122/1993
s. 7.

S. 34(4)
inserted by
No. 122/1993
s. 7.

Division 4—Chief Executive Officer and Staff

35. Chief Executive Officer

S. 35(2) amended by No. 46/1998 s. 7(Sch. 1).

- (1) There shall be a Chief Executive Officer of the Commission who shall be appointed by the Governor in Council.
- (2) The Chief Executive Officer is not, in respect of the office of Chief Executive Officer, subject to the provisions of the **Public Sector Management and Employment Act 1998**.

36. Terms of appointment

S. 36(2)(3) repealed by No. 83/1994 s. 5(b).

- (1) Subject to this Part, the Chief Executive Officer holds office for such period, not exceeding five years, as is specified in the instrument of appointment but is eligible for re-appointment.

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- (4) Subject to this Part, the Chief Executive Officer holds office on such terms and conditions as are determined by the Governor in Council.

37. Remuneration and allowances

The Chief Executive Officer shall be paid such remuneration and allowances as are determined by the Governor in Council.

S. 38 amended by No. 50/1988 s. 93(2)(Sch. 2 item 31).

38. Superannuation

If the Chief Executive Officer was, immediately before his or her appointment, an officer within the meaning of the **State Superannuation Act 1988**, the Chief Executive Officer continues, subject to that Act, to be an officer within the meaning of that Act while he or she continues to be the Chief Executive Officer.

39. Acting appointment

- (1) The Governor in Council may appoint a person to act as Chief Executive Officer during any period, or during all periods, when the Chief Executive Officer is absent from duty or during a vacancy in the office of Chief Executive Officer.
- (2) If a person has been appointed under this section to act as Chief Executive Officer during the absence from duty of the Chief Executive Officer and the Chief Executive Officer ceases to hold office without having resumed duty, the period of appointment of the person so appointed is deemed to continue, subject to this Part, until—
 - (a) the person resigns the appointment; or
 - (b) the appointment is terminated by the Governor in Council; or
 - (c) a period of 12 months elapses from the day on which the absent Chief Executive Officer ceases to hold office—whichever first happens.
- (3) A person acting as Chief Executive Officer shall act in that capacity on such terms and conditions as the Minister determines.
- (4) A person acting as Chief Executive Officer may resign the acting appointment by writing signed by the person and delivered to the Governor in Council.
- (5) A person acting as Chief Executive Officer has and may exercise all the powers and shall perform all the functions and duties conferred or imposed by this Act on the Chief Executive Officer and, for the purpose of the exercise of those powers or the performance of those functions and duties, this Act has effect as if a reference to the Chief

Executive Officer included a reference to a person acting as the Chief Executive Officer.

- (6) Any act done by a person acting as or purporting to be appointed as Chief Executive Officer shall not be called in question in any proceeding on the ground that the occasion for the person to act or the appointment of the person had not arisen or the occasion for the appointment had passed or the appointment had ceased to have effect.

S. 40
amended by
Nos 57/1989
s. 3(Sch. item
119.1),
122/1993 s. 8.

40. *Delegation*

The Chief Executive Officer may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Chief Executive Officer delegate to an officer or employee of the Commission or to an officer of the public service or to a Registrar of the Magistrates' Court all or any of the powers of the Chief Executive Officer under this Act, other than this power of delegation.

41. *Removal from office*

The Governor in Council may remove the Chief Executive Officer from office.

42. *Resignation*

The Chief Executive Officer may resign office by writing signed by him or her and delivered to the Governor in Council.

43. *Functions of Chief Executive Officer*

- (1) The Chief Executive Officer has the functions and powers conferred on the Chief Executive Officer by this Act.

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- (2) In addition to his or her other functions and powers, the Chief Executive Officer—
- (a) shall provide administrative support for the Commission in the performance of its functions; and
 - (b) shall provide advice to the Commission on the operation of the liquor licensing system; and

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S. 43(2)(c) repealed by No. 94/1997 s. 12(c).

- (d) shall be responsible for the staff of the Commission; and
- (e) shall conduct, or enter into agreements for the conduct of, courses about the responsible sale, disposal and consumption of liquor.

S. 43(2)(d) amended by Nos 83/1994 s. 13(a), 96/1995 s. 14.

S. 43(2)(e) repealed by No. 122/1993 s. 26(c), new s. 43(2)(e) inserted by No. 96/1995 s. 14.

44. *Licensing inspectors*

- (1) The Chief Commissioner of Police shall from time to time appoint officers of police to be licensing inspectors.
- (2) Each licensing inspector may be appointed in respect of a division or part of a division of a police district.
- (3) A licensing inspector has, in respect of the division or part of a division in respect of which he or she is appointed, the functions and powers conferred on a licensing inspector by this Act.

- (4) In addition to his or her other functions and powers, a licensing inspector—
- (a) may report to the Chief Executive Officer any matter which may affect the attainment of the objects of this Act; and
 - (b) may take proceedings in respect of offences under this Act committed in the division or part of a division in respect of which he or she is appointed; and
 - (c) may appear personally or by a legal practitioner or a person approved by the Chief Commissioner in proceedings under this Act.

45. Registrar and employees

S. 45(1)
amended by
No. 122/1993
s. 26(d),
substituted by
46/1998
s. 7(Sch. 1).

- (1) A Registrar and any employees that are necessary for the performance of the functions and exercise of the powers of the Commission are to be employed under Part 3 of the **Public Sector Management and Employment Act 1998**.
- (2) The number of officers or employees (including licensing fund assessors) appointed or employed in accordance with this section must not exceed the number for the time being fixed by the Minister in respect of any specified period.
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**PART 3—SALE, DISPOSAL AND CONSUMPTION OF
LIQUOR**

Division 1—Licences and Permits

46. Residential licence

- (1) A residential licence authorises the licensee to sell and dispose of liquor on the licensed premises—
- (a) at any time to a resident of the licensed premises or a guest of such a resident for consumption on the licensed premises; and
 - (b) if the Commission so determines and specifies in the licence, to any person—
 - (i) during ordinary trading hours; and
 - (ii) at any other times in accordance with any extended hours permit held by the licensee in respect of the licensed premises—for consumption on or off the licensed premises—
- subject to such terms and conditions (if any) as the Commission determines and specifies in the licence or extended hours permit.
- (2) The Commission must not grant a residential licence unless it is satisfied that—
- (a) the primary purpose of the business to be carried on on the licensed premises is the provision of accommodation; and
 - (b) the licensed premises have at least 20 bedrooms.

Liquor Control Act 1987

Act No. 97/1987

s. 47

47. General licence

S. 47
amended by
No. 68/1990
s. 3.

S. 47(1)
amended by
No. 122/1993
s. 9(1).

S. 47(1)(a)
amended by
No. 122/1993
s. 9(2).

S. 47(1)(b)
amended by
No. 83/1994
s. 13(b).

S. 47(1)(c)
inserted by
No. 68/1990
s. 3,
amended by
No. 56/1991
s. 21(1),
repealed by
No. 122/1993
s. 4(4).

(1) A general (class 1) licence authorises the licensee to sell and dispose of liquor on the licensed premises—

(a) for consumption on and off the licensed premises—

(i) during ordinary trading hours; and

(ii) at any other times in accordance with any extended hours permit held by the licensee in respect of the licensed premises; and

(b) for consumption 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.

* * * * *

subject to such terms and conditions (if any) as the Commission determines and specifies in the licence or extended hours permit.

S. 47(2)
amended by
No. 122/1993
s. 9(1).

(2) The Commission must not grant a general (class 1) licence unless it is satisfied that the primary purpose of the business to be carried on on the licensed premises is the provision of liquor for consumption on and off the licensed premises.

Liquor Control Act 1987

Act No. 97/1987

s. 48

(3) A general (class 2) licence authorises the licensee to sell and dispose of liquor—

S. 47(3)
inserted by
No. 122/1993
s. 9(3).

(a) on the licensed premises for consumption on the licensed premises—

(i) during ordinary trading hours; and

(ii) at any other times in accordance with any extended hours permit held by the licensee in respect of the licensed premises; and

(b) on the licensed premises for consumption 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) on any other premises authorised by the Commission—

subject to such terms and conditions (if any) as the Commission determines and specifies in the licence or extended hours permit.

(4) The Commission must not grant a general (class 2) licence unless it is satisfied that the primary purpose of the business to be carried on on the licensed premises is the provision of liquor for consumption on the licensed premises.

S. 47(4)
inserted by
No. 122/1993
s. 9(3).

48. Club licence

(1) A club licence authorises the licensee to sell and dispose of liquor on the licensed premises—

(a) in the case of a full club 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—

S. 48(1)(a)
amended by
No. 55/1992
s. 5(a).

S. 48(1)(a)(ii)
substituted by
No. 122/1993
s. 4(2).

- (i) at any time on any day except Sunday, Good Friday and Anzac Day; and
- (ii) between the hours of 10.00 a.m. and 11.00 p.m. on Sunday; and

S. 48(1)(a)(iia)
inserted by
No. 122/1993
s. 4(2).

- (iia) between the hours of 12 noon and 11.00 p.m. on Good Friday and Anzac Day; and
- (iii) at any other times in accordance with any extended hours permit held by the licensee in respect of the licensed premises—

subject to Division 3 and to such other terms and conditions (if any) as the Commission determines and specifies in the licence or extended hours permit; and

S. 48(1)(b)
amended by
No. 55/1992
s. 5(b).

- (b) in the case of a restricted club licence to a member of the club, an authorised gaming visitor or a guest of a member for consumption on the licensed premises—at such times as the Commission determines and specifies in the licence, subject to Division 3 and to such terms and conditions as are so determined and specified in the licence.

- (2) The Commission must not grant a club licence unless the Commission is satisfied—
 - (a) that the primary purpose of the business to be carried on on the licensed premises is the business of a club; and
 - (b) that—
 - (i) the rules of the club comply with Schedule 1; or

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- (ii) the rules so comply except to the extent that the Commission determines it is appropriate that they should not so comply; and
 - (c) that, in the case of a restricted club licence, supplies of liquor for the club will be purchased only from a person who holds a general licence or a packaged liquor licence.
- (2A) In determining whether a club licence should be restricted or not, the Commission 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 Commission considers relevant.
- (2B) Despite sub-section (1), the Commission may impose a term on a club licence prohibiting the sale and disposition of liquor on the licensed premises during any time that a law other than this Act forbids the club from trading at the premises.
- (3) Despite sub-section (1), a club licence in respect of licensed premises within an electoral district referred to in section 172(1) does not authorise the licensee to sell and dispose of liquor to an authorised gaming visitor.

S. 48(2A)
inserted by
No. 122/1993
s. 10.

S. 48(2B)
inserted by
No. 122/1993
s. 10.

S. 48(3)
inserted by
No. 55/1992
s. 6.

S. 48(4)
inserted by
No. 55/1992
s. 6.

- (4) For the purposes of sub-section (2) the Commission must not have regard to the fact that authorised gaming visitors are or may be admitted to the licensed premises of a club in determining the primary purpose of the business to be carried on on the licensed premises.

49. *Producer's or distributor's licence*

- (1) A producer's or distributor's licence authorises the licensee—
- (a) if the licensee is a producer of liquor—to sell and dispose on the licensed premises of liquor produced or bottled in accordance with the licence on the licensed premises for consumption off the licensed premises—
 - (i) during ordinary trading hours; and
 - (ii) at any other times in accordance with any extended hours permit held by the licensee in respect of the licensed premises; and
 - (b) if the licensee is a vigneron—to sell and dispose on the licensed premises of liquor produced in accordance with the licence on the licensed premises for consumption on or off the licensed premises—
 - (i) during ordinary trading hours and between the hours of 10 a.m. and 12 noon on Sunday, Good Friday and Anzac Day; and
 - (ii) at any other times in accordance with any extended hours permit held by the licensee in respect of the licensed premises; and

(c) if the licensee is a distributor of liquor—to sell and dispose of liquor on the licensed premises for consumption off the licensed premises—

(i) during ordinary trading hours; and

(ii) at any other times in accordance with any extended hours permit held by the licensee in respect of the licensed premises—

subject to such terms and conditions (if any) as the Commission determines and specifies in the licence or extended hours permit.

(2) The Commission must not grant a producer's or distributor's licence unless the Commission is satisfied that the primary purpose of the business to be carried on by the licensee is the business of producing or distributing liquor.

(3) A producer's or distributor's licence granted to a vigneron 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 per centum made from fruit grown or pressed by the licensee; and

(b) in the case of cider or perry, is to the extent of at least 25 per centum made from fruit grown by the licensee; and

(c) in the case of brandy, is to the extent of at least 70 per centum made from wine distilled by the licensee.

(4) The Commission must not grant a producer's or distributor's licence to a person who is a

distributor of liquor unless the Commission is satisfied that the business carried on or to be carried on by the person will be not less than 90 per centum the business of selling and supplying liquor to licensees.

50. *On-premises licence*

(1) An on-premises licence authorises the licensee to sell and dispose of liquor in association with an activity that—

(a) is carried on on the licensed premises or on premises of which the licensed premises form part; and

(b) is the primary purpose of the business carried on on the licensed premises—

either—

(c) on the licensed premises for consumption on the licensed premises; or

(d) if the Commission so determines and specifies in the licence, on any other premises in association with any such activity carried on on those premises for consumption on those premises—

during ordinary trading hours and at any other times in accordance with any extended hours permit held by the licensee in respect of the licensed premises or those other premises, as the case may be, subject to and in accordance with such terms and conditions as the Commission determines and specifies in the licence or extended hours permit.

(2) The Commission must not grant an on-premises licence unless it is satisfied that the primary purpose of the business to be carried on on the licensed premises is the use of the licensed premises primarily for the purpose of—

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- (a) catering associated with the conduct of social receptions or functions; or
 - (b) live entertainment; or
 - (c) conferences, conventions or meetings; or
 - (d) a restaurant or other place where meals are prepared and served for consumption on the licensed premises; or
 - (e) sporting or cultural activities; or
 - (f) a business directly related to the provision of services or the sale of goods to tourists on the licensed premises; or
 - (g) educational or training programs relating to the preparation and service of food or beverages; or
 - (h) such other activities as are approved by the Minister.
- (3) If the business carried on on premises which form part of the licensed premises under an on-premises licence is primarily the business of a restaurant or other place where meals are prepared and served for consumption on the premises, the on-premises licence may, if the Commission so determines and specifies in the licence and on payment of \$800, also authorise the licensee to sell and dispose of liquor (otherwise than in association with the serving of meals) for consumption on a part of the licensed premises that—
- (a) comprises not more than 25 per centum of the total area of the licensed premises on which liquor is sold and disposed of; and
 - (b) is set apart, in accordance with any conditions specified in the licence, for the supply of liquor otherwise than in association with the serving of meals.
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- (4) The Commission must not grant an on-premises licence if it considers that the sale and disposal of liquor proposed to be carried on under the licence would more appropriately be carried on under a licence of another kind.

51. Packaged liquor licence

S. 51 amended by No. 68/1990 s. 4(a).

- (1) A packaged liquor licence authorises the licensee to sell and dispose of liquor on the licensed premises in sealed containers, bottles or cans for consumption off the licensed premises—

S. 51(1)(a) amended by No. 56/1991 s. 21(2)(a), substituted by No. 122/1993 s. 4(3)(a).

- (a) between the hours of 9.00 a.m. and 9.00 p.m. on any day other than Sunday, Good Friday, Anzac Day and Christmas Day; and

S. 51(1)(b) substituted by No. 122/1993 s. 4(3)(a).

- (b) between the hours of 10.00 a.m. and 5.00 p.m. on Sunday; and

S. 51(1)(ba) inserted by No. 122/1993 s. 4(3)(a).

- (ba) between the hours of 12 noon and 9.00 p.m. on Anzac Day; and

S. 51(1)(c) amended by Nos 122/1993 s. 11(a), 83/1994 s. 13(c).

- (c) if an extended hours permit is granted under section 53, at any other times in accordance with that permit—

S. 51(1)(d) inserted by No. 68/1990 s. 4(a), amended by No. 56/1991 s. 21(2)(b), repealed by No. 122/1993 s. 4(3)(b).

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s. 52

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S. 51(1)(e)
inserted by
No. 56/1991
s. 21(2)(b),
repealed by
No. 122/1993
s. 4(3)(b).

subject to such terms and conditions (if any) as
the Commission determines and specifies in the
licence or extended hours permit.

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S. 51(1A)
inserted by
No. 68/1990
s. 4(b),
amended by
No. 56/1991
s. 21(2)(c),
repealed by
No. 122/1993
s. 4(4).

* * * * *

S. 51(2)
repealed by
No. 122/1993
s. 11(b).

- (3) The Commission must not grant a packaged liquor licence unless it is satisfied that the primary purpose of business to be carried on in the area set aside as the licensed premises is the sale by retail of liquor in sealed containers, bottles or cans.

