

Authorised Version No. 077
Liquor Control Reform Act 1998

No. 94 of 1998

Authorised Version incorporating amendments as at
15 October 2014

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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purpose

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

2 Commencement

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

3 Definitions

- (1) In this Act—

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

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

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

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

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

amenity has the meaning given by section 3A;

S. 3(1) def. of
*approved advanced
RSA program*
inserted by
No. 64/2014
s. 40.

approved advanced RSA program means a
training program approved by the
Commission under section 146E;

S. 3(1) def. of
*approved responsible
service of alcohol
program*
inserted by
No. 57/2010
s. 4(2),
amended by
No. 58/2011
s. 51(3).

approved responsible service of alcohol program
means—

- (a) an initial training program approved by
the Commission under section 26C; or
- (b) in relation to a person who has
previously completed an initial training
program referred to in paragraph (a), a
refresher training program approved by
the Commission under section 26C;

S. 3(1) def. of
*approved responsible
service of alcohol
program register*
inserted by
No. 57/2010
s. 4(2).

*approved responsible service of alcohol program
register* means a register kept by a licensee
in accordance with section 108AD;

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

associate has the meaning given in section 3AC;

S. 3(1) def. of
Australian lawyer
inserted by
No. 8/2009
s. 4(1).

Australian lawyer has the same meaning as in the
Legal Profession Act 2004;

authorised gaming visitor means a person—

- (a) who is on licensed premises in respect of which a venue operator's licence is in force; and
- (b) in the case of licensed premises within the municipal district of a Council mentioned in the Schedule to the **Public Holidays Act 1993**, who resides more than 5 kilometres from the licensed premises; and
- (c) in the case of licensed premises that are not within the municipal district of a Council mentioned in the Schedule to the **Public Holidays Act 1993**, who resides more than 10 kilometres, or any other distance which is determined by the Minister under subsection (2), from the licensed premises; and
- (d) whose name, residential address and date of admission to the licensed premises is recorded on the register of authorised gaming visitors required to be kept under section 10(4)(b)(ii);

* * * * *

S. 3(1) def. of *authorised member of the police force* repealed by No. 57/2010 s. 4(3)(a).

authorised notifier means—

- (a) Victoria Police; or
- (b) a court, tribunal or other entity involved in the administration of the criminal justice system in Victoria; or

S. 3(1) def. of *authorised notifier* inserted by No. 71/2011 s. 4(a), amended by No. 37/2014 s. 10(Sch. item 96.1(b)).

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- (c) any other authority or person responsible for the enforcement, investigation or prosecution of offences under this Act; or
- (d) a member, employee or delegate of an entity referred to in paragraph (a), (b) or (c);

S. 3(1) def. of *authorised person* inserted by No. 8/2009 s. 4(1), substituted by No. 58/2011 s. 51(2), amended by No. 37/2014 s. 10(Sch. item 96.1(c)).

authorised person means—

- (a) a commissioner; or
- (b) a gambling and liquor inspector; or
- (c) a police officer;

S. 3(1) def. of *authorised premises* amended by No. 59/2009 s. 4(1).

authorised premises means premises referred to in section 9(1)(b), 9A(1)(b) or 11A(3)(b);

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

banning notice means a notice given under section 148B;

S. 3(1) def. of *barring order* inserted by No. 12/2011 s. 3(1).

barring order means an order served under section 106D, whether or not the order is varied under section 106I;

bed and breakfast business means a business that provides temporary accommodation, other than dormitory style accommodation, for not more than 8 adults in the course of that business;

S. 3(1) def. of *bed and breakfast business* inserted by No. 57/2010 s. 4(1), substituted by No. 21/2014 s. 4(2).

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

S. 3(1) def. of *breach notice* inserted by No. 73/2007 s. 11, amended by No. 58/2011 s. 104(Sch. item 4.1(a)).

butcher business means a business whose primary function is to sell raw meat or fish on a retail basis for human consumption, but does not include a business where meat is sold to be consumed on the premises;

S. 3(1) def. of *butcher business* inserted by No. 57/2010 s. 4(1).

BYO permit means a BYO permit granted under this Act;