52. Limited licence

- (1) A limited licence authorises the licensee to sell and dispose of liquor at such times and subject to such terms and conditions as the Commission determines and specifies in the licence.
- (2) If the Commission is satisfied that a limited licence is required for the purposes of a club (other than a club for which a club licence is held), the Commission must include in the conditions to which the limited licence is subject a condition that liquor sold or disposed of under the

licence must be purchased from the holder of a general licence or a packaged liquor licence.

- (3) The Commission must not grant a limited licence unless it is satisfied that—
- (a) the licence is required for a limited purpose; and
 - (b) the sale and disposal of liquor proposed to be carried on under the licence would not more appropriately be carried on under a licence of another kind.

53. *Extended hours permit*

- (1) An extended hours permit authorises a licensee to sell and dispose of liquor on the licensed premises or on any authorised premises or on a specified part of the licensed premises or authorised premises at such times and subject to—
- (a) a condition 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 permit relates during or immediately after the hours to which the permit relates; and
 - (b) such other terms and conditions, including conditions relating to entertainment, as the Commission determines and specifies in the permit.
- (2) If a licensee or permittee contravenes any condition of an extended hours permit imposed by or under sub-section (1) in relation to the use of the premises, the contravention shall be deemed also to be a use of the premises that contravenes the relevant planning scheme and Division 1 of Part 6 of the **Planning and Environment Act 1987** applies accordingly except with respect to enforcement orders.
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54. 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 such times and subject to—

S. 54(1)
amended by
No. 70/1988
s. 4(b).

(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 hours to which the permit relates; and

(ab) a condition that the premises are a restaurant or a club in respect of which a licence is not in force; and

S. 54(1)(ab)
inserted by
No. 70/1988
s. 4(c).

(b) such other terms and conditions, including conditions relating to entertainment, as the Commission determines and specifies in the permit.

(2) If a permittee contravenes any condition of a BYO permit imposed by or under sub-section (1) in relation to the use of the premises, the contravention shall be deemed also to be a use of the premises that contravenes the relevant planning scheme and Division 1 of Part 6 of the **Planning and Environment Act 1987** applies accordingly except with respect to enforcement orders.

S. 54(2)
amended by
No. 70/1988
s. 4(d).

Division 2—Additional Authority of Licences and Permits

55. 30-minute period for consumption of liquor after hours

A licence that authorises the licensee to sell and dispose of liquor for consumption on the licensed premises or on any authorised premises during any period also authorises liquor so sold and

disposed of to be consumed on or removed from those premises during the 30 minutes next after the expiration of that period.

56. *Gratuitous supply of liquor*

A licence that authorises the licensee to sell and dispose of 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 sell and dispose of liquor for consumption off the premises.

57. *Bringing of liquor onto licensed premises*

If—

- (a) a licence authorises the licensee to sell and dispose of liquor for consumption on licensed premises or on any authorised premises; and
- (b) the primary purpose of the business carried on on the licensed premises, or on premises of which the licensed premises form part, is a restaurant or other place where meals are prepared and served for consumption on the premises; and
- (c) the licensee consents—

a person of or over the age of 18 years may—

- (d) bring liquor onto, or possess or control liquor on, the premises for consumption with a meal purchased on those premises; and
- (e) consume that liquor with that meal; and
- (f) take away from those premises any container brought onto the premises by him or her containing any such liquor that was not consumed with that meal.

Division 3—Special Provisions Applying to Clubs

58. Club licence subject to certain conditions

- (1) A club licence is subject to the following conditions—
- (a) the rules of the club must comply with Schedule 1 except as otherwise authorised in writing by the Commission;
 - (b) if the rules of the club are amended or altered—
 - (i) the secretary of the club must, within 14 days after the making of the amendment or alteration, give to the Chief Executive Officer a certified copy of the amendment or alteration; and
 - (ii) subject to sub-section (2), the amendment or alteration does not have effect until the expiration of 28 days after the certified copy is given to the Chief Executive Officer;
 - (c) the secretary of the club must keep on the club premises in a form or manner approved by the Commission—
 - (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

S. 58(1)(c)
amended by
No. 55/1992
s. 7(1)(a)–(c).

S. 58(1)(c)(i)
inserted by
No. 55/1992
s. 7(1)(b).

S. 58(1)(c)(ii)
inserted by
No. 55/1992
s. 7(1)(c).

visitor admitted to the licensed premises and the date of that admission;

S. 58(1)(d)
amended by
Nos 70/1988
s. 6(a),
55/1992
s. 7(2).

- (d) the registers must be kept open for inspection at any time by a licensing inspector, an authorised member of the police force, the Commissioner, the Deputy Commissioner, an Assistant Commissioner, the Chief Executive Officer or an officer or employee of the Commission;
- (e) the secretary of the club must 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.

(2) The Commission may, by notice in writing given to the secretary to a club within 28 days after receiving a certified copy of an amendment or alteration of the rules (other than a rule relating only to the number of members of the club), disallow the amendment or alteration.

(3) The secretary of a club must not—

- (a) fail to comply with the condition referred to in sub-section (1)(c); or
- (b) wilfully make a false entry in a register referred to in sub-section (1)(c).

Penalty: 5 penalty units.

S. 58(3)(b)
amended by
Nos 55/1992
s. 7(3),
122/1993
s. 26(c).

(4) A person must not prevent or obstruct a person exercising powers of inspection in accordance with the condition referred to in sub-section (1)(d).

Penalty: 5 penalty units.

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- (5) This section does not apply to a club licence if a post-secondary education institution is the licensee.

59. *Special provisions for certain sporting clubs*

If a club the management of which is vested in trustees appointed by the Governor in Council applies or proposes to apply for a club licence under this Act, the Governor in Council may, by proclamation published in the Government Gazette, declare—

- (a) that the trustees shall be deemed to be the management committee of the club with responsibility for the affairs of the club; and
- (b) that paragraphs (e), (f) and (g)(iv) of Schedule 1 do not apply in respect of the club.

Division 4—Restrictions on Applications and Grant of Licences and Permits

60. *Certain premises not to be licensed*

- (1) The Commission must not grant a licence or 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 Commission are used primarily as a milk bar, convenience store or mixed business.
- (2) The Commission may, with the approval of the Minister, grant a licence in respect of premises referred to in sub-section (1)(c) if the Minister is

S. 60(1)(a)
amended by
No. 96/1995
s. 15.

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.

61. *Limit on licences held by corporations*

- (1) The Commission must not grant or transfer to a person a general licence or 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 eight per centum of all general licences or packaged liquor licences, as the case may be, granted and in force under this Act; or
 - (b) in the case of a corporation, the sum of the number of licences held by the corporation or a related corporation is more than eight per centum of all general licences or packaged liquor licences, as the case may be, granted and in force under this Act.
- (2) A reference in sub-section (1) to a licence of a particular kind includes a reference to a licence issued under the **Liquor Control Act 1968** and a licence so issued and renewed in accordance with Part 8, being a licence of a kind referred to in Column one of Schedule 3 having effect under that Part as a licence of the first-mentioned kind.

62. *Second application not permitted within one year*

If—

- (a) the Commission refuses an application for the grant of a licence or permit; or
 - (b) an applicant withdraws an application before the Commission has determined whether to grant it or refuse it—
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the applicant is not entitled to make another application for the same type of licence or permit in respect of the same premises or subject-matter until the expiration of one year after the refusal or withdrawal, unless the Commission otherwise determines.

Division 5—Grant, Variation, Transfer and Removal of Licences and Permits

63. *Application for grant of licence or BYO permit*

(1) A person who is—

- (a) a natural person of or over the age of 18 years; or
- (b) a body corporate—

and is not disqualified under this Act or a corresponding previous enactment from holding a licence or permit under this Act or that enactment may apply to the Commission for the grant of a licence or a BYO permit.

(2) An application must be in a form approved by the Commission and—

- (a) if the application is made by a natural person, signed by that person; or
- (b) if the application is made by a body corporate, under seal or, if the body corporate does not have a seal, signed by not less than two directors of the body corporate or, if there is only one director, by that director.

(3) The application must specify—

- (a) whether the application is for a licence or a BYO permit; and

S. 63(1)
amended by
No. 70/1988
s. 4(e).

S. 63(3)(a)
amended by
No. 70/1988
s. 4(e).

- (b) if the application is for a licence—the type of licence sought; and
 - (c) any terms or conditions sought in relation to the licence or permit; and
 - (d) the name, address and date and place of birth—
 - (i) if the application is made by a natural person—of that person; or
 - (ii) if the application is made by a body corporate—of each director, secretary, manager and executive officer of the body corporate; and
 - (e) if the applicant is a proprietary company—the name and address of, and the number of shares in the company held by, each member of the company; and
 - (f) if the applicant is a body corporate—the date and place of incorporation of the body corporate and the address of its registered office or, if it is not incorporated in Australia, the address of its chief office in Australia; and
 - (g) the address of the premises or proposed premises in respect of which the licence or permit is sought; and
 - (h) such other matters as are prescribed or are determined by Order of the Governor in Council.
- (4) If a change occurs in the particulars specified in the application in accordance with sub-section (3)(d) or (e) or in an address referred to in sub-section (3)(f), the applicant must, within 14 days after the change occurs, give to the Registrar notice in writing signed by the applicant or, if the applicant is a body corporate, by a director of the
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body corporate specifying particulars of the change.

- (5) The application must be accompanied by—
- (a) copies of plans of the premises to which the application relates showing to the satisfaction of the Commission the area or proposed area of the licensed premises; and
 - (b) either—
 - (i) a copy of a permit issued under the relevant planning law or, in the case of a vehicle, vessel or aircraft, a permit, licence or other authority issued under any relevant law permitting the premises to which the application relates to be used as licensed premises; or
 - (ii) an application, in accordance with the relevant planning law or other law, for such a permit, licence or other authority, together with any fee payable in respect of the application; or
 - (iii) evidence to the satisfaction of the Commission that such a use is otherwise authorised under the relevant planning law or other law; and
 - (c) a certificate from the Metropolitan Fire Brigade or the Country Fire Authority specifying its requirements if the premises to which the application relates were to be licensed premises; and
 - (d) either—
 - (i) copies of any relevant certificates of registration or reports required under the **Health Act 1958** relating to the use

- of the premises to which the application relates as licensed premises; and
- (ii) applications in accordance with that Act for those certificates, together with any fees payable in respect of the applications; and
- (e) if the applicant is not the owner of the premises to which the application relates—evidence to the satisfaction of the Commission of—
- (i) the applicant's right to occupy the premises; and
 - (ii) the owner's consent to the granting of the licence or permit; and
- (f) if any building work is proposed to be carried out on the premises to which the application relates—
- (i) evidence to the satisfaction of the Commission that any necessary permits or authorities for that work are likely to be granted; or
 - (ii) applications in accordance with the relevant planning law or any other law for those permits or authorities, together with any fees payable in respect of the applications; and
- (g) if the applicant is a body corporate—a copy of the certificate of incorporation; and
- (h) if the applicant proposes to carry on business under a business name—a copy of the certificate of registration of the business name; and
- (i) if the application is for a club licence—a copy of the rules of the club and evidence to
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the satisfaction of the Commission of the authority of the applicant to make the application on behalf of the members of the club; and

- (j) particulars of any conviction of the applicant or, if the applicant is a body corporate, of any director, secretary, managing director or executive officer of the body corporate for an offence under this Act or any corresponding previous enactment or any law of any other place relating to liquor licensing; and
- (k) the fee prescribed for applications of that kind.

S. 63(5)(k) amended by No. 94/1997 s. 13(1)(a)(i).

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S. 63(5)(l) repealed by No. 94/1997 s. 13(1)(a)(ii).

- (5A) Sub-sections (5)(c), (d), (e), (f) and (h) do not apply to applications for a BYO permit.

S. 63(5A) inserted by No. 122/1993 s. 12(1).

- (6) If the Commission requests an applicant for a licence or permit to give any other information, the applicant must comply with the request.

64. Application for grant of extended hours permit

- (1) A person who—
 - (a) applies to the Commission under section 63 for a licence; or
 - (b) is a licensee—

may apply to the Commission for an extended hours permit in respect of the licensed premises or any authorised premises.

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- (2) The application must be in a form approved by the Commission and must specify particulars of—
 - (a) the periods in respect of which the extended hours permit is sought; and
 - (b) the purposes for which the permit is sought; and
 - (c) the premises in respect of which the permit is sought; and
 - (d) any terms or conditions sought in relation to the permit; and
 - (e) such other matters as are prescribed or are determined by Order of the Governor in Council.
 - (3) The application must be accompanied by—
 - (a) copies of plans to the satisfaction of the Commission of the premises to which the application relates; and
 - (b) the prescribed fee.
 - (4) If the Commission requests an applicant for an extended hours permit to give any other information, the applicant must comply with the request.
 - (5) Before an extended hours permit is granted, the Chief Executive Officer must consult with the council of the municipality within which the licensed premises or authorised premises are situated.
 - (6) In considering an application under this section, the Commission must have regard to—
 - (a) any matter raised by the council of the municipality within which the licensed premises or authorised premises are, or are to be, situated; and
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- (b) the impact on the amenity of the community.

65. *Application for variation*

- (1) A licensee, permittee, licensing inspector or the Chief Executive Officer may apply to the Commission for the variation of a licence or permit or extended hours permit by—
- (a) the amendment or revocation of a term or condition; or
 - (b) the addition of a term or condition.
- (2) An application under sub-section (1) must—
- (a) be in a form approved by the Commission; and
 - (b) be signed by the applicant or, if the applicant is a body corporate, be under seal or, if the body corporate does not have a seal, be signed by not less than two directors of the body corporate or, if there is only one director, by that director; and
 - (c) state the name and address of the applicant; and
 - (d) state the address of the premises to which the application relates; and
 - (e) give details of the variation sought; and
 - (f) if the applicant is the licensee or permittee, be accompanied by either—
 - (i) a copy of a permit issued under the relevant planning law or in the case of a vehicle, vessel or aircraft, a permit, licence or other authority issued under any relevant law permitting any proposed variation to the use of premises to which the application relates; or

- (ii) an application, in accordance with the relevant planning law or other law, for such a permit, licence or authority, together with any fee payable in respect of the application; or
 - (iii) evidence to the satisfaction of the Commission that the variation is permitted or otherwise authorised under the relevant planning law or other law; and
- (g) if the applicant is the licensee or permittee, be accompanied by the prescribed fee.
- (3) If the Commission requests an applicant for a variation of a licence, permit or extended hours permit to give any other information, the applicant must comply with the request.

66. *Procedure on request for variation by licensing inspector or Chief Executive Officer*

If a licensing inspector or the Chief Executive Officer applies to the Commission for a variation of a licence or permit—

- (a) the Registrar must give a copy of the application to the licensee or permittee not later than 14 days after the application is received by the Registrar;
- (b) the licensee or permittee may, within 14 days after receiving the copy of the application, give notice in writing to the Registrar of an objection to the application;
- (c) the Registrar must give a copy of any objection under paragraph (b) to the applicant within 7 days after he or she receives the objection.

67. *Application for removal of licences and permits*

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- (1) A licensee or permittee may apply to the Commission for removal of the licence or permit from the licensed premises to other premises.
 - (2) An application under sub-section (1) must be accompanied by—
 - (a) the copies of documents, evidence, certificates and copies of certificates or applications referred to in section 63(5)(a), (b), (c), (d), (e) and (f) that would be required if the application were an application for the grant of the licence or permit; and
 - (b) evidence of the consent of any mortgagee of either of the premises; and
 - (c) if the applicant is not the owner of the other premises, evidence to the satisfaction of the Commission of—
 - (i) the applicant's right to occupy the premises; and
 - (ii) the owner's consent to the removal of the licence or permit; and
 - (d) the prescribed fee.

68. *Applications for planning permits etc. lodged with Commission*

If an application for the grant, variation or removal of a licence or permit is accompanied by an application for a permit or authority under the relevant planning law or any other law or for certificates or reports under the **Health Act 1958**—

- (a) the Registrar must without delay give the application for the permit or authority to the person to whom it is addressed; and
- (b) the person to whom such an application is addressed must grant or refuse the application within 30 days, or such longer time as the Commission allows, after receiving the application.

69. *Application for transfer*

- (1) A licence, together with any extended hours permit applying to it, or a permit may be transferred by the Commission to a person qualified to apply for the grant of the licence or permit—
 - (a) upon the application of the holder of the licence or permit and the proposed transferee jointly; or
 - (b) upon the application of the owner or mortgagee of the licensed premises and the proposed transferee jointly, if—
 - (i) the holder of the licence or permit 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 in the premises and has refused or neglected to concur in the application.
 - (2) An application under sub-section (1) must—
 - (a) be in a form approved by the Commission; and
 - (b) be signed—
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- (i) by each applicant that is a natural person; and
 - (ii) if an applicant is a body corporate, be under seal or, if the body corporate does not have a seal, be signed by not less than two directors of the body corporate or if there is only one director, by that director; and
 - (c) state the name and address of the applicant; and
 - (d) give particulars of the licence (and any extended hours permit) or permit; and
 - (e) state the address of the premises to which the application relates.
- (3) An application under sub-section (1) must be accompanied by—
- (a) the prescribed fee; and
 - (b) the documents or copies of documents referred to in section 63(5) (except paragraph (k)) that would be required if the application were an application for the grant of the licence or permit; and

S. 69(3)(b) substituted by No. 122/1993 s. 12(2), amended by No. 94/1997 s. 13(1)(b)(i).

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S. 69(3)(c) repealed by No. 94/1997 s. 13(1)(b)(ii).

- (d) if the application is for the transfer of a residential licence, the residents' register, or a copy of the residents' register, kept by the transferor under section 108.

S. 69(3)(d) amended by No. 94/1997 s. 13(1)(b)(iii).

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S. 69(3)(e) repealed by No. 94/1997 s. 13(1)(b)(ii).

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

S. 70
amended by
No. 122/1993
s. 12(3)(a).

70. Copy of application to be given to police and to municipality

- (1) The Registrar, on receiving an application—

S. 70(1)(a)
amended by
No. 122/1993
s. 12(3)(b).

- (a) for the grant of a licence or extended hours permit; or

S. 70(1)(b)
amended by
No. 122/1993
s. 12(3)(b)(c).

- (b) from a licensee for the variation of a licence or extended hours permit; or

S. 70(1)(c)
amended by
No. 122/1993
s. 12(3)(d).

- (c) for the transfer or removal of a licence—

must give a copy to—

S. 70(2)
inserted by
No. 122/1993
s. 12(4).

- (d) the Chief Commissioner of Police; and

- (e) the Council of the municipality in which the licensed premises are, or are proposed to be, situated.

- (2) The Registrar must also give the Chief Commissioner of Police a copy of an application for the grant of a permit, the variation of a permit by a permittee or the transfer of a permit, on receiving the application.

71. Objection by police

The Chief Commissioner of Police—

- (a) must, within 21 days or such longer period as the Commission allows after a copy of an application is given to him or her under section 70, advise the Registrar whether or

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not he or she objects to the grant of the application; and

- (b) if he or she objects, must, not later than 14 days before the holding of the preliminary conference, give to the applicant and the Commission a statement of the grounds of the objections.

72. Advertisement of application

- (1) An applicant for the grant, variation, transfer or removal of a licence or extended hours permit must cause a copy of a notice of the application to be advertised in a newspaper circulating in the area—

S. 72(1)
amended by
No. 122/1993
ss 12(5), 13(1).

- (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 removed—

not later than 14 days after the day on which the application is lodged.

- (1A) If the Commission is of the opinion that a newspaper other than the one the applicant has advertised the notice in has a larger or wider circulation in the relevant area, it may direct the applicant to re-advertise the notice in the newspaper with the larger or wider circulation.

S. 72(1A)
inserted by
No. 122/1993
s. 13(2).

- (1B) An application lapses if the applicant does not comply with such a direction within 14 days of receiving written notice of the direction.

S. 72(1B)
inserted by
No. 122/1993
s. 13(2).

- (1C) If a notice is re-advertised in accordance with a direction under sub-section (1A), the date the notice was re-advertised is to be treated as the date the notice was published.

S. 72(1C)
inserted by
No. 122/1993
s. 13(2).

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s. 72

S. 72(2)
amended by
No. 122/1993
ss 12(5), 13(1).

(2) An applicant for the grant, variation, transfer or removal of a licence or extended hours permit must ensure that a copy of a notice of the application is continuously displayed on the premises or site to which the application relates or premises to which the licence or permit is sought to be removed during the period of 28 days immediately after the application is lodged.

(3) The notice must be displayed in a manner that invites public attention to the application.

S. 72(3A)
inserted by
No. 122/1993
s. 13(3).

(3A) The Commission may require that the size and format of the notice comply with minimum requirements specified by the Commission in any particular case.

(4) If it is not practicable to display the notice on the premises or site, it is sufficient compliance with sub-section (2) if the notice is conspicuously displayed in accordance with sub-section (3) on any adjoining premises.

(5) An applicant shall be deemed to have complied with sub-sections (2), (3) and (4) if the Commission 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 removed; and

-
- (c) if the application relates to a licence or permit, the type of licence or permit to which it relates or, if the application relates to an extended hours permit, a statement to that effect; and
 - (d) any terms or conditions sought in relation to the grant, variation, transfer or removal of the licence, permit or extended hours permit.

73. Exemptions for limited licences

- (1) The Commission may, in writing, exempt the applicant for the grant, variation, transfer or removal of a limited licence or BYO permit from the requirements of any of the provisions of section 63(5)(a)(b)(c)(d)(e) or (f), 65(2)(f), 67(2)(a), 69(3)(b) or 72.
- (2) The Commission may, in writing, declare that the Registrar is not required to comply with section 70 in respect of a specified application for a limited licence.

S. 73(1)
amended by
No. 70/1988
s. 4(f).

74. Representations as to community interest

- (1) A person, including the council of the municipality in which premises to which a licence or application relates are, or are proposed to be, situated, who considers that the grant, variation, transfer or removal of a licence or extended hours permit is not in the interest of the community in the neighbourhood where the premises to which the application relates are situated—
 - (a) may, within 14 days after a notice of the application is published in a newspaper in accordance with section 72, give to the Chief Executive Officer notice that the person considers that the grant, variation, transfer or removal would not be in that interest; and

S. 74(1)
amended by
No. 122/1993
s. 12(6).

S. 74(3)
amended by
No. 122/1993
s. 12(6).

S. 74(4)
amended by
No. 122/1993
s. 12(6).

- (b) may, within 14 days after a notice is so published, give to the Chief Executive Officer particulars of the grounds on which the person considers the grant, variation, transfer or removal would not be in that interest.
- (2) The Chief Executive Officer may request a person who gives notice under sub-section (1)(b) to give further particulars of the matters to which the notice relates.
- (3) A person may apply to the Commission for a determination that the grant, variation, transfer or removal of a licence or extended hours permit would not be in the community interest.
- (4) A person may not make an application under sub-section (3) if the Chief Executive Officer gives notice to the person within 21 days after receiving particulars of the grounds on which the person considers the grant, variation, transfer or removal of a licence or extended hours permit would not be in the community interest stating that the Chief Executive Officer has determined to refuse the application.
- (5) The Commission must, within 21 days after the Registrar receives an application under sub-section (3), determine the question and give notice to the applicant under that sub-section and to the Chief Executive Officer and the applicant for the grant, variation, transfer or removal of its determination.
- (6) (a) In determining the question, the Commission must have regard to the matters mentioned in section 76(2)(b) and (c) but must not have regard to those mentioned in section 76(2)(d) or (e).

(b) The Commission shall give particular consideration to the opinion of the council of a municipality on any matter relating to the amenity of an area under its control.

(7) If, under this section, the Commission determines that the grant, variation, transfer or removal of a licence or extended hours permit would not be in the interest of the community, the Commission must refuse the application.

S. 74(7) amended by No. 122/1993 s. 12(6).

75. Objection to grant or transfer of licence or permit

(1) If—

(a) the Chief Executive Officer; or

S. 75(1) amended by No. 94/1997 s. 20(c).

* * * * *

S. 75(1)(b) repealed by No. 122/1993 s. 12(7).

(c) a licensing inspector—

considers that an applicant for the grant or transfer of a licence or permit or extended hours permit is not a suitable person to hold the licence or permit, the Chief Executive Officer or inspector may give notice in writing to the Commission of an objection to the grant or transfer of the licence or permit.

(1A) If an association of employers of persons or employees engaged in the liquor industry or a group of those associations considers that an applicant for the grant or transfer of a licence is not a suitable person to hold the licence, the association or group of associations may give notice in writing to the Commission of an objection to the grant or transfer of the licence.

S. 75(1A) inserted by No. 122/1993 s. 12(8).

(2) A notice of objection under this section must be given to the Commission within 14 days after notice of the application for the grant or transfer

of the licence, permit or extended hours permit is published in a newspaper in accordance with section 72.

- (3) The Registrar must, at least 14 days before the holding of a preliminary conference, notify the applicant in writing of any notice of objection under this section.
- (4) An objection under this section may specify as the ground for the objection—
- (a) that—
- (i) the applicant; or
 - (ii) if the applicant is a body corporate, a director of the body corporate or a person nominated to be the holder of the licence; or
 - (iii) if the application is for a club licence, an officer of the club—
- has, within the preceding three years—
- (iv) been convicted, whether in Victoria or elsewhere, of an offence of selling liquor without a licence or of selling adulterated liquor or of an offence against any law relating to customs or excise; or
 - (v) engaged in activities involving the trading in or marketing of liquor in a manner contrary to the provisions of this Act—
- or is otherwise unsuitable to hold a licence or permit or extended hours permit having regard to the responsibilities of a licensee or permittee; or
- (b) if the application is for 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 sold illegally whether on the club premises or elsewhere; or
 - (v) that persons who are not members are 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 are habitually broken.
- (5) The Chief Executive Officer may also object to the grant or transfer of the licence or permit on the ground—
- (a) that the applicant does not have an adequate knowledge of this Act; or
 - (b) if the applicant is a body corporate, that no director of the body corporate has an adequate knowledge of this Act.
- (6) Despite sub-section (2), the Chief Executive Officer may give notice to the Commission of an objection on the ground specified in sub-section (5) at any time before the Commission decides whether or not to grant or transfer the licence or permit.

S. 75(5)
inserted by
No. 122/1993
s. 14.

S. 75(6)
inserted by
No. 122/1993
s. 14.

76. Recommendation as to community interest

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S. 76(1)
amended by
No. 122/1993
s. 12(a).

- (1) The Chief Executive Officer, within 28 days after notice of an application for the grant, variation or removal of a licence or extended hours permit is published in a newspaper in accordance with section 72, must give to the Commission in writing his or her recommendation as to whether or not it would be in the interest of the community in the neighbourhood where the premises to which the application relates are situated to grant, vary or remove the licence or extended hours permit and the reasons for the recommendation.
- (2) In making the recommendation, the Chief Executive Officer—
 - (a) must have regard to any representations made under section 74 to the Chief Executive Officer—
 - (i) by the council of the municipality in which the premises to which the application relates are, or are to be, situated; or
 - (ii) by any other person; and
 - (b) must have regard to the extent to which businesses carried on under licences and permits in the area to which the application relates are satisfying the need intended to be satisfied by the applicant; and
 - (c) must determine whether the grant of the application is likely to have an adverse effect on the interest of the community in that area—but must not have regard to—
 - (d) whether the business of any other licensee or permittee may be adversely affected by the grant of the application; or

- (e) whether the business proposed to be carried on under the licence or extended hours permit would be successful. S. 76(2)(e) amended by No. 122/1993 s. 12(9).
- (3) If the Chief Executive Officer recommends that the grant, variation or removal of a licence or extended hours permit would not be in the interest of the community, the Registrar must, at least 14 days before the holding of a preliminary conference, give the applicant and each person who made representations under section 74 a copy of the recommendation. S. 76(3) amended by No. 122/1993 s. 12(9).

77. Grant of application where no objection

If—

(a) the Commission is satisfied—

(i) that an application for the grant, variation, transfer or removal of a licence or permit or extended hours permit has been made under and in accordance with section 63, 64, 65, 67 or 69 and that the appropriate fee has been paid; and

(ii) that notice of objection has not been given under section 66, 71 or 75; and

S. 77(a)(ii) amended by No. 122/1993 s. 26(f).

(iii) that no representation has been made under section 74 that the grant of the application is not in the interest of the community; and

(b) the Chief Executive Officer has recommended that the grant of the application would be in the interest of the community—

the Commission must grant the application.

78. Procedure where objection made

If—

- (a) the Commission is satisfied that an application for the grant, variation, transfer or removal of a licence or permit or extended hours permit has been made under and in accordance with section 63, 64, 65, 67 or 69; and
- (b) an objection is made under section 66, 71 or 75 to the grant of the application or a recommendation is made under section 76 that the grant of the application would not be in the interest of the community; or
- (c) that a representation has been made under section 74 that the grant of the application is not in the interest of the community—

S. 78(b)
amended by
No. 122/1993
s. 26(f).

the Commission must hold a preliminary conference and a hearing before determining whether or not to grant the application.

79. Hearing before Commission

In proceedings before the Commission to determine whether or not a licence or permit or extended hours permit should be granted, varied, transferred or removed, the Commission must consider the grounds of objections made to it and the recommendation of the Chief Executive Officer and may, on its own motion, or, with the consent of the applicant, on the motion of a party, consider—

- (a) any other grounds on which an objection could have been made under this Part; and

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- (b) any other recommendation that the Chief Executive Officer could have made.

80. *Conditional licence or permit*

- (1) If the construction or alteration of licensed premises to which an application for the grant, variation or removal of a licence or permit or extended hours permit relates is not completed, the Commission may grant, vary or remove the licence or permit or extended hours permit under this Part subject to the condition that if, within such period as the Commission specifies, the Commission is not satisfied that—

- (a) the requirements of the Metropolitan Fire Brigade or the Country Fire Authority have been met; or
- (b) any relevant certificates or reports required under the **Health Act 1958** relating to the use of the premises as licensed premises have been issued; or

- (c) any necessary permits or authorities for any building work have been obtained—

the Commission will cancel the licence or permit or extended hours permit.

- (2) The Commission may, on the application of the applicant for the grant, variation or removal of the licence or permit or extended hours permit, extend the period mentioned in sub-section (1).

81. *Transfer of licence or permit may be subject to conditions*

If the Commission grants an application for the transfer of a licence or permit, the Commission

may make its approval subject to such terms and conditions as it thinks fit.

82. *Fee to be paid before grant of licence or permit*

The Commission must not grant a licence or permit or extended hours permit unless the fee payable under Part 5 in respect of that licence or permit or extended hours permit has been paid.

83. *Period of licence, permit or extended hours permit*

S. 83(1)
amended by
Nos 70/1988
s. 4(g),
122/1993
s. 26(g).

(1) A licence (other than a limited licence) or BYO permit or extended hours permit has effect on the day on which it is granted and continues in force until 31 December next following.

S. 83(2)
amended by
No. 122/1993
s. 26(h).

(2) A limited licence permit has effect in accordance with its terms.

84. *Form of licence or permit and endorsements*

- (1) A licence or permit granted under this Part shall be issued by the Chief Executive Officer in or to the effect of a form approved by the Commission for licences or permits of that kind and shall be signed by the Chief Executive Officer.
- (2) If an extended hours permit is granted to a licensee under this Part, or is varied under this Part, the Chief Executive Officer may cause an endorsement to be made on the licence in the form approved by the Commission.
- (3) If a licence or permit is varied, removed or transferred under this Part, the Chief Executive Officer may cause an endorsement to be made on the licence or permit in the form approved by the Commission.

85. *Copy of licence or permit*

The Chief Executive Officer 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 permit, or of part of the licence or permit, with the word "copy" marked on it.

86. *Nominee of licensee or permittee*

If a licence or permit is granted or transferred—

- (a) to two or more persons, those persons are severally liable as licensee or permittee; or
- (b) to a body corporate—
 - (i) the body corporate may, subject to the regulations, from time to time with the consent of the Commission nominate a person approved by the Commission to be responsible as licensee or permittee on behalf of the body corporate and a person so nominated and approved shall be liable under this Act as licensee or permittee; or
 - (ii) if the body corporate has not so nominated a person or where a person so nominated has resigned, been dismissed or has ceased to manage and control the licensed premises, the directors of the body corporate are severally liable under this Act as licensee or permittee until such time as a person or another person (as the case may be) is nominated and approved by the Commission;
- (c) in the case of a club licence—
 - (i) the club may, subject to the regulations, from time to time with the consent of the Commission nominate a person approved by the Commission to be responsible as licensee on behalf of the

club and a person so nominated and approved shall be liable under this Act as licensee; or

- (ii) if the club has not nominated a person under sub-paragraph (i), the members of the managing committee of the club are severally liable under this Act as licensee.

87. *Transfer of licence or permit to incorporated association*

If a copy of a certificate of incorporation under the **Associations Incorporation Act 1981** is lodged with the Chief Executive Officer, a licence or permit or extended hours permit held on behalf of the association, society, club, institution or body before incorporation under that Act shall be deemed to have been transferred to the incorporated association and the Chief Executive Officer shall amend or cause to be amended the licence or permit accordingly.

88. *Concurrent dealing with transfer and removal*

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

89. *Effect of transfer or removal*

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

- (2) If the Commission approves the removal of a licence or permit, the licence or permit has effect as if it had been granted in respect of the premises to which it is removed.

Division 6—Renewal of Licences and Permits

90. *Fee for renewal*

- (1) If, not later than 21 days after the day on which, but for this section, a licence or permit or an extended hours permit would expire, the licensee or permittee pays the fee payable under Part 5 in respect of the licence or permit or extended hours permit, the licence or permit or extended hours permit, is renewed accordingly.

S. 90
amended by
Nos 122/1993
s. 15(a),
83/1994
s. 6(a).

- (2) If the licensee or permittee does not pay the fee within the time allowed by sub-section (1), the licence or permit or extended hours permit is suspended.