Chief Commissioner means the Chief Commissioner of Police appointed under the **Victoria Police Act 2013**;

S. 3(1) def. of *Chief Commissioner* substituted by No. 37/2014 s. 10(Sch. item 96.1(d)).

Commission means Victorian Commission for Gambling and Liquor Regulation established under Part 2 of the **Victorian Commission for Gambling and Liquor Regulation Act 2011**;

S. 3(1) def. of *Commission* inserted by No. 58/2011 s. 51(1).

commissioner means a member of the Commission appointed under Part 2 of the **Victorian Commission for Gambling and Liquor Regulation Act 2011**;

S. 3(1) def. of *commissioner* inserted by No. 58/2011 s. 51(1).

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S. 3(1) def. of
compliance
inspector
inserted by
No. 8/2009
s. 4(1),
repealed by
No. 58/2011
s. 51(4).

* * * * *

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

contested application means—

- (a) an application for the grant, variation, transfer or relocation of a licence or BYO permit in respect of which any objections are received under Division 5 of Part 2 within the period set out in that Division for those objections (or that period as extended under section 174); or
- (b) an application under section 30 for the variation of a licence or BYO permit in respect of which an objection is received under section 30(b) within the period set out in that section for that objection (or that period as extended under section 174);

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

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

S. 3(1) def. of
co-operative
amended by
No. 9/2013
s. 42(Sch. 2
item 12).

co-operative has the same meaning as in the Co-operatives National Law (Victoria);

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

cruise ship means a ship that—

- (a) has sleeping facilities for at least 100 passengers, other than crew members; and
- (b) is used to transport passengers for a fee, whether within or outside State waters or in the course of overseas or interstate journeys;

S. 3(1) def. of *cruise ship* inserted by No. 21/2014 s. 4(1).

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

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

designated place has the same meaning as in the **Victoria Police Act 2013**;

S. 3(1) def. of *designated place* inserted by No. 43/2011 s. 29, substituted by No. 37/2014 s. 10(Sch. item 96.1(e)).

* * * * *

S. 3(1) def. of *Director* repealed by No. 58/2011 s. 51(4).

director of a body corporate includes—

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

S. 3(1) def. of
*domestic
partner*
inserted by
No. 92/2004
s. 9(1),
substituted by
No. 12/2008
s. 73(1)(Sch. 1
item 37.1).

domestic partner of a person means—

- (a) a person who is in a registered relationship with the person; or
- (b) an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—
 - (i) for fee or reward; or
 - (ii) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

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

event includes a series of events;

S. 3(1) def. of
event
inserted by
No. 59/2009
s. 4(3).

evidence of age document means—

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

- (c) an Australian or foreign passport; or
- (d) a document issued—
 - (i) by a person; or
 - (ii) on behalf of a government department or agency—
approved by the Minister that bears a photograph of the person to whom it is issued and enables that person's age to be determined;

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

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

florist or giftmaker business means a business whose primary function is to sell flowers, food or other products that are packaged as, or intended to be, gifts;

S. 3(1) def. of *florist or giftmaker business* inserted by No. 57/2010 s. 4(1).

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

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

gambling and liquor inspector means an inspector appointed under section 40 of the **Victorian Commission for Gambling and Liquor Regulation Act 2011**;

S. 3(1) def. of *gambling and liquor inspector* inserted by No. 58/2011 s. 51(1).

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

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

S. 3(1) def. of
guest
amended by
Nos 92/2004
s. 9(2),
59/2009
s. 30(a).

guest—

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

S. 3(1) def. of
*hairdresser
business*
inserted by
No. 57/2010
s. 4(1).

hairdresser business means a business whose primary function is to provide hairdressing or barber services;

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

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

S. 3(1) def. of
hospital
inserted by
No. 21/2014
s. 4(1).

hospital means any of the following—

- (a) a denominational hospital within the meaning of the **Health Services Act 1988**;
- (b) a designated public hospital within the meaning of the **Health Services Act 1988**;
- (c) a metropolitan hospital within the meaning of the **Health Services Act 1988**;
- (d) a private hospital within the meaning of the **Health Services Act 1988**;
- (e) a privately-operated hospital within the meaning of the **Health Services Act 1988**;