S. 90(2)
inserted by
No. 122/1993
s. 15(b).

- (3) The licence or permit or extended hours permit remains suspended until the licensee or permittee pays the required fee.

S. 90(3)
inserted by
No. 122/1993
s. 15(b),
substituted by
No. 94/1997
s. 13(2).

- (4) A suspended licence or permit or extended hours permit expires on 30 June if it is still suspended on that date.

S. 90(4)
inserted by
No. 122/1993
s. 15(b),
amended by
No. 94/1997
s. 13(3)(a).

S. 90(5)(6)
inserted by
No. 122/1993
s. 15(b),
repealed by
No. 94/1997
s. 13(3)(b).

* * * * *

91. *Notice of failure to renew licence to be given to owner etc.*

If a licensee fails to apply for renewal of the licence, the Chief Executive Officer 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.

92. *Power to owner and others to renew licence in certain cases*

(1) If a licensee has failed to renew the licence, the owner, (if he or she was not the last holder of the licence), or the mortgagee of the licensed premises or any other person prejudicially affected by the failure, may, within three months after the expiry of the licence or within such further time as the Commission in any particular case determines, if he or she is entitled to the possession of the premises, apply to the Commission for renewal of the licence.

(2) If—

- (a) the Commission is satisfied that the owner, mortgagee or other person is a suitable person to carry on the business of the licensee; and
- (b) the fee payable under Part 5 in respect of the licence is paid—

the Commission may grant a renewal of the licence to the owner, mortgagee or other person or

to a nominee of the owner, mortgagee or other person.

Division 7—Executors etc.

93. Power to executors trustees etc. to carry on business

(1) If—

- (a) a licensee or permittee dies, a person who is, or persons who are named as, or intends or intend to make application to become, legal personal representative or representatives of the licensee; or
- (b) a licensee or permittee becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit, the official receiver, trustee or assignee if in possession of the licensed premises; or
- (c) a receiver and manager or an administrator of a company is appointed in respect of a licensee or permittee that is a body corporate, the receiver and manager or administrator if in possession of the licensed premises; or
- (d) an official liquidator or provisional liquidator is appointed in respect of a licensee or permittee that is a body corporate, the official liquidator or provisional liquidator, if in possession of the licensed premises; or
- (e) a licensee or permittee becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**, the guardian or administrator appointed under that Act—

S. 93(1)(c)
amended by
No. 122/1993
s. 16(a)(b).

S. 93(1)(e)
amended by
No. 52/1998
s. 311(Sch. 1
item 51).

may apply to the Commission to have his or her name or the name of his or her nominee endorsed on the licence or permit.

(2) If—

(a) the Commission is satisfied that the applicant is a suitable person to carry on the business of the licensee or permittee; and

(b) the prescribed fee is paid—

the Commission must cause the licence or permit to be endorsed accordingly.

(3) If, in any of the circumstances referred to in sub-section (1), an application is not made to the Commission under that sub-section, the Commission may cause the licence or permit to be endorsed with the name of a person nominated by the Commission.

94. *Effect of endorsements*

A person whose name is so endorsed on a licence or permit may carry on the business under the licence, and any extended hours permit, or the permit until the licence and extended hours permit or permit is transferred or renewed and is subject to the same duties, liabilities, obligations, disqualifications and penalties as if he or she were a licensee or permittee.

95. *Renewal of endorsed licence*

Subject to this Part, the Commission may renew a licence, and any extended hours permit, or a permit in the name of a person as agent, nominee, executor, administrator, official receiver, assignee or as guardian or administrator, or nominee of a

S. 95
amended by
No. 52/1998
s. 311(Sch. 1
item 51).

guardian or administrator under the **Guardianship and Administration Act 1986** or of any other person shown to the Commission to be entitled to the renewal.

96. *Licence or permit lapses if not endorsed*

If a licensee or permittee dies or becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit or becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**, the licence or permit is of no force and effect after 90 days after the happening of the event or such longer period as the Commission in any particular case allows, unless the licence or permit is endorsed under section 93.

S. 96
amended by
No. 52/1998
s. 311(Sch. 1
item 51).

97. *Rights and duties of executors or administrators*

Subject to this Part, a licence and any extended hours permit or permit confers on the personal representatives of the deceased licensee or permittee the same rights and privileges and, if the personal representatives exercise any of those rights and privileges, imposes on them the same duties, liabilities, obligations, disqualifications and penalties as if the licence and any extended hours permit or permit had been granted to them.

Division 8—Surrender, Cancellation etc.

98. *Surrender of licence or permit*

- (1) A licensee or permittee may request the Commission to accept a surrender of the licence or permit.

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S. 98(2)
repealed by
No. 94/1997
s. 13(4).

* * * * *

- (3) If the Commission considers that any persons will be affected by the surrender of a licence or permit, the Commission must cause notice to be given to those persons of any request made under sub-section (1) in respect of that licence or permit.
- (4) A person who is given notice under sub-section (3) and wishes to oppose the surrender, may make a submission to that effect to the Chief Executive Officer, specifying the grounds for the opposition.
- (5) If a submission is made under sub-section (4), the Chief Executive Officer must decide whether to recommend to the Commission that the surrender not be accepted.

S. 98(6)
repealed by
No. 94/1997
s. 13(4).

* * * * *

- (7) After taking account of any recommendation under sub-section (5) and, if it thinks fit, holding a hearing, the Commission must determine whether to approve or refuse a request under sub-section (1).
- (8) If no submission is made under sub-section (4), the Commission must accept the surrender of the licence or permit.

S. 98(9)
repealed by
No. 94/1997
s. 13(4).

* * * * *

99. Release of licensee or permittee

- (1) On the application of a licensee or permittee who desires to vacate the licensed premises of which he or she has been a tenant, the Commission, if satisfied that the tenancy of the premises has expired may—
 - (a) release the licensee or permittee from his or her obligations under this Act in respect of the licensed premises; and
 - (b) suspend the operation of the licence or permit until the licence or permit has been transferred or an agent of the owner or a mortgagee of the licensed premises has been authorised to carry on the business.
- (2) An agent or mortgagee authorised under subsection (1) is subject and liable to the same duties, liabilities, obligations, disqualifications and penalties as if he or she were the licensee or permittee in respect of such premises.

S. 99 amended by No. 94/1997 s. 13(5)(ILA s. 39B(1)).

S. 99(2) inserted by No. 94/1997 s. 13(5).

100. Partner leaving partnership

If it is proved to the satisfaction of the Commission that a member of a partnership or firm 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 Commission may remove the name of that person from the licence or permit and the remaining members of the partnership or firm shall be deemed to be the licensees or permittees.

101. Cancellation and suspension

- (1) If as a result of representations made to the Chief Executive Officer, the Chief Executive Officer is satisfied—

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- (a) that a licensee or permittee is not a suitable person to hold the licence or permit or an extended hours permit; or
- (b) that it is not in the community interest that a licence or permit or extended hours permit continue in force; or
- (c) that, during a continuous period of 12 months, a licence or permit or extended hours permit has not been used—

the Chief Executive Officer may apply at any time to the Commission for cancellation or suspension of the licence or permit or extended hours permit.

- (2) If the council of a municipality considers that it is not in the community interest that a licence or permit or extended hours permit in respect of premises within the municipality should continue in force, the council may apply to the Commission for cancellation or suspension of the licence, permit or extended hours permit.

- (3) If—

- (a) an association of employers of persons or employees engaged in the liquor industry or a group of those associations; or
- (b) a licensing inspector—

considers that a licensee or permittee is not a suitable person to hold the licence or permit or extended hours permit, the association, group of associations or licensing inspector may apply to the Commission for the cancellation or suspension of the licence or permit or extended hours permit.

- (4) If an application is made to the Commission under sub-section (1), (2) or (3) for the cancellation or suspension of a licence or permit or extended hours permit, the Commission, after holding a hearing, must determine whether or not to cancel
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s. 101

or suspend the licence or permit or extended hours permit.

- (4A) In considering whether or not a licensee or permittee is a suitable person to hold a licence or permit, the Commission may have regard to the fact that the licensee or permittee has paid a penalty for an offence for which an infringement notice has been issued under this Act.

S. 101(4A)
inserted by
No. 96/1995
s. 12(1).

- (5) If the Commission is satisfied that a licensee or permittee—
- (a) has contravened a term or condition of the licence or permit or extended hours permit;
or
 - (b) has been convicted of an offence under this Act; or

* * * * *

S. 101(5)(ba)
inserted by
No. 97/1995
s. 6,
repealed by
No. 94/1997
s. 20(d).

- (c) has been convicted of an offence under the **Health Act 1958** relating to adulterated liquor; or
- (d) has been convicted of an offence under the **Police Regulation Act 1958** relating to bribery of a member of the police force; or
- (da) has knowingly assisted a person to breach a disqualification order made under section 103; or
- (db) has paid a penalty for an offence for which an infringement notice under this Act has been issued; or
- (e) has obtained the licence or permit by fraud or false representations—

S. 101(5)(da)
inserted by
No. 122/1993
s. 17.

S. 101(5)(db)
inserted by
No. 96/1995
s. 12(2).

the Commission may after holding a hearing—

- (f) cancel the licence or permit or extended hours permit; or
 - (g) suspend the licence or permit or extended hours permit; or
 - (h) impose a fine not exceeding 100 penalty units on the licensee or permittee; or
 - (i) vary a term or condition of the licence or permit or extended hours permit.
- (6) The Commission must cancel a licence or permit if the licensee or permittee is convicted, whether in Victoria or elsewhere, of an offence punishable by a term of imprisonment of three years or more.
- (7) If a residential licence is cancelled, the person who held the licence must forthwith give to the Chief Executive Officer the residents' register or a copy of the residents' register kept by the licensee under section 10.

Penalty: 5 penalty units.

102. *Owner may carry on business under cancelled licence etc.*

- (1) If—
- (a) a licensee or permittee becomes a disqualified person; or
 - (b) a licence or permit is cancelled—
- the Commission—
- (c) upon an application by or on behalf of the owner of the licensed premises in respect of which the licence or permit was granted (if the owner is not the occupier); and

S. 101(7)
substituted by
No. 94/1997
s. 13(6).

(d) upon being satisfied that the owner has legal power to evict the occupier (if any) of such premises—

may authorise the owner of the licensed premises or a person who appears to the Commission to be a suitable person to act as agent of the owner of the premises to carry on the business until the end of the period for which the licence or permit was granted.

(2) An agent authorised under sub-section (1) is subject and liable to the same duties, liabilities, obligations, disqualifications and penalties as if he or she were the licensee or permittee in respect of such premises.

(3) If the owner of licensed premises who, or whose agent, has been authorised under this section to carry on business under the licence or permit or a nominee of the owner becomes the occupier of the premises, the Commission may, subject to this Act, grant a renewal of the licence, and any extended hours permit, or permit to the owner or the nominee.

(4) In this section, "**owner**" includes mortgagee.

103. Disqualification

S. 103 substituted by No. 122/1993 s. 18.

(1) If a ground for making an order under section 101 exists, the Commission 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 member of the managing committee 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

S. 103(1) amended by No. 96/1995 s. 16.

management of licensed premises be disqualified—

- (a) from holding a licence or permit or extended hours permit;
 - (b) from being a director in any body corporate that holds a licence or permit;
 - (c) from being a partner in a partnership that holds a licence or permit;
 - (d) from having a beneficial interest (whether directly or indirectly) in the shares of any body corporate that holds a licence or 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 permit or any licensed club;
 - (f) from being in the employ of any licensed club or any person that holds a licence or permit.
- (2) The Commission 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 exercise any power under section 101.
- (3) In imposing a disqualification, the Commission must specify the period for which the disqualification is to apply.
- (4) A person must comply with any disqualification order imposed on the person under this section.

Penalty for breach of this sub-section: 100 penalty units.

104. *Effect of suspension of licence*

A licensee who sells liquor while his or her licence is suspended, whether under this Division or any other provision of this Act, shall be deemed to sell the liquor without a licence.

Division 9—Appeals

105. Review by Full Commission

- (1) A person aggrieved by a decision of the Commission constituted by a single member in a proceeding to which the person was a party may apply in writing to the Commission not later than the 28th day after the decision for a review of the decision by the Full Commission.
- (2) A member of the Commission is not eligible to be a member of the Full Commission for the purposes of a review of a decision of the Commission constituted by that member.
- (3) The Full Commission may exercise all the powers and discretions of the Commission and shall make a decision—
 - (a) affirming the decision under review; or
 - (b) varying the decision under review; or
 - (c) setting aside the decision under review and making a decision in substitution for the decision set aside.

Division 10—Casino premises

Pt 3 Div. 10
(Heading and
ss 105A–
105C)
inserted by
No. 36/1994
s. 21.

105A. Definitions

In this Division—

S. 105A
inserted by
No. 36/1994
s. 21.

"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**.

S. 105B
inserted by
No. 36/1994
s. 21.

105B. *Application in respect of casino premises*

- (1) The provisions referred to in sub-section (2) do not apply to an application under this Part by a casino operator for—
 - (a) a licence under section 47(3) or an extended hours permit in respect of premises within the casino area approved by the Authority; or
 - (b) the removal of such a licence or permit to other premises within the casino area approved by the Authority.
- (2) The provisions referred to in this sub-section are—
 - (a) section 63(5)(b) to (j);
 - (b) section 64(5) and (6);
 - (c) section 65(2)(f);
 - (d) sections 70 to 80.

S. 105C
inserted by
No. 36/1994
s. 21.

105C. *Grant of application*

If the Commission is satisfied that a casino operator has made an application referred to in section 105B under and in accordance with this Part in respect of premises referred to in section 105B and that the appropriate fee has been paid, the Commission must grant the application.

Division 11—Australian Grand Prix

Pt 3 Div. 11
(Heading and
ss 105D–
105F) inserted
by No.
68/1994 s. 53.

105D. Definitions

S. 105D
inserted by
No. 68/1994
s. 53.

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**;

S. 105D def. of
"declared
area" and
"race period"
amended by
No. 87/1995
s. 16.

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

105E. Application in respect of declared area

S. 105E
inserted by
No. 68/1994
s. 53.

- (1) The provisions referred to in sub-section (2) do not apply to an application under this Part by the Corporation or by another person with the consent of the Corporation for a licence under section 52(1) for the whole or any part of the race period for a year in respect of a place within the declared area in respect of that year.
- (2) The provisions referred to in this sub-section are—
 - (a) section 63(5)(b) to (j);
 - (b) section 64(5) and (6);
 - (c) section 65(2)(f);
 - (d) sections 70 to 80.
- (3) The Registrar, upon receiving an application for a licence to which sub-section (1) applies, must give a copy to the Chief Commissioner of Police.

S. 105F
inserted by
No. 68/1994
s. 53.

105F. *Grant of application*

If the Commission is satisfied—

- (a) that an application referred to in section 105E has been made under and in accordance with this Part in respect of a place referred to in section 105E; and
- (b) that the appropriate fee has been paid; and
- (c) that the Chief Commissioner of Police has not, within 21 days of receiving a copy of the application, advised the Registrar that he or she objects to the grant of the application—

the Commission must grant the application.

**PART 4—OBLIGATIONS OF OWNERS, MORTGAGEES,
LICENSEES AND PERMITTEES**

106. *Owners and mortgagees of licensed premises*

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

- (a) must register with the Chief Executive Officer his or her name and an address for service within Victoria; and
- (b) must notify any change of address to the Chief Executive Officer.

Penalty: 5 penalty units.

107. *Refreshments to be available*

The licensee under a licence that authorises the licensee to sell and dispose of 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 sale and disposal.

Penalty: 5 penalty units.

108. *Residents' register*

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

- (a) must cause to be kept a residents' register in a form approved by the Commission;
- (b) must cause to be entered in the register in a manner approved by the Commission the particulars determined by Order of the Governor in Council 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: 5 penalty units.

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S. 109 amended by No. 122/1993 s. 19(1), repealed by No. 94/1997 s. 14.

110. Name of licence to be affixed on premises

A licensee or permittee must cause to be painted or fixed and must keep painted or fixed in a conspicuous place on the front of the licensed premises a notice that is readily legible of his or her name and the type of licence or permit held.

Penalty: 5 penalty units.

S. 110A inserted by No. 122/1993 s. 20.

110A. Notices required by the Commission must be displayed

- (1) A licensee or permittee must cause to be displayed on the licensed premises any notice that the Commission requires the licensee or permittee to display.
- (2) In displaying a notice, the licensee or permittee must comply with any requirements imposed by the Commission concerning the size, format or manner of display of the notice.

Penalty: 5 penalty units.

111. Licensees and permittees to give notice of certain changes

- (1) If a person ceases to be, or is appointed as, a director of a body corporate that is a licensee or permittee, the licensee or permittee must notify

the Registrar in writing within 14 days after the change occurs and must give the Registrar particulars of the change.

Penalty: 5 penalty units.