(f) a public hospital within the meaning of the **Health Services Act 1988**;

infringement notice has the same meaning as in the **Infringements Act 2006**;

S. 3(1) def. of *infringement notice* inserted by No. 71/2011 s. 4(a).

infringement penalty has the same meaning as in the **Infringements Act 2006**;

S. 3(1) def. of *infringement penalty* inserted by No. 71/2011 s. 4(a).

inquiry has the same meaning as in the **Victorian Commission for Gambling and Liquor Regulation Act 2011**;

S. 3(1) def. of *inquiry* inserted by No. 58/2011 s. 51(1).

* * * * *

S. 3(1) def. of *insolvent under administration* repealed by No. 4/2008 s. 32(Sch. item 18).

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

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

late night trading hours in relation to a licence or BYO permit, means a continuous period from 1 a.m. on a particular day, where the licence or permit also authorises the supply of liquor up to 1 a.m. on that day;

S. 3(1) def. of *late night trading hours* inserted by No. 59/2009 s. 4(3).

licence means a licence granted under this Act;

S. 3(1) def. of
*licensed
premises*
amended by
No. 71/2011
s. 4(b).

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

licensee means the holder of a licence;

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

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

S. 3(1) def. of
*live music
event*
inserted by
No. 21/2014
s. 4(1).

live music event means an event at which takes place the creation or manipulation of sound for artistic, cultural or religious purposes, and which is performed to an audience;

S. 3(1) def. of
major event
inserted by
No. 59/2009
s. 4(3).

major event means an event determined or taken under section 14B to be a major event;

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

S. 3(1) def. of
*non-
compliance
incident*
inserted by
No. 71/2011
s. 4(a).

non-compliance incident, in relation to a licence or permit, means—

- (a) the payment of an infringement penalty in an infringement notice served on the licensee or permittee for an offence under section 108(4), 119 or 120; or
- (b) the making of an order under section 59 of the **Infringements Act 2006** in respect of an offence under section 108(4), 119 or 120; or

- (c) the commencement of a payment plan in respect of an infringement notice served on the licensee or permittee for an offence under section 108(4), 119 or 120; or
- (d) the successful prosecution of the licensee or permittee for an offence under section 108(4), 119 or 120;

ordinary trading hours means—

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

S. 3(1) def. of *ordinary trading hours* amended by Nos 96/2003 s. 14(1), 59/2009 s. 4(2), 71/2011 s. 4(c), 21/2014 s. 4(3).

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- (c) in relation to a packaged liquor licence or late night (packaged liquor) licence—
- (i) the hours between 9 a.m. and 11 p.m. on each day, other than Sunday, Good Friday, ANZAC Day or Christmas Day; and
 - (ii) the hours between 10 a.m. and 11 p.m. on Sunday; and
 - (iii) the hours between 12 noon and 11 p.m. on ANZAC Day;
- (d) in relation to a wine and beer producer's licence—
- (i) the hours between 7 a.m. and 11 p.m. on each day, other than Sunday, Good Friday or ANZAC Day; and
 - (ii) the hours between 10 a.m. and 11 p.m. on Sunday, Good Friday and ANZAC Day;
- (e) the following hours in addition to the ordinary trading hours referred to in paragraph (a), (b), (c) or (d)—
- (i) in relation to an on-premises licence, late night (on-premises) licence or BYO permit—the hours between 11 p.m. on 31 December and 1 a.m. on 1 January;
 - (ii) in relation to a restaurant and cafe licence, on-premises licence subject to restaurant conditions or late night (on-premises) licence subject to restaurant conditions—the hours between 11 p.m. on

31 December and 3 a.m. on
1 January;

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

party bus has the meaning set out in section 113A;

S. 3(1) def. of *party bus* inserted by No. 88/2009 s. 4.

permit means a BYO permit;

S. 3(1) def. of *permit* inserted by No. 71/2011 s. 4(a).

* * * * *

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

permittee means the holder of a BYO permit;

police officer has the same meaning as in the **Victoria Police Act 2013**;

S. 3(1) def. of *police officer* inserted by No. 37/2014 s. 10(Sch. item 96.1(a)).

premises includes a vehicle, vessel and aircraft;

primary premises, in relation to a wine and beer producer's licence under section 13, means premises occupied and used by the licensee—