- (2) The Commission must, on the application of a body corporate that is a licensee or permittee, approve or refuse to approve the proposed appointment of a person as a director (by whatever name called) of the body corporate.
- (3) If—
- (a) a person is appointed as a director (by whatever name called) of a body corporate that is a licensee or permittee; and
 - (b) the appointment was not approved by the Commission under sub-section (2)—

the Commission may cancel or suspend the licence or permit.

112. *Alteration of premises*

If licensed premises are altered (otherwise than in a manner requiring a variation of the licence), the licensee or permittee must, within 14 days after the alterations are effected, give to the Registrar copies of plans of the premises showing the licensed premises as altered, together with—

- (a) a copy of any permit, licence or other authority issued under the relevant planning law or any other law permitting or approving the alteration; or
- (b) evidence to the satisfaction of the Commission that the alteration is otherwise authorised under the relevant planning law or other law.

s. 112A

Liquor Control Act 1987
Act No. 97/1987

Ss 112A, 112B
inserted by
No. 97/1995
s. 7,
repealed by
No. 94/1997
s. 20(e).

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PART 5—FEES

113. Fees for licences, permits and extended hours permits

- (1) The fee for a residential licence, general licence, on-premises licence, packaged liquor licence or club licence (other than a restricted club licence) is \$150 or the prescribed amount, whichever is higher.
- (2) The fee for a producer's or distributor's licence is—
 - (a) in the case of a licence granted to a vigneron—\$150 or the prescribed amount, whichever is higher;
 - (b) in the case of a licence granted to a producer or distributor of liquor—\$150 or the prescribed amount, whichever is higher.
- (3) The fee for a limited licence is—
 - (a) if the gross amount paid or payable by the licensee for all liquor, other than prescribed liquor, during the period of the licence is less than \$2000—\$37 or the prescribed amount, whichever is higher;
 - (b) if the gross amount paid or payable by the licensee for all liquor, other than prescribed liquor, during the period of the licence is \$2000 or more—\$150 or the prescribed amount, whichever is higher;
 - (c) in the case of a limited licence granted to an auctioneer—\$150 or the prescribed amount, whichever is higher;
 - (d) if the applicant for the limited licence is the holder of a licence (other than another limited licence)—nil.

S. 113
amended by
Nos 59/1990
s. 4(1)(a)–(e),
70/1988 s.
4(h), 122/1993
s. 19(2)(3),
substituted by
No. 94/1997
s. 15.

Liquor Control Act 1987
Act No. 97/1987

- (4) The fee for a restricted club licence is \$38 or the prescribed amount, whichever is higher.
- (5) The fee for a BYO permit is \$115 or the prescribed amount, whichever is higher.
- (6) The fee for an extended hours permit is the prescribed amount.
- (7) In this section, "**limited licence granted to an auctioneer**" means a licence granted to a person who holds a licence under the **Auction Sales Act 1958**, or to a corporation a director of which holds such a licence, authorising the licensee to sell and dispose of liquor at an auction conducted by the licensee.

Ss 114, 115
repealed by
No. 94/1997
s. 16.

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S. 116
amended by
Nos 83/1994
s. 6(b),
122/1993
s. 21,
repealed by
No. 94/1997
s. 16.

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S. 117
amended by
Nos 122/1993
ss 19(2),
26(i)(j),
83/1994
s. 6(c)(d),
repealed by
No. 94/1997
s. 16.

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Ss 118, 119
repealed by
No. 94/1997
s. 16.

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119A. Treasurer may make payments

- (1) The Treasurer may, from time to time, pay amounts determined by the Treasurer—
 - (a) to licensees in respect of licence fees paid before 6 August 1997 in respect of 1997 licences;
 - (b) to persons who hold, or have held, licences relating to the sale of liquor in respect of which sales taxes have been paid to the Commonwealth.
- (2) The Consolidated Fund is appropriated to the necessary extent for the purposes of sub-section (1).

S. 119A
inserted by
No. 94/1997
s. 17.

119B. Treasurer may require information

- (1) For the purpose of determining whether to make a payment under section 119A, or the amount of a payment, the Treasurer may require a person referred to in section 119A(1)(a) or (b)—
 - (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.

S. 119B
inserted by
No. 94/1997
s. 18.

Penalty: 500 penalty units in the case of a body corporate;
100 penalty units in any other case.

119C. Records to be made and kept by producers and distributors

- (1) A person who holds a producer's or distributor's

S. 119C
inserted by
No. 94/1997
s. 18.

licence must make a record of sales and purchases of liquor and keep each record for a period of 5 years after it was made.

- (2) A record under this section must be in the form, and contain the particulars, required by the Commissioner of State Revenue.
- (3) A person must not—
 - (a) fail to make or keep a record as required by this section; or
 - (b) include in a record under this section any information that is false or misleading in a material particular.

Penalty: 500 penalty units in the case of a body corporate;

100 penalty units in any other case.

- (4) A record under this section need not be kept for 5 years if the Commissioner of State Revenue authorises its earlier destruction.
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PART 6—OFFENCES AND LEGAL PROCEEDINGS

Division 1—Offences

120. *Sub-letting prohibited*

- (1) A licensee or permittee must not let or sub-let any part of the licensed premises or the right to sell and dispose of liquor except in accordance with the consent of the Commission given to the licensee or permittee.

Penalty: 20 penalty units.

- (2) The Commission must not consent to an application under this section unless—
- (a) notice has been given of the application in a manner approved by the Commission; and
 - (b) it has considered any objections or representations made to the Commission against the giving of consent.
- (3) The Commission may—
- (a) consent in writing to an application under this section and impose such terms and conditions as it sees fit; or
 - (b) refuse consent.
- (4) The consent of the Commission shall be valid for the period specified in the consent.

121. *Control of business of supply of food and liquor*

- (1) A licensee or permittee must not—
- (a) permit any other person to carry on a business of supplying food or 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 Commission given to the licensee or permittee.

Penalty: 20 penalty units.

- (2) The Commission must not consent to an application under this section unless—
- (a) notice has been given of the application in a manner approved by the Commission; and
 - (b) it has considered any objections or representations made to the Commission against the giving of consent.
- (3) The Commission may—
- (a) consent in writing to an application under this section and impose such terms and conditions as it sees fit; or
 - (b) refuse consent.
- (4) The consent of the Commission shall be valid for the period specified in the consent.

S. 122
amended by
No. 3/1991
s. 13(a)(i).

122. *Offences by licensee and permittee*

- (1) A licensee or permittee—
- (a) must not, except in accordance with the licence or permit and this Act—
 - (i) sell or dispose of liquor; or
 - (ii) permit or cause liquor to be sold or disposed of; 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, for the provision 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) 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.

S. 122(2)
inserted by
No. 3/1991
s. 13(a)(ii).

123. Offence to sell liquor without licence

- (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) A court shall in the case of an offence under this section also order all liquor which is found in the possession of the person convicted and the vessels containing it to be forfeited.
- (4) In the case of a conviction for a second or subsequent offence, the person shall be liable to be declared by the Commission to be a disqualified person for a period of eighteen months.
- (5) 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.
- (6) 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.
- (7) Sub-sections (5) and (6) do not apply to premises if the court is satisfied that the premises are used solely for residential purposes.

124. *Offence of holding out*

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

Penalty: 15 penalty units.

125. *Offence to take orders at unlicensed premises*

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.

Penalty: 15 penalty units.

126. *Offence to procure transfer by fraud*

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

Penalty: 50 penalty units.

- (2) If a person is convicted of procuring the transfer of a licence or permit by fraud or false representation, the Commission—

- (a) may declare the transfer void; and
- (b) if the Commission thinks fit, may revoke the licence or permit; and
- (c) may declare the person so convicted disqualified from holding a licence or permit for a period not exceeding three years.

127. *Offence of selling or supplying liquor to minors*

- (1) A licensee or a permittee must not—

- (a) sell or supply liquor; or
- (b) permit liquor to be sold or supplied—

to a person under the age of 18 years.

Penalty: 20 penalty units.

- (2) If liquor is sold or 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 sale or supply of liquor to the spouse or a member of the family of the licensee or permittee or, in the case of the sale or supply of liquor in licensed premises under a residential licence, to the spouse of a resident who is of or over the age of 18 years; or

- (c) 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

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

- (6) It is a defence to a charge brought under this section against a person to prove that, at the time of the offence the defendant had sighted 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.

S. 127(6)
substituted by
No. 96/1995
s. 5.

128. Offence for licensee or permittee to allow minors on certain 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 residential licence or a general 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 persons under the age of 18 years is provided on that part of the premises in accordance

S. 128(2)
amended by
No. 70/1988
s. 5(1).

with the approval of the Commission;
and

(ii) liquor is not sold, supplied, consumed
or made available on that part of the
premises; or

S. 128(2)(b)
substituted by
No. 96/1995
s. 17(1).

(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.

(c) to the presence on licensed premises or
authorised premises of persons employed on
the premises otherwise than in the sale or
disposal of liquor; or

S. 128(2)(d)
inserted by
No. 70/1988
s. 5(1).

(d) 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 Commission and any
conditions to which that approval is subject.

S. 128(3)
inserted by
No. 70/1988
s. 5(1),
repealed by
No. 96/1995
s. 17(2).

* * * * *

S. 128(4)
inserted by
No. 70/1988
s. 5(1).

(4) If the Commission grants or revokes an approval
for the purposes of sub-section (2)(d), the
Commission must cause the licence or permit to
be endorsed accordingly.

S. 128(5)
inserted by
No. 96/1995
s. 6.

(5) It is a defence to a charge brought under this
section against a person to prove that, at the time
of the offence the defendant had sighted 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.

129. Offence to send 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 sold, delivered or distributed for the purpose of obtaining liquor.

Penalty: 20 penalty units.

130. Licensee not to permit minor to sell liquor

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

Penalty: 10 penalty units.

- (2) Sub-section (1) does not apply to the sale or disposal of liquor on a 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 Minister and is selling or disposing of the liquor in accordance with any conditions to which the Minister has determined that the training program is subject.

S. 130
amended by
No. 96/1995
s. 18(1).

S. 130(2)
inserted by
No. 96/1995
s. 18(2).

131. 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

S. 131(1)(c)
amended by
No. 122/1993
s. 22.

Liquor Control Act 1987

Act No. 97/1987

s. 131

S. 131(1)(c)(iii)
amended by
No. 70/1988
s. 5(2).

(ii) unless the person is a servant 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 residential licence or a general licence under which accommodation is provided, unless the person is a resident of the licensed premises; or

S. 131(1)(c)(iv)
inserted by
No. 70/1988
s. 5(2).

(iv) unless, in accordance with the approval of the Commission under section 128(2)(d) and any conditions to which that approval is subject, the person is authorised to be present on the licensed premises; or

S. 131(1)(c)(v)
inserted by
No. 122/1993
s. 22,
amended by
No. 96/1995
s. 19.

(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

S. 131(1)(c)(vi)
inserted by
No. 96/1995
s. 19.

(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

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- (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 residential licence or 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 residential licence or 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) A person must not falsely represent himself or herself to be of or over the age of 18 years for the

S. 131(3)
inserted by
No. 96/1995
s. 7.

purpose of avoiding being found to be in contravention of sub-section (1).

Penalty: 5 penalty units.

S. 131A
inserted by
No. 96/1995
s. 8.

131A. *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.

132. *Offence to bring liquor to premises outside trading hours*

A person must not—

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(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 permit at any time otherwise than in accordance with the licence or permit.

Penalty: 25 penalty units.

133. *Offence to keep liquor for sale in unlicensed club*

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

Penalty: 25 penalty units.

(2) It is a defence to a prosecution under sub-section (1) to prove that the liquor was kept in the club without the knowledge of the secretary or member of the managing committee of the club or contrary to his or her orders.

134. *Offences by persons other than licensee or permittee*

A person—

(a) must not on licensed premises—

(i) obtain liquor from the licensee, or a servant or agent of the licensee; or

(ii) consume liquor—

except at a time and in the manner authorised under the licence 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 residential licence or general licence or from a servant or agent of such a licensee by fraudulently representing himself or herself to be a resident;
- (d) who is drunk, violent or quarrelsome, must not refuse or fail to leave licensed premises if requested so to do by the licensee or permittee, a servant or agent of the licensee or permittee or a member of the police force.

Penalty: 20 penalty units.

135. *Offence to consume or have liquor in milk bars etc.*

- (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—

in a place to which this section applies.

Penalty: 50 penalty units.

- (2) This section applies to the following places—
 - (a) any milk bar, convenience store or mixed business;

- (b) any premises where meals are ordinarily served to the public for consumption on the premises if a permit is not in force in respect of those premises;
- (c) any premises occupied by a club in respect of which a licence or permit is not in force;
- (d) any 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.

S. 135(2)(c) amended by No. 70/1988 s. 4(f).

136. Offence of 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.
- (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

S. 136(2) amended by No. 3/1991 s. 13(b).

S. 136(2)(a)(ii) amended by No. 37/1994 s. 232(a)(f).

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S. 136(2)(a)(iii) repealed by No. 37/1994 s. 232(a)(ii).

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S. 136(2)(b) repealed by No. 37/1994 s. 232(b).

s. 136

S. 136(2)(c)
substituted by
No. 37/1994
s. 232(c).

- (c) 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

S. 136(2)(d)
inserted by
No. 3/1991
s. 13(b).

- (d) 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

S. 136(2)(e)
inserted by
No. 3/1991
s. 13(b).

- (e) 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.

Penalty: 20 penalty units.

137. Offence to indicate licence or permit if premises not 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 permit if they are not such licensed premises; or
- (b) that a person is authorised under a licence or permit or extended hours permit to sell and dispose of liquor or permit liquor to be brought onto or consumed on premises if the person is not so authorised.

Penalty: 15 penalty units.

138. *False or misleading statements*

- (1) A person shall not in, or in relation to, an application 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 of a person for an offence under sub-section (1) if the person proves that when the application was made or the notice was given he or she—
 - (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—Legal Proceedings**139. *Presumption as to holder of licence or permit***

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

140. *Proof of formal matters*

For the purposes of this Act a statement 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 under Division 7 of Part 3; or
- (d) a person is, or is not, a licensee, permittee or holder of an extended hours permit; or
- (e) a person is the Commissioner, the Deputy Commissioner, an Assistant Commissioner, a licensing inspector or a member of the police force; or
- (f) a member of the police force holds a certain rank or is in charge of a police station or is specially authorised in any manner—

is evidence that the statement is true.

S. 140(e)
amended by
No. 70/1988
s. 6(b).

141. *Averments*

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

- (a) that any liquid is or may be liquor; or

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- (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
- (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
 - (h) that the person had not attained that age—
- as the case requires.

142. *Sufficient evidence of certain matters*

- (1) For the purposes of this Act—
 - (a) proof of the delivery of liquor is evidence of the sale 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 disposal of liquor took place is evidence of the sale or disposal (gratuitous or otherwise) 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 permit or this Act is evidence that

**S. 142
amended by
No. 83/1994
s. 7(1).**

the licensee or permittee sold liquor to that person.

S. 142(2)
inserted by
No. 83/1994
s. 7(2).

- (2) A certificate purporting to be under the hand of the Chief Executive Officer certifying that—
- (a) a person named in the certificate is liable to pay a fee for a licence or permit or an extended hours permit in respect of a period specified in the certificate;
 - (b) a determination of a fee for a licence or permit or an extended hours permit or a re-assessment of a fee has been made;
 - (c) notice of a determination of a fee for a licence or permit or an extended hours permit or of a re-assessment of a fee was duly served on a person named in the certificate on a particular day;
 - (d) the amount specified in the certificate was, on the date of the certificate, payable as a fee for a licence or permit or an extended hours permit by a person named in the certificate;
 - (e) a fee for a licence or permit or an extended hours permit specified in the certificate has been paid by or on behalf of a person named in the certificate—

is admissible in evidence in any proceedings against a person under this Act and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate.

S. 142(3)
inserted by
No. 83/1994
s. 7(2).

- (3) A certificate purporting to be under the hand of the Chief Executive Officer certifying that on a day specified in the certificate a person named in the certificate was a delegate of the Chief Executive Officer to whom the powers and functions of the Chief Executive Officer specified
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in the certificate were delegated on terms, if any, so specified is admissible in evidence in any proceedings against a person under this Act and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate.

- (4) A certificate purporting to be under the hand of the Chief Executive Officer certifying that on a day specified in the certificate the Commissioner of State Revenue had an authority referred to in section 154 or 158 is admissible in evidence in any proceedings against a person under this Act and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate.

S. 142(4)
inserted by
No. 83/1994
s. 7(2).

- (5) A certificate purporting to be under the hand of the Commissioner of State Revenue certifying that on a day specified in the certificate a person named in the certificate was an authorised person within the meaning of section 154(7)(e) or 158(7)(b) is admissible in evidence in any proceedings against a person under this Act and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate.

S. 142(5)
inserted by
No. 83/1994
s. 7(2).

- (6) The production of a document purporting to be under the hand of the Chief Executive Officer (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 Chief Executive Officer) is for all purposes sufficient evidence of the matters set forth in it, without production of the original.