S. 3(1) def. of *primary premises* inserted by No. 71/2011 s. 4(a).

- (a) for the production, storage or distribution of liquor that is the licensee's product; and
- (b) for the supply of liquor that is the licensee's product for consumption on or off the premises; and
- (c) for the supply of liquor that is not the licensee's product for consumption on the licensed premises; and
- (d) for the supply of packaged liquor that is the licensee's product to a person who makes an off-premises request;

S. 3(1) def. of *promotional event* inserted by No. 71/2011 s. 4(a).

promotional event includes but is not limited to a craft market, farmers' market, commercial market, festival, agricultural show, food and wine event, gallery opening, fair or local event but does not include a major event or horse-racing event;

S. 3(1) def. of *proof of age card* amended by No. 58/2011 s. 104(Sch. item 4.1(b)).

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

S. 3(1) def. of *protective services officer* inserted by No. 43/2011 s. 29, substituted by No. 37/2014 s. 10(Sch. item 96.1(f)).

protective services officer has the same meaning as in the **Victoria Police Act 2013**;

S. 3(1) def. of *Register* inserted by No. 71/2011 s. 4(a).

Register means the Demerits Register established under section 86A;

Liquor Control Reform Act 1998
No. 94 of 1998
Part 1—Preliminary

s. 3

*	*	*	*	*	S. 3(1) def. of <i>related body corporate</i> inserted by No. 39/2002 s. 4(2)(a), repealed by No. 39/2002 s. 16(a).
*	*	*	*	*	S. 3(1) def. of <i>related entity</i> amended by No. 44/2001 s. 3(Sch. item 73.1), substituted by No. 39/2002 s. 4(2)(b), repealed by No. 39/2002 s. 16(a).
*	*	*	*	*	S. 3(1) def. of <i>relevant police member</i> inserted by No. 73/2007 s. 4, repealed by No. 57/2010 s. 4(3)(b).

residence, in sections 119 and 123, means—

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

but does not include licensed premises;

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

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s. 3

S. 3(1) def. of
*residential
care service*
inserted by
No. 21/2014
s. 4(1).

residential care service has the same meaning as
in the **Health Services Act 1988**;

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

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

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

S. 3(1) def. of
*responsible
person*
inserted by
No. 12/2011
s. 3(1).

responsible person means a person responsible
for the management or control of licensed
premises;

S. 3(1) def. of
*retail
premises*
inserted by
No. 71/2011
s. 4(a).

retail premises, in relation to a wine and beer
producer's licence under section 13, means
premises occupied and used by the licensee
for the supply of liquor that is the licensee's
product for consumption off the premises;

S. 3(1) def. of
*retirement
village*
inserted by
No. 21/2014
s. 4(1).

retirement village has the same meaning as in the
Retirement Villages Act 1986;

S. 3(1) def. of
Secretary
inserted by
No. 8/2009
s. 4(1).

Secretary means Secretary to the Department of
Justice;

<p><i>sexually explicit entertainment</i> means live entertainment that may be performed for an audience, by a person performing an act of an explicit sexual nature, but does not include the provision of sexual services within the meaning of section 3(1) of the Sex Work Act 1994;</p>	<p>S. 3(1) def. of <i>sexually explicit entertainment</i> inserted by No. 57/2010 s. 4(4), amended by No. 57/2010 s. 30.</p>
<p><i>specified offence</i>, in relation to a banning notice or an exclusion order, means an offence specified in Schedule 2;</p>	<p>S. 3(1) def. of <i>specified offence</i> inserted by No. 73/2007 s. 4.</p>
<p><i>spouse</i> of a person means a person to whom the person is married;</p>	<p>S. 3(1) def. of <i>spouse</i> inserted by No. 92/2004 s. 9(1).</p>
<p><i>state of intoxication</i> has the meaning given by section 3AB(1);</p>	<p>S. 3(1) def. of <i>state of intoxication</i> inserted by No. 8/2006 s. 4(2).</p>
<p><i>successful prosecution</i> means a prosecution which results in a licensee or permittee being convicted or found guilty of an offence against section 108(4), 119 or 120;</p>	<p>S. 3(1) def. of <i>successful prosecution</i> inserted by No. 71/2011 s. 4(a).</p>
<p><i>supply</i> includes sell, offer or expose for sale, exchange, dispose of and give away;</p>	<p>S. 3(1) def. of <i>supply</i> amended by No. 88/2001 s. 4(b).</p>
<p><i>TAFE institute</i> has the same meaning as in the Education and Training Reform Act 2006;</p>	<p>S. 3(1) def. of <i>TAFE institute</i> inserted by No. 8/2009 s. 4(2).</p>
<p><i>tax officer</i> has the same meaning as in the Taxation Administration Act 1997;</p>	