S. 142(6)
inserted by
No. 83/1994
s. 7(2).

142A. Evidence of certain matters

- (1) The production of a notice of a determination or re-assessment, or a document under the hand of the Chief Executive Officer purporting to be a copy of a notice of a determination or re-

S. 142A
inserted by
No. 83/1994
s. 8.

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assessment, is evidence of the due making of the determination or re-assessment and that the amount and all particulars of the determination or re-assessment are correct.

- (2) The production of a document under the hand of the Chief Executive Officer purporting to be a copy of a document issued by the Chief Executive Officer is evidence that the document was so issued.

S. 142B
inserted by
No. 83/1994
s. 8.

142B. *Judicial notice*

- (1) All courts must take judicial notice of the official signature of a person who is or has been the Chief Executive Officer and of the fact that that person is or was the Chief Executive Officer.
- (2) In this section, "**court**" includes a person authorised by law or by consent of parties to receive evidence.

143. *Property forfeited*

S. 143(1)
amended by
No. 57/1989
s. 3(Sch. item
119.2(a)).

- (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 sold, supplied or disposed of, or intended to be sold, supplied or disposed of contrary to the provisions of any relevant licence or permit under this Act.
- (2) An appeal lies to the County Court against an order of forfeiture under sub-section (1).

- (3) Any property forfeited under this section—

S. 143(3)(a)
amended by
No. 57/1989
s. 3(Sch. item
119.2(b)).

- (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 shall be applied as if they were penalties.

144. Concurrent criminal 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 Commission wishes to make a determination under this Act—

the Commission may make the determination despite the bringing of the proceedings.

145. Notice of conviction

- (1) If a licensee or permittee is convicted by the Magistrates' Court or the County Court of an offence against this Act, the proper officer of the Court must, as soon as practicable after the conviction, give notice in writing of the conviction to the Chief Executive Officer.
- (2) If a notice under sub-section (1) relates to a licensee or permittee of licensed premises of which he or she is not the owner, the Chief Executive Officer must send a copy of the notice to the owner of the licensed premises.

S. 145(1) amended by No. 57/1989 s. 3(Sch. item 119.3(a)(b)).

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S. 145A inserted by No. 122/1993 s. 23, repealed by No. 83/1994 s. 9. Pt 6 Div. 3 (Heading and ss 145A–145C) inserted by No. 83/1994 s. 10.

Division 3—Recovery of Fees and Fines

Liquor Control Act 1987

Act No. 97/1987

s. 145A

New s. 145A
inserted by
No. 83/1994
s. 10.

145A. Recovery of amounts payable

(1) Each of the following amounts, when it becomes due and payable, is a debt due to the Crown and payable to the Commission—

S. 145A(1)(aa)
inserted by
No. 97/1995
s. 8(1),
repealed by
No. 94/1997
s. 20(f)(i).

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S. 145A(1)(a)
repealed by
No. 94/1997
s. 19(a).

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(b) an amount imposed by the Commission as a fine under section 101(5)(h);

S. 145A(1)(c)
amended by
No. 94/1997
s. 19(b).

(c) an amount determined as a fee in accordance with section 113;

S. 145A(1)
(d)–(j)
repealed by
No. 94/1997
s. 19(c).

* * * * *

(2) An amount referred to in sub-section (1) may be sued for and recovered—

(a) in the Magistrates' Court, irrespective of the amount; or

(b) in any other court of competent jurisdiction—

by the Chief Executive Officer suing in his or her official name or by an officer of the public service authorised to sue for and recover amounts on

behalf of the Chief Executive Officer, suing in the official name of the Chief Executive Officer.

- (3) Proceedings under this section brought in the name of the Chief Executive Officer must, in the absence of evidence to the contrary, be deemed to have been brought by the authority of the Chief Executive Officer.
- (4) An officer referred to in sub-section (2) may appear in proceedings brought under this section on behalf of the Chief Executive Officer.

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S. 145A(4A) inserted by No. 97/1995 s. 8(2), repealed by No. 94/1997 s. 20(f)(ii).

- (5) This section applies to amounts payable before, on or after the commencement of the **Liquor Control (Amendment) Act 1994**.

145B. Chief Executive Officer may collect certain amounts

S. 145B inserted by No. 83/1994 s. 10.

- (1) The Chief Executive Officer may, by notice in writing (a copy of which must be served on the relevant person at his or her last known place of abode or business), require—
 - (a) any person by whom any money is due or accruing or may become due to a relevant person; or
 - (b) any person who holds or may subsequently hold money for or on account of a relevant person; or
 - (c) any person who holds or may subsequently hold money on account of some other person for payment to a relevant person; or
 - (d) any person having authority from some other person to pay money to a relevant person—

to pay to him or her forthwith upon the money becoming due or being held, or within such further time as the Chief Executive Officer allows, the money or so much of the money as is sufficient to pay any amount due by the relevant person.

- (2) A person must comply with a notice under sub-section (1).

Penalty: 10 penalty units.

- (3) If any amount referred to in sub-section (1) is less than the amount due by the relevant person, the person served with the notice under that sub-section must pay to the Chief Executive Officer, in reduction of the amount due, the amount payable by that person to the relevant person.

- (4) Any person making any payment under this section is deemed to have been acting under the authority of the relevant person and of all other persons concerned, and is hereby indemnified in respect of the payment.

- (5) If the amount due by the relevant person is paid before any payment is made under a notice given under sub-section (1), the Chief Executive Officer must forthwith give notice of the payment to the person served with the notice under that sub-section.

- (6) In this section—

"amount due" includes any judgment debt and costs in respect of amounts owing under this Act;

"relevant person" means a person liable to pay an amount under this Act including any judgment debt and costs in respect of such an amount.

145C. *Service of process*

S. 145C
inserted by
No. 83/1994
s. 10.

- (1) Despite any Act or rule of court to the contrary, in any proceedings for the recovery of any amount due under this Act, including any judgment debt and costs in respect of that amount, any process may, without leave of court, be served on a person—
- (a) personally; or
 - (b) by leaving it at any address shown as a business address on the last application for a licence or permit by the person under this Act or at the person's last known place of business or abode in Victoria with a person apparently in the person's employment; or
 - (c) by sending it or a sealed copy of it by post addressed to the person at the person's last known place of business or abode in Australia; or
 - (d) by such other method as is permitted by any Act or rule of court.
- (2) Where sub-section (1)(c) applies, unless the contrary is proved, service of the process is deemed to have been effected two days after the date of posting.

Division 4—Infringement Notices

Pt 6 Div. 4
(Heading and
ss 145D–145I)
inserted by
No. 96/1995
s. 13.

S. 145D
inserted by
No. 96/1995
s. 13.

145D. *Power to serve a notice*

- (1) If a member of the police force has reason to believe that a person has committed an offence against section 101(7), 110, 110A, 122, 125, 127(1), (2), (3) or (4), 128(1), 129, 130, 131(1) or (3), 131A(1), (2) or (3), 134(a), (b) or (c) 136(1), 137 or 152(6) of this Act, he or she may serve an infringement notice on that person.
- (2) An infringement notice may be served—
 - (a) by personally serving the notice on the alleged offender; or
 - (b) by sending the notice by post addressed to him or her at his or her last known place of residence or business.

S. 145E
inserted by
No. 96/1995
s. 13.

145E. *Form of notice*

An infringement notice must—

- (a) be in the prescribed form; and
- (b) state the penalty fixed under section 145G for the offence; and
- (c) state that if the amount of the penalty is tendered at the place referred to in the notice the matter will not be brought before the Court unless the notice is withdrawn before the end of the period specified in the notice as the time for payment of the penalty.

S. 145F
inserted by
No. 96/1995
s. 13.

145F. *Withdrawal of notice*

- (1) The member of the police force may withdraw an infringement notice at any time within 28 days after the notice is served by serving a withdrawal notice on the alleged offender.
- (2) An infringement notice may be withdrawn even if the appropriate penalty has been paid.

- (3) Once the notice of withdrawal has been served the amount of any penalty paid on an infringement notice before it is withdrawn must be refunded.

145G. Penalties to be paid for offences under infringement notices

S. 145G
inserted by
No. 96/1995
s. 13.

The penalty to be paid for an offence for which an infringement notice has been issued is one-tenth of the maximum penalty fixed for that offence by the Act.

145H. Payment of penalty

S. 145H
inserted by
No. 96/1995
s. 13.

- (1) If the person pays the penalty on the infringement notice within the time shown on the notice or, if the member of the police force allows, at any time before the service of the summons in respect of the offence—
- (a) further proceedings may not be taken against that person in respect of the offence; and
 - (b) no conviction is to be recorded against the person for the offence.
- (2) A penalty paid under this section must be applied as if the offender had been convicted of the offence in the Magistrates' Court on a charge filed by the member of the police force who served the infringement notice.

145I. Notice not to prejudice further proceedings

S. 145I
inserted by
No. 96/1995
s. 13.

- (1) If—
- (a) a person served with an infringement notice has not paid the penalty within the time specified in the infringement notice; or
 - (b) an infringement notice is withdrawn—
- proceedings may still be taken or continued for the offence.

- (2) If proceedings have been taken or continued for an alleged 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.
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PART 7—GENERAL

146. Lodging of applications and notices

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| <p>(1) An application or notice to the Commission under this Act may be lodged—</p> <p style="padding-left: 40px;">(a) at the office of the Registrar; or</p> <p style="padding-left: 40px;">(b) at a venue of the Magistrates' Court.</p> | <p>S. 146(1) amended by No. 57/1989 s. 3(Sch. item 119.4(a)).</p> |
| <p>(2) The Registrar at a venue of the Magistrates' Court must give the Registrar each application or notice lodged at that venue within 7 days after it is so lodged.</p> | <p>S. 146(2) amended by No. 57/1989 s. 3(Sch. item 119.4(b)(i)(ii)).</p> |
| <p>(3) The Registrar at a venue of the Magistrates' Court must make a record of each application or notice under this Act that is lodged at that venue.</p> | <p>S. 146(3) amended by No. 57/1989 s. 3(Sch. item 119.4(c)(i)(ii)).</p> |
| <p>(4) A record made under sub-section (3) at a venue of the Magistrates' Court must be kept for seven years after it is made.</p> | <p>S. 146(4) substituted by No. 57/1989 s. 3(Sch. item 119.4(d)).</p> |

147. Council or co-operative may hold licence or permit

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| <p>(1) For the purposes of furthering community interests in any locality—</p> <p style="padding-left: 40px;">(a) the council of any municipality in respect of any premises within its municipal district; and</p> <p style="padding-left: 40px;">(b) any co-operative incorporated and registered under any Act relating to co-operatives—</p> | <p>S. 147(1)(b) amended by No. 84/1996 s. 467(Sch. 6 item 10.1(a)(b)).</p> |
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subject to this Act, may apply for and be granted, or may by transfer become, a licensee or permittee under this Act.

S. 147(2)
amended by
No. 122/1993
s. 26(k).

- (2) Despite anything in the **Local Government Act 1989** or any other Act relating to the city of Melbourne or the city of Geelong, a municipal council may apply the municipal or town fund of the municipality for expenses incurred in or arising out of or applying for or holding a licence or permit under this Act and the business under such a licence or permit and the proceeds arising from the holding of the licence or permit and the conduct of business under the licence or permit shall be paid into the municipal or town fund.

148. *Power to trustees of licensed premises*

If licensed premises are vested in a trustee upon trust and it is necessary to make any alteration in the premises in order to bring them into compliance with this Act—

- (a) the trustee may expend in making the alteration or in carrying out the work any moneys in his or her hands held upon the same trusts as the licensed premises; or
- (b) the trustee may raise such moneys as may be necessary to make the alteration or carry out the work by mortgage, with or without power of sale, of the licensed premises or of other property held by him or her upon the same trusts and may expend moneys so raised in making the alteration or in carrying out the work; or
- (c) before paying any part of the rents or income which may arise from the licensed premises to any persons or person entitled to be paid or receive the rents or income, the trustee may deduct and retain out of the rents or

income the interest from time to time payable under any such mortgage and all costs, commission and expenses incurred or paid by the trustee in respect of the mortgage.

149. *Statutory declarations by persons supplying liquor to licensees*

(1) The Chief Executive Officer may, by notice in writing given to a person, require the person to lodge with the Chief Executive Officer a statutory declaration about the sale or supply of liquor by that person to—

- (a) licensees under this Act; or
- (b) persons holding licences under a law of another State or of a Territory corresponding to this Act—

during the year ended on the preceding 30 June.

(2) The statutory declaration must contain—

- (a) particulars of the quantity and nature of liquor sold or supplied to each person referred to in sub-section (1)(a) or (b); and
- (b) the price paid or payable for the liquor.

(3) A person to whom a notice is given under sub-section (1), must comply with the request within 14 days after the notice is given.

Penalty: 15 penalty units.

(4) Sub-section (3) does not apply to a person if—

- (a) the person satisfies the Chief Executive Officer that complying with the request would cause the person to suffer genuine economic hardship; and

- (b) the Chief Executive Officer determines that the person be exempted from the requirement to comply with the request.

150. Application of Lotteries Gaming and Betting Act 1966

- (1) Sections 48 to 60 (both inclusive) 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 sale of liquor without a licence authorising the sale 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 sale or supply of liquor without a licence authorising such sale or supply or is suspected upon reasonable grounds by the owner to be used for such sale or 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 superintendent or inspector of police" or "an inspector 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

S. 150(1)(c)(i)
amended by
No. 16/1997
s. 116.

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 offence 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 three 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 six months; and
 - (c) for any subsequent offence to 50 penalty units or imprisonment for a term of not more than twelve months.

151. *Giving of notices etc.*

- (1) If, under this Act, a document or notice is required or permitted to be given to or served on a person, the document or notice 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 abode 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 Chief Executive Officer under section 106.

- (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.
- (3) If a person serves or causes to be served a document or notice on a licensee or permittee under this Act the person must also serve or cause to be served upon the owner and any mortgagee of the licensed premises or (if the owner or mortgagee cannot be found) must post or cause to be posted upon the front or principal door of the licensed premises a duplicate of the notice addressed to the owner or mortgagee, and the notice when so posted shall be deemed to be duly served on the owner or mortgagee.
- (4) Any notice or copy of a notice required by this Act to be given to or served on the owner or mortgagee of licensed premises—
- (a) may be given or served in accordance with sub-section (1); or
 - (b) if the owner's or mortgagee's place of abode or business or address of the registered office is not known, may be left with the occupier
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of the licensed premises addressed to the owner or mortgagee; or

- (c) if there is no such occupier may be posted up on the licensed premises.

151A. *Issue of proof of age cards*

S. 151A
inserted by
No. 96/1995
s. 9.

- (1) An application for a document issued under subsection (2) must be—

- (a) made to the Chief Executive Officer; and
(b) in a form approved by the Chief Executive Officer; and
(c) accompanied by the information and material, if any, required by the Chief Executive Officer.

- (2) On receiving an application, the Chief Executive Officer may issue a document indicating that a person is of or over the age of 18 years to the person who made the application if the Chief Executive Officer is satisfied that the person is of or over the age of 18 years.

152. *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;
(iii) is on licensed premises or on any authorised premises—

in contravention of this Act; or

(b) a licensee, permittee or servant 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, servant 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 Commission 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 who fails or refuses to sign or complete a statement referred to in sub-section (2) or fails or refuses to supply satisfactory evidence of the correctness of the particulars in accordance with sub-section (3) must forthwith leave the licensed premises.
- 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.
- (6) A person must not—

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- (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.

152A. *Seizure of evidence of age document*

- (1) A document (except a driver licence), which 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 a provision of this Act.

S. 152A
inserted by
No. 96/1995
s. 10.

- (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 a provision of this Act.

153. *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 the liquor.

154. *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.

S. 154(1)
substituted by
No. 83/1994
s. 11(1).

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- (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 residential licence or 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 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 Commission may give an authority in writing to the Commissioner of State Revenue to authorise officers of the public service on the staff of the Commissioner of State Revenue to exercise powers under this section.
- (7) In this section "**authorised person**" means—
- (a) the Commissioner, Deputy Commissioner or an Assistant Commissioner;

S. 154(5)(a)
amended by
No. 83/1994
s. 11(2)(a).

S. 154(5)(b)
amended by
No. 83/1994
s. 11(2)(b).

S. 154(6)
inserted by
No. 83/1994
s. 11(3).

S. 154(7)
inserted by
No. 83/1994
s. 11(3).

- (b) an officer of the Commission authorised in writing by the Commission;
- (c) an authorised member of the police force;
- (d) a licensing inspector;
- (e) an officer of the public service on the staff of the Commissioner of State Revenue authorised in writing by the Commissioner of State Revenue acting under an authority given under sub-section (6).

155. *General warrant to enter and search*

S. 155(1)
amended by
No. 57/1989
s. 3(Sch. item
119.5).

- (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 sold by a person without a licence authorising the sale; or
- (b) liquor is sold or supplied or kept for sale or 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 books relating to the business of the club; and
 - (g) to detain any liquor, vessels and books possession of which is so taken.
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- (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.