Liquor Control Reform Act 1998
No. 94 of 1998
Part 1—Preliminary

s. 3

S. 3(1) def. of
Tribunal
repealed by
No. 58/2011
s. 51(4).

* * * * *

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

S. 3(1) def. of
university
inserted by
No. 8/2009
s. 4(2).

university has the same meaning as in the **Education and Training Reform Act 2006**;

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

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

S. 3(1) def. of
venue operator's licence
substituted by
No. 114/2003
s. 12.1.3
(Sch. 6
item 9.1),
amended by
No. 71/2011
s. 4(d).

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

S. 3(1) def. of
vigneron
repealed by
No. 71/2011
s. 4(e).

* * * * *

* * * * *

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

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

(3) For the purposes of the definition of *domestic partner* in subsection (1)—

S. 3(3) inserted by No. 12/2008 s. 73(1)(Sch. 1 item 37.2).

(a) *registered relationship* has the same meaning as in the **Relationships Act 2008**; and

(b) in determining whether persons who are not in a registered relationship are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the **Relationships Act 2008** as may be relevant in a particular case; and

(c) a person is not a domestic partner of another person only because they are co-tenants.

(4) A reference in this Act to the vicinity of licensed premises means a public place that is within 20 metres of the licensed premises, but is not the licensed premises.

S. 3(4) inserted by No. 12/2011 s. 3(2).

3A What is *amenity*?

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

(1) For the purposes of this Act, the amenity of an area is the quality that the area has of being pleasant and agreeable.

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

S. 3AA
inserted by
No. 58/2011
s. 52.

3AA Evidence constituting detraction from or detriment to amenity of area

For the purposes of this Act, evidence of any of the following factors, which may occur inside, or a place outside a licensed premises that is sufficiently proximate to, that premises, are taken to constitute evidence of detraction from, or detriment to, the amenity of the area in which the licensed premises is situated—

- (a) violent behaviour;
- (b) drunkenness;
- (c) vandalism;
- (d) using profane, indecent or obscene language;
- (e) using threatening, abusive or insulting language;
- (f) behaving in a riotous, indecent, offensive or insulting manner;
- (g) disorderly behaviour;
- (h) causing nuisance;

- (i) noise disturbance to occupiers of other premises;
- (j) obstructing a footpath, street or road;
- (k) littering.

3AB What is intoxication?

- (1) For the purposes of this Act, a person is in a state of intoxication if his or her speech, balance, co-ordination or behaviour is noticeably affected and there are reasonable grounds for believing that this is the result of the consumption of liquor.
- (2) The Commission must issue guidelines containing information about how to determine whether a person is in a state of intoxication for the purposes of this Act, the **Casino Control Act 1991** or the **Gambling Regulation Act 2003**.

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

S. 3AB(2)
amended by
Nos 72/2007
s. 62, 58/2011
s. 104(Sch.
item 4.2).

3AC Who is an *associate*?

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

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

- (b) a person who is or will be a director, whether in right of the person or on behalf of any other person, of any business of the first person involving the sale of liquor; or
- (c) if the first person is a natural person, a person who is a relative of the first person, other than a relative—
 - (i) who is not, and has never been, involved in any business of the first person involving the sale of liquor; or
 - (ii) who will not be involved in the business the first person proposes to conduct as a licensee or permittee.

(2) In this section—

relative, in relation to a person, means—

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

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

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

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

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

3B Where supply occurs if off-premises request made

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

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

Examples

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

4 Objects

S. 4
amended by
No. 59/2009
s. 5(3) (ILA
s. 39B(1)).

(1) The objects of this Act are—

S. 4(1)(a)
amended by
No. 59/2009
s. 5(1).

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

(i) providing adequate controls over the supply and consumption of liquor; and

(ii) ensuring as far as practicable that the supply of liquor contributes to, and does not detract from, the amenity of community life; and

S. 4(1)(a)(iii)
inserted by
No. 88/2001
s. 5.

(iii) restricting the supply of certain other alcoholic products; and

S. 4(1)(a)(iv)
amended by
No. 59/2009
s. 5(2).

(iv) encouraging a culture of responsible consumption of alcohol and reducing risky drinking of alcohol and its impact on the community; and

(b) to facilitate the development of a diversity of licensed facilities reflecting community expectations; and

S. 4(1)(c)
amended by
Nos 57/2010
s. 5(1),
71/2011 s. 5.

(c) to contribute to the responsible development of the liquor, licensed hospitality and live music industries; and

S. 4(1)(d)
inserted by
No. 57/2010
s. 5(2).

(d) to regulate licensed premises that provide sexually explicit entertainment.

S. 4(2)
inserted by
No. 59/2009
s. 5(3).

(2) It is the intention of Parliament that every power, authority, discretion, jurisdiction and duty conferred or imposed by this Act must be exercised and performed with due regard to harm

minimisation and the risks associated with the misuse and abuse of alcohol.

5 Liquor Control Advisory Council

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

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

6 Act not to apply in certain cases

This Act does not apply—

- (a) to a person supplying spirituous or distilled perfume in good faith as perfumery; or
- (b) to liquor supplied or consumed as part of a religious service; or
- (c) to the supply or administration of liquor only as medicine or for medical purposes by or under the direction of—
 - (i) a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student); or
 - (ii) a person registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession (other than as a student); or
- (d) to the supply or consumption of liquor at the Houses of Parliament by the permission and under the control of the Parliament; or
- (e) to an auctioneer selling liquor by auction with the approval of the Commission on account of—
 - (i) a person—
 - (A) who has failed to renew their licence; or
 - (B) who has surrendered their licence; or
 - (C) whose licence has been cancelled—within the preceding 3 months; or

S. 6(c)
amended by
No. 97/2005
s. 182(Sch. 4
item 33),
substituted by
No. 13/2010
s. 51(Sch.
item 34).

S. 6(c)(ii)
amended by
No. 70/2013
s. 3(Sch. 1
item 26.1).

S. 6(e)
amended by
No. 58/2011
s. 104(Sch.
item 4.3).

-
- (ii) a person who intends to surrender their licence within 3 months after the sale; or
 - (iii) a person whose licence will expire within 3 months after the sale and who does not intend to renew the licence; or
 - (f) to the official receiver or trustee in bankruptcy of a bankrupt estate selling liquor that is the property of that estate for the purposes of winding up that estate; or
 - (g) to an executor or administrator of the estate of a deceased person selling liquor that is the property of that estate for the purposes of winding up that estate; or
 - (h) to an insurer selling liquor to which the insurer has acquired title by virtue of a settlement of a claim made in good faith under a policy of insurance but not by purchase; or
 - (i) to a person not carrying on a business of supplying liquor who supplies liquor to a licensee; or
 - (j) to any of the following persons or entities selling by auction any liquor taken in execution or under any warrant of distress or forfeited—
 - (i) the Assistant Director, Asset Confiscation Operations in the Enforcement Management Division of the Department of Justice;
 - (ii) the sheriff or a person authorised by the sheriff;
 - (iii) a bailiff;

S. 6(j)
substituted by
No. 8/2006
s. 6,
amended by
No. 58/2011
s. 104(Sch.
item 4.4(a)).

Liquor Control Reform Act 1998
No. 94 of 1998
Part 1—Preliminary

s. 6A

S. 6(j)(iv)
amended by
Nos 8/2009
s. 5(a),
37/2014
s. 10(Sch.
item 96.2).

(iv) a police officer;

S. 6(j)(v)
inserted by
No. 8/2009
s. 