156. *Power to seize liquor in certain cases*

- (1) If, at a time when liquor is not authorised to be sold on licensed premises under the licence or this Act—

(a) any liquor is served for sale or disposal 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 and take or cause to be seized and taken away 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 permit under this Act, the member may seize and take or cause to be seized and taken away any such liquor together with the vessel containing it.

157. *Police to assist if person asked to leave premises*

s. 158

Liquor Control Act 1987
Act No. 97/1987

All members of the police force are required, on the request of the licensee or permittee or his or her agent or servant to expel or assist in expelling any person whose presence on the licensed 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.

S. 157A
inserted by
No. 97/1995
s. 9,
repealed by
No. 94/1997
s. 20(g).

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158. Power for licensing fund assessors to search

S. 158(1)
amended by
Nos 122/1993
s. 26(l)(a),
83/1994
s. 12(1)(a).

(1) In the execution of powers and duties under this Act, an authorised person at any reasonable time—

S. 158(1)(a)
amended by
Nos 122/1993
s. 26(l)(b),
83/1994
s. 12(1)(b).

(a) may enter and remain in any licensed premises or other place at or on which the authorised person reasonably believes the business of selling, supplying or disposing of liquor is carried on or any liquor or books relating to the sale, supply, disposal or purchase of liquor are kept or stored; and

(b) may take copies of, or extracts or notes from, any such books; and

(c) may seize any such books; and

S. 158(1)(d)
amended by
Nos 122/1993
s. 26(l)(b),
83/1994
s. 12(1)(b).

(d) may request any licensee or other person reasonably believed by the authorised person to be involved in the sale, supply, disposal, purchase or storage of liquor—

Liquor Control Act 1987

Act No. 97/1987

s. 158

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- (i) to produce any books which relate or are reasonably believed by the authorised person to relate to the sale, supply, disposal 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 books or the sale, supply, disposal, 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) furnish to 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) by reason only of failure to answer any question under sub-section (1)(d)(ii) if the person proves that the person did not know and

S. 158(1)(d)(i)
amended by
Nos 122/1993
s. 26(1)(b),
83/1994
s. 12(1)(b).

S. 158(2)(a)
amended by
Nos 122/1993
s. 26(1)(a),
83/1994
s. 12(1)(c).

S. 158(2)(b)
amended by
Nos 122/1993
s. 26(1)(a),
83/1994
s. 12(1)(c).

S. 158(2)(d)
amended by
Nos 122/1993
s. 26(1)(a),
83/1994
s. 12(1)(c).

Liquor Control Act 1987

Act No. 97/1987

s. 159

could not with reasonable diligence ascertain the answer to the question.

S. 158(4)
amended by
Nos 122/1993
s. 26(l)(a),
83/1994
s. 12(1)(c).

(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) A copy of any report made under sub-section (4) shall be available at all times at the office of the Commission during the Commission's usual business hours for perusal or copying by the licensee or a person duly authorised in writing by the licensee.

S. 158(6)
inserted by
No. 83/1994
s. 12(2).

(6) The Commission may give an authority in writing to the Commissioner of State Revenue to authorise officers of the public service on the staff of the Commissioner of State Revenue to exercise powers under this section.

S. 158(7)
inserted by
No. 83/1994
s. 12(2).

(7) In this section, "**authorised person**" means—
(a) an officer of the Commission authorised in writing by the Commission;
(b) an officer of the public service on the staff of the Commissioner of State Revenue authorised in writing by the Commissioner of State Revenue acting under an authority given under sub-section (6).

159. *Warrant to enter and search in relation to licence fees*

S. 159(1)
amended by
No. 57/1989
s. 3(Sch. item
119.6).

(1) If a magistrate is satisfied, by the evidence on oath or by affidavit of the Chief Executive Officer, that there is reasonable ground for suspecting that there are on certain premises books which are relevant to the assessment or collection of a licence fee payable under this Act, the magistrate may issue a warrant authorising any member of the police force together with any other person named in the warrant—

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- (a) to enter those premises (using such force as is necessary for the purpose); and
 - (b) to search the premises and to break open and search any safe, cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in the premises; and
 - (c) to take possession of, or secure against interference, any books that appear to be relevant to the assessment or collection of a licence fee payable under this Act; and
 - (d) to deliver any books, possession of which is so taken, into the possession of the Chief Executive Officer or a person authorised by the Chief Executive Officer to receive them.
- (2) A warrant under sub-section (1) may be in the form of Schedule 2.
- (3) If, under this section, a person takes possession of or secures against interference any books, that person or any person into whose possession they were delivered under sub-section (1)(d)—
- (a) may make copies of or take extracts from the books; and
 - (b) may retain possession of the books for such period as is necessary to enable them to be inspected and copies to be made of or extracts to be taken from them by or on behalf of the Chief Executive Officer; and
 - (c) during that period must permit a person who would be entitled to inspect any one or more of those books if they were not in the possession of the first-mentioned person to inspect at all reasonable times such of those books as that person would be entitled to inspect.
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- (4) A person must not obstruct or hinder a person executing a warrant under this section.

Penalty: 10 penalty units.

160. Regulations and Orders

- (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 and any such regulation may be disallowed in whole or in part by resolution of either House of the Parliament in accordance with the requirements of section 6(2) of the **Subordinate Legislation Act 1962**, which disallowance shall be deemed disallowance by Parliament for the purposes of that Act.

- (1A) The Governor in Council may make regulations for or with respect to encouraging responsible practices in the service, supply and promotion of liquor.

- (2) Regulations made under this Act—

- (a) may impose a penalty not exceeding 5 penalty units for a breach of the regulations; and
- (b) may be of general or of specially limited application; and
- (c) may differ according to differences in time, place or circumstance.

- (3) Orders made by the Governor in Council under this Act—

- (a) may be of general or specially limited application; and

S. 160(1A)
inserted by
No. 96/1995
s. 20.

Liquor Control Act 1987

Act No. 97/1987

s. 160

(b) may differ according to difference in time,
place or circumstance.

S. 160(3)(b)
amended by
No. 70/1988
s. 6(c).

PART 8—TRANSITIONAL PROVISIONS

161. *Definitions*

In this Part—

"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 1968**.

162. *Transitional provision for Liquor Control Commission*

- (1) Despite the repeal of the **Liquor Control Act 1968**, the Liquor Control Commission, as constituted immediately before the commencement of this section, may hear and determine any application or matter under the repealed Act the hearing of which it had commenced but not completed before that commencement.
- (2) The repealed Act applies to the hearing and determination of an application or matter under sub-section (1) as if this Act had not been enacted.
- (3) A determination under the repealed Act made by reason of sub-section (1) has effect, for the purposes of this Act—
 - (a) in the case of a determination relating to the grant or refusal of a licence or permit—as if it had been made under the repealed Act

immediately before the commencement of this Part; and

- (b) in any other case—as if it had been made under this Act.
- (4) If, before the commencement of this Act, an application had been made to the Liquor Control Commission under the repealed Act but the Liquor Control Commission had not commenced to hear or determine the application, the Liquor Licensing Commission must hear and determine the application.
- (5) The repealed Act (other than provisions relating to the constitution or procedure of the Commission) applies to the determination of an application under sub-section (4).

163. *Transitional provisions for licences under repealed Act*

- (1) A licence or permit of a kind specified in Column 1 of an Item in Schedule 3 that is in force immediately before the commencement of this Part, and a licence or permit of that kind that is renewed in accordance with sub-section (2), has effect, subject to and in accordance with this Act, as if it were a licence or permit of the kind specified in Column 2 of that Item until—
 - (a) the licence or permit is surrendered or cancelled, or expires, under this Act; or
 - (b) a licence or permit of the kind specified in Column 2 of that Item is granted under this Act in respect of the licensed premises—whichever first occurs.

S. 163(2)
amended by
No. 122/1993
s. 24(1)(a)(b).

- (2) The provisions of this Act relating to the transfer, variation, renewal or removal of licences and permits apply—
- (a) to a licence or permit of a kind referred to in Column 1 of Schedule 3; and
 - (b) to a permit having effect under this Part as an extended hours permit—
- and a licence or permit so transferred varied renewed or removed continues to be a licence or permit of that kind or a permit having that effect.³
- (3) A licence or permit to which this section applies (including a licence or permit that is renewed under this Act) may not be suspended or cancelled by reason only that—
- (a) the licensee or permittee is a person who is not eligible to be granted a licence or permit of the relevant kind specified in Column 2 of Schedule 3; or
 - (b) the licensed premises are not premises of a kind in respect of which the relevant licence or permit could be granted under this Act.
- (4) If licensed premises under a hotel keeper's licence in force immediately before the commencement of this Part have at least 20 bedrooms, the licensee may by notice in writing given to the Commission elect that the licence have effect as a residential licence.

164. *Licence having effect as residential licence*

If a licence of a kind specified in Column 1 of an Item in Schedule 3 has effect as a residential licence—

- (a) the licensee is authorised to sell and dispose of liquor on the licensed premises as if the

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- licence were a residential licence granted under this Act but subject to the terms and conditions (not inconsistent with this Act) to which the licence was subject immediately before the commencement of this Part; and
- (b) if, immediately before that commencement, the licensee was authorised under any licence or permit in force under the repealed Act relating to the licensed premises to sell and dispose of liquor at any times not authorised under a residential licence under this Act, any such licence or permit has effect in relation to those times as if it were an extended hours permit.

165. *Licence having effect as general licence*

If a licence of a kind specified in Column 1 of an Item in Schedule 3 has effect as a general licence—

- (a) the licensee is authorised to sell and dispose of liquor for consumption on or off the licensed premises as if the licence were a general licence granted under this Act subject to—
- (i) the terms and conditions to which the licence was subject immediately before the commencement of this Part, insofar as those terms and conditions are consistent with this Act; and
- (ii) insofar as any terms and conditions to which the licence was subject immediately before that commencement are inconsistent with this Act, any other terms and conditions consistent with this Act that are determined by the Commission within three months after that commencement,

being terms and conditions as nearly as may be to the like effect as the inconsistent terms and conditions; and

- (b) if immediately before the commencement of this Part the licensee was authorised under any licence or permit in force under the repealed Act relating to the licensed premises to sell and dispose of liquor at any times not authorised under a general licence under this Act or on any other premises, any such licence or permit has effect—
- (i) in relation to those times as if it were an extended hours permit; and
 - (ii) in relation to those other premises in the same manner as it had effect before that commencement—

subject to the terms and conditions to which the licence or permit was subject immediately before the commencement of this Part, whether imposed by the repealed Act or the licence or permit.

166. *Licence having effect as club licence*

If a licence or permit of a kind specified in Column 1 of an Item in Schedule 3 has effect as a club licence, the holder of the licence or permit is authorised to sell and dispose of liquor for consumption on or off the licensed premises to a member of the club or a guest of the member but subject to the terms and conditions (not inconsistent with this Act) to which the licence or permit was subject before the commencement of this Part—

- (a) in the case of a licence, if the licence has effect as a full club licence, as if it were a full club licence granted under this Act; and
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(b) in the case of a permit, if the permit has effect as a restricted club licence, at such times and subject to such conditions as are specified in the permit in force immediately before the commencement of this Part and if, immediately before that commencement, the holder of the licence or permit was authorised under any licence or permit in force under the repealed Act relating to the licensed premises to sell and dispose of liquor at any times not authorised under a club licence under this Act, any such licence or permit has effect in relation to those times as if it were an extended hours permit.

(2) A tertiary institution licence in force immediately before the commencement of this section in respect of which a post-secondary education institution is the licensee has effect as a club licence in accordance with this section for a club of which the members are persons employed by the institution and students at the institution.

S. 166(2)
amended by
No. 94/1997
s. 20(h).

167. *Licence having effect as producer's or distributor's licence*

If a licence of a kind specified in Column 1 of an Item in Schedule 3 has effect as a producer's or distributor's licence—

- (a) if it so has effect as a licence granted to a producer, the licensee is authorised to sell and dispose of liquor for consumption off the licensed premises as if it were a producer's or distributor's licence granted to a producer under this Act; and
- (b) if it so has effect as a producer's or distributor's licence granted to a vigneron, the licensee is authorised to sell and dispose of liquor for consumption on or off the

- licensed premises as if it were a producer's or distributor's licence granted to a vigneron under this Act; and
- (c) if it so has effect as a producer's or distributor's licence granted to a distributor, the licensee is authorised to sell and dispose of liquor for consumption off the licensed premises as if it were a producer's or distributor's licence granted to a distributor under this Act; and
- (d) if, immediately before the commencement of this Part, the licensee was authorised under any licence or permit in force under the repealed Act relating to the licensed premises to sell and dispose of liquor at any times not authorised under a producer's or distributor's licence, or on any other premises, the licence or permit has effect—
- (i) in relation to those times as if it were an extended hours permit; and
 - (ii) in relation to those other premises in the same manner as it had effect before that commencement—
- subject to the terms and conditions to which the licence was subject immediately before the commencement of this Part, whether imposed by the repealed Act or the licence or permit; and
- (e) if it so has effect as a producer's or distributor's licence granted to a distributor, the Commission may, in a particular case, determine that section 49(4) does not apply if it is satisfied that the licensee would suffer genuine economic hardship as the result of the application of that sub-section—

but subject to the terms and conditions (not inconsistent with this Act) to which the licence was subject before the commencement of this Part.

168. *Licence having effect as on-premises licence*

If a licence of a kind specified in Column 1 of an Item in Schedule 3 has effect as an on-premises licence—

- (a) the licensee is authorised to sell and dispose of liquor for consumption on the licensed premises as if the licence were an on-premises licence granted under this Act subject to—
 - (i) the terms and conditions to which the licence was subject immediately before the commencement of this Part, insofar as those terms and conditions are consistent with this Act; and
 - (ii) insofar as any such terms and conditions are inconsistent with this Act, any terms and conditions consistent with this Act that are determined by the Commission within three months after that commencement, being terms and conditions as nearly as may be to the like effect as the inconsistent terms and conditions; and
- (b) if immediately before the commencement of this Part the licensee was authorised under any licence or permit in force under the repealed Act relating to the licensed premises to sell and dispose of liquor at any times not authorised under an on-premises licence under this Act or on any other premises, any such licence or permit has effect—

- (i) in relation to those times as if it were an extended hours permit; and
- (ii) in relation to those other premises in the same manner as it had effect before that commencement—

subject to the terms and conditions to which the licence or permit was subject immediately before the commencement of this Part, whether imposed by the repealed Act or the licence or permit.

169. *Licence having effect as packaged liquor licence*

- (1) If a licence of a kind specified in Column 1 of an Item in Schedule 3 has effect as a packaged liquor licence—
 - (a) the licensee is authorised to sell and dispose of liquor, or to supply liquor, on the licensed premises as if the licence were a packaged liquor licence granted under this Act but subject to the terms and conditions (not inconsistent with this Act) to which the licence was subject before the commencement of this Part; and
 - (b) if immediately before the commencement of this Part the licensee was authorised under any licence or permit in force under the repealed Act relating to the licensed premises to sell and dispose of liquor at any times not authorised under a packaged liquor licence, the licence or permit has effect in relation to those times as if it were an extended hours permit, unless the licensed premises are premises to which section 51(3) applies.
 - (2) Section 128 has effect in relation to licensed premises under a licence to which sub-section (1) applies as if a reference in that section to licensed
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premises were a reference to the part of the licensed premises under that licence set aside for the sale and disposal of liquor.

170. Licence having effect as limited licence

If a licence or permit of a kind specified in Column 1 of an Item in Schedule 3 has effect as a limited licence, the holder of the licence or permit is authorised to sell and dispose of liquor in accordance with the terms and conditions of that licence as if the licence were a limited licence granted under this Act subject to the terms and conditions to which the licence or permit was subject immediately before the commencement of this Part, whether imposed by the repealed Act or the permit.

171. Permit having effect as BYO permit

If a permit of a kind specified in Column 1 of an Item in Schedule 3 has effect as a BYO permit, the permit authorises liquor to be consumed, possessed or controlled in the premises to which the permit relates during the times authorised by the permit subject to such terms and conditions as, immediately before the commencement of this Part, applied to the permit.

S. 171
amended by
No. 70/1988
s. 4(j)(i)(ii).

172. 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 any premises in that district except in accordance with subsection (2).
- (2) The following provisions have effect for the purposes of the grant of a licence in respect of

S. 172(2)
amended by
No. 70/1988
s. 6(d)(i).

premises in a district referred to in sub-section (1)—

S. 172(2)(a)
amended by
No. 70/1988
s. 6(d)(ii).

(a) before a new licence is granted in or an existing licence is removed to any part of that district, the Commission shall in the case of a general licence, a residential licence, an on-premises licence or a club licence and may if it 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 removed (as the case may be);

(b) the neighbourhood shall be delineated by the Commission after consultation with the Chief Electoral Officer;

S. 172(2)(c)
amended by
No. 70/1988
s. 6(d)(iii).

(c) the resolution to be submitted at the vote of electors shall be—

That a licence (*nature of licence to be stated*) be granted in [or removed to] the neighbourhood (*neighbourhood to be sufficiently indicated*);

(d) if a majority of the electors voting formally vote against the resolution, the Commission shall not grant the application for the licence or for the removal of the licence (as the case may be) nor shall it grant any application for a licence in or the removal of a licence to that neighbourhood within three years after the taking of such vote;

(e) when the Commission orders a vote to be taken under this section, the Chief Electoral Officer shall take a vote of electors accordingly and for that purpose—

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- (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 sixtieth day before the taking of the vote shall be qualified to vote but may vote once only;
 - (iii) the manner of voting shall be similar to that followed in the election of members to serve in the Legislative Assembly but the voting paper shall be marked as prescribed thereon;
 - (iv) subject to and for the purposes of this section the provisions of any law relating to rolls, electors and elections for the Legislative 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) shall with such adaptations as are necessary as so far as the provisions can be made applicable by the regulations, apply to the taking of a vote under this section:

Provided that every application for a postal ballot-paper in relation to the vote of electors shall, where the postal ballot-paper is to be forwarded to the applicant, require that it be posted addressed to him or her at his or her place of living at the time when it would be delivered in the ordinary course of post (which place shall be specified in the application), and every

postal ballot-paper posted to an applicant shall be addressed accordingly;

- (v) the result of the voting shall be notified by the Chief Electoral Officer 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 section.

- (3) A reference in sub-section (1) to a licence does not include a reference to a licence of a kind mentioned in Column 2 of Item 31, 32, 33, 34 or 35 in Schedule 3 granted to a person for a purpose similar to the purpose for which a permit of a kind mentioned in Column 1 of that Item was or could have been granted to that person under the repealed Act.

173. *Transitional provision—cinema licences*

- (1) Despite section 60, the Commission may grant a limited licence in respect of premises used primarily as a cinema to a person who is the licensee in respect of those premises and who was the licensee under a theatre licence in respect of those premises immediately before the commencement of this Part.
- (2) A limited licence granted under this section may not be transferred, varied on the application of the licensee or removed.

174. *Transitional provision—owner's obligations*

Despite its repeal, section 89 of the repealed Act continues to have effect until the expiration of the

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period of two years after the commencement of this Part as if a reference in that section to provisions of Part IV of the repealed Act included a reference to this Act.

175. *Transitional provision—apportionment of licence fee*

Despite their repeal, sections 157 and 158 of the repealed Act continue to have effect in relation to premises subject to a lease until the expiration of the lease as if—

- (a) a reference to a licensed hotelkeeper who holds a hotelkeeper's licence were a reference to a licensee under a hotelkeeper's licence having effect as a residential licence or a general licence; and
- (b) a reference to the Commission were a reference to the Commission within the meaning of this Act.

175A. *Transitional provision—former licences that require meals to be provided*

S. 175A
inserted by
No. 122/1993
s. 25.

- (1) This section applies to the holder of a licence—
 - (a) that has effect as a general licence or as a club licence; and
 - (b) that is subject to a condition that enables the holder to sell liquor for consumption with a meal on Sunday or Good Friday or both.
 - (2) Despite anything to the contrary in the conditions of the licence, the holder may sell liquor for consumption on Sunday and on Good Friday (and in any period immediately following midnight on those days) regardless of whether the holder provides or sells or offers to provide or sell a meal.
 - (3) Sub-section (2) does not authorise the sale of liquor beyond the time permitted by the licence.
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S. 175B
inserted by
No. 122/1993
s. 25.

175B. Transitional provision—Commission may amend meals condition in certain former licences

- (1) This section applies to hotelkeeper's licences and tourist facility licences granted under the repealed Act that contain a condition that enables the licensee to sell and dispose of liquor on weekdays and Saturdays if the liquor is consumed with, or ancillary to, a meal.
- (2) The Commission may delete from a licence to which this section applies any restriction that prohibits the sale or disposal on weekdays and Saturdays (and in any period on Sunday mornings immediately after Saturday midnight) of liquor that is not sold, or disposed of, to be consumed with, or ancillary to, a meal.
- (3) The Commission may exercise this power of its own motion and need not give notice to anyone of its intention to exercise this power.

S. 175C
inserted by
No. 96/1995
s. 11.

175C. Transitional provision—proof of age card

- (1) A document issued by the Chief Executive Officer on or after 1 July 1993 which indicates that the person to whom the document was issued was, at the time of issue, of or over the age of 18 years is deemed to be and to always have been as valid and effective as it would have been if there had been power to issue the document at the time it was issued and the Chief Executive Officer is deemed to have and to always have had the power to issue the document.
- (2) A document to which sub-section (1) applies is deemed to have effect for the purposes of this Act as if it were an evidence of age document.

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s. 176

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Pt 9 (Heading and ss 176, 177) amended by No. 70/1988 s. 6(e)(f), repealed by No. 122/1993 s. 26(m).

* * * * *

Pt 10 (Heading and ss 178–181) amended by No. 48/1988 s. 46 (as amended by No. 1/1989 s. 3(e)), repealed by No. 122/1993 s. 26(m).

SCHEDULES

SCHEDULE 1

Section 58.

Sch. 1
amended by
No. 55/1992
s. 8(a)–(c).

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 sale and disposal 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) an authorised gaming visitor admitted in accordance with the rules of the club;
- (c) must provide that a person shall not—
 - (i) be admitted as an honorary or temporary member of the club; 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 shall not 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 per centum 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 corporation or is registered under the **Associations Incorporation Act 1981**—

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Sch. 1

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- (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 Act 1987**, 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 shall elapse between the date of nomination and the date of election of ordinary members; and
 - (B) that the name 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.
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Sch. 2
amended by
No. 57/1989
s. 3(Sch. item
119.7).

SCHEDULE 2

Section 159.

WARRANT TO ENTER PREMISES

To _____ a member of the Police Force of the State of
Victoria and to _____

WHEREAS it appears to me, a Magistrate for the
State of Victoria, by the evidence on oath/by affidavit* of
the Chief Executive Officer of the Liquor Licensing Commission under the
Liquor Control Act 1987 that there is reasonable ground for suspecting that
there are in certain premises situated at _____ books which are relevant
to the assessment or collection of a licence fee payable under the **Liquor
Control Act 1987**, this is to authorise you, with such assistance as you may
find necessary, to enter by day or night upon those premises and if necessary
to use force for making entry whether by breaking open doors or otherwise
and to search the premises and to break open and search any safe, cupboard,
drawer, chest, trunk, box, package or other receptacle, whether a fixture or
not, in the premises and to take possession of or secure against interference
any books and to deliver any books into the possession of the Chief
Executive Officer or a person authorised by the Chief Executive Officer
receive them and for so doing this shall be your warrant.

Given under my hand at _____ this _____ day of _____

Magistrate.

*Delete whichever is not applicable.

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Sch. 3

SCHEDULE 3

Section 163.

Sch. 3
amended by
No. 70/1988
s. 4(k)(l).

**LICENCES AND PERMITS HAVING EFFECT AS LICENCES
AND PERMITS UNDER THIS ACT**

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>
<i>Section of Repealed Act</i>	<i>Licence or Permit</i>	<i>Licence or permit under this Act</i>
1 26	Hotelkeeper's licence	(a) General licence; or (b) If an election is made under section 163 and the licensed premises have at least 20 bedrooms— residential licence
2 26A	Residential licence	Residential licence
3 27	Booth licence	Limited licence
4 27A	Caterer's licence	On-premises licence
5 28	Restaurant licence	On-premises licence
6 29	Cabaret licence	On-premises licence
7 30	Theatre licence	Limited licence
8 30A	Auctioneer's licence	Limited licence
9 31	Wholesale liquor merchant's licence	Producer's or distributor's licence granted to a distributor
10 31A	Ships provedore's licence	Producer's or distributor's licence granted to a distributor
11 32	Retail bottled liquor licence	Packaged liquor licence
12 35	Vigneron's licence	Producer's or distributor's licence granted to a vigneron
13 35A	Cider tavern licence	General licence
14 35B	Mead producer's licence	Producer's or distributor's licence granted to a producer
15 36	Ship's licence	On-premises licence

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<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>	
	<i>Section of Repealed Act</i>	<i>Licence or Permit</i>	
		<i>Licence or permit under this Act</i>	
16	37	Brewer's licence	Producer's or distributor's licence granted to a producer
17	38	Club licence	Club licence
18	38A	Tourist facility licence	On-premises licence
19	38B	Exhibition licence	Limited licence
20	38C	Convention facility licence	On-premises licence
21	38D	Victorian Food and Wine Festival licence	Limited licence
22	38E	Cultural Centre licence	On-premises licence
23	38F	Victorian Arts Centre licence	On-premises licence
24	39	Australian Wine licence	Packaged liquor licence
25	39A	Wine Centre licence	General licence
26	40	Rutherglen Wine Festival licence	Limited licence
27	40A	Tertiary institution licence	Club licence
28	41	Canteen licence	On-premises licence
29	43A	Works licence	On-premises licence
30	45A	Cafe permit	BYO permit
30	45B(3) A	Unlicensed Club permit	BYO permit
31	45B(11) and (12)	Particular function or occasion permit	Limited licence
32	45C(9) and (10)	Public hall permit	Limited licence
33	45D	Restricted club permit	Club licence (as a restricted club licence)
34	46	Supply of meal at inclusive charge permit	Limited licence
35	46A	Giftmaker's liquor permit	Limited licence

NOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 17 September 1987

Legislative Council: 13 October 1987

The long title for the Bill for this Act was "A Bill relating to the sale, disposal and consumption of liquor and for other purposes."

The **Liquor Control Act 1987** was assented to on 1 December 1987 and came into operation as follows:

Sections 8, 10–14, 35–38 on 26 April 1988: Government Gazette 30 March 1988 page 753; rest of Act (*except* sections 176(3), 177) on 3 May 1988: Government Gazette 27 April 1988 page 1044; section 177 was never proclaimed, repealed by No. 70/1988 section 6(f); section 176(3) was never proclaimed, repealed by No. 122/1993 section 26(m).

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2. Table of Amendments

This Version incorporates amendments made to the **Liquor Control Act 1987** by Acts and subordinate instruments.

Health (General Amendment) Act 1988, No. 48/1988 (as amended by No. 1/1989)

Assent Date: 24.5.88
Commencement Date: S. 46 on 1.12.88: Government Gazette 30.11.88 p. 3563
Current State: This information relates only to the provision/s amending the **Liquor Control Act 1987**

State Superannuation Act 1988, No. 50/1988

Assent Date: 24.5.88
Commencement Date: S. 93(3) on 1.7.87: s. 2(1); s. 93(4) on 27.11.87; s. 2(2); Pt 1, Div. 2 of Pt 6, s. 91 on 1.1.88; s. 2(3); rest of Act on 1.7.88: Government Gazette 1.6.88 p. 1487
Current State: All of Act in operation

Liquor Control (Amendment) Act 1988, No. 70/1988

Assent Date: 15.12.88
Commencement Date: 15.12.88
Current State: All of Act in operation

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Liquor Control (Fees) Act 1990, No. 59/1990

Assent Date: 20.11.90
Commencement Date: 20.11.90
Current State: All of Act in operation

Liquor Control (Packaged Liquor Licences) Act 1990, No. 68/1990

Assent Date: 30.11.90
Commencement Date: 30.11.90
Current State: All of Act in operation

Lotteries Gaming and Betting (Amendment) Act 1991, No. 3/1991

Assent Date: 9.4.91
Commencement Date: 16.4.91: Special Gazette (No. 19) 16.4.91 p. 1
Current State: All of Act in operation

Shop Trading (Further Amendment) Act 1991, No. 56/1991

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Assent Date: 29.10.91
Commencement Date: 1.11.91: Government Gazette 30.10.91 p. 2971
Current State: All of Act in operation

Liquor Control (Clubs) Act 1992, No. 55/1992

Assent Date: 14.8.92
Commencement Date: 14.8.92
Current State: All of Act in operation

Liquor Control (Amendment) Act 1993, No. 122/1993

Assent Date: 7.12.93
Commencement Date: All of Act (*except* s. 19) on 7.12.93: s. 2(1); s. 19 on 1.1.94: s. 2(2)
Current State: All of Act in operation

Medical Practice Act 1994, No. 23/1994

Assent Date: 17.5.94
Commencement Date: S. 118(Sch. 1 item 31.1) on 1.7.94: Government Gazette 23.6.94 p. 1672
Current State: This information relates only to the provision/s amending the **Liquor Control Act 1987**

Casino Control (Miscellaneous Amendments) Act 1994, No. 36/1994

Assent Date: 31.5.94
Commencement Date: S. 21 on 2.6.94: Government Gazette 2.6.94 p. 1339
Current State: This information relates only to the provision/s amending the **Liquor Control Act 1987**

Gaming and Betting Act 1994, No. 37/1994

Assent Date: 2.6.94
Commencement Date: S. 232 on 15.8.94: Special Gazette (No. 55) 15.8.94 p. 1
Current State: This information relates only to the provision/s amending the **Liquor Control Act 1987**

Australian Grand Prix Act 1994, No. 68/1994

Assent Date: 25.10.94
Commencement Date: Pt 1 (ss 1–6) on 25.10.94: s. 2(1): rest of Act on 28.10.94: Government Gazette 27.10.94 p. 2854
Current State: All of Act in operation

Liquor Control (Amendment) Act 1994, No. 83/1994

Assent Date: 29.11.94
Commencement Date: 29.11.94
Current State: All of Act in operation

Australian Grand Prix (Further Amendment) Act 1995, No. 87/1995

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Assent Date: 5.12.95
Commencement Date: S. 16 on 7.12.95: Government Gazette 7.12.95 p. 3380
Current State: This information relates only to the provision/s amending the **Liquor Control Act 1987**

Liquor Control (Further Amendment) Act 1995, No. 96/1995

Assent Date: 5.12.95
Commencement Date: Ss 1, 2 on 5.12.95: s. 2(1); Pt 4 (ss 14–21) on 7.12.95: Government Gazette 7.12.95 p. 3379—see **Interpretation of Legislation Act 1984**; rest of Act on 22.2.96: Government Gazette 22.2.96 p. 385—see **Interpretation of Legislation Act 1984**
Current State: All of Act in operation

Liquor Control (Licences and Permits) Act 1995, No. 97/1995

Assent Date: 5.12.95
Commencement Date: 5.12.95
Current State: All of Act in operation

Legal Practice Act 1996, No. 35/1996

Assent Date: 6.11.96
Commencement Date: S. 453(Sch. 1 item 51) on 1.1.97: s. 2(3)
Current State: This information relates only to the provision/s amending the **Liquor Control Act 1987**

Children and Young Persons (Miscellaneous Amendments) Act 1996, No. 44/1996

Assent Date: 26.11.96
Commencement Date: 26.11.96
Current State: All of Act in operation

Co-operatives Act 1996, No. 84/1996

Assent Date: 23.12.96
Commencement Date: S. 467(Sch. 6 item 10) on 1.10.97: Special Gazette (No. 122) 1.10.97 p. 1
Current State: This information relates only to the provision/s amending the **Liquor Control Act 1987**

Gaming No. 2 Act 1997, No. 16/1997

Assent Date: 6.5.97
Commencement Date: S. 116 on 31.3.98: s. 2(4)
Current State: This information relates only to the provision/s amending the **Liquor Control Act 1987**

Business Franchise Fees (Safety Net) Act 1997, No. 94/1997

Assent Date: 16.12.97
Commencement Date: Ss 12, 13(1)-(4)(6), 14-17, 19 at 3.30 p.m. on 6.8.97: s. 2(1); ss 13(5), 18, 20 on 16.12.97: s. 2(3)
Current State: This information relates only to the provision/s amending the **Liquor Control Act 1987**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

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Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Liquor Control Act 1987**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 51) on 1.7.98: Government Gazette
18.6.98 p. 1512
Current State: This information relates only to the provision/s
amending the **Liquor Control Act 1987**

3. Explanatory Details

¹ S. 6(2)(e): Short title amended to "**Community Services Act 1970**" by Act No. 16/1987 s. 4(1).

² Pt 2: Section 21 of the **Liquor Control (Further Amendment) Act 1995**, No. 96/1995 reads as follows:

21. Commission to continue in existence

- (1) The Commission continues to exist.
- (2) Sub-section (1) has effect despite the fact that the Public Bodies Review Committee in its final report with respect to the Liquor Licensing Commission (within the meaning of the Principal Act) laid before the Legislative Assembly on 5 September 1995 and the Legislative Council on 3 October 1995, recommended that the Commission should cease to exist.
- (3) Section 4P(4) of the **Parliamentary Committees Act 1968** does not apply to that report.

³ S. 163(2): Section 24(2) of the **Liquor Control (Amendment) Act 1993**, No. 122/1993 reads as follows:

24. Commission may allow the relocation of old licences

- (2) The Commission is deemed to have had the power conferred on it by section 163 of the **Liquor Control Act 1987** as amended by this section since 3 May 1988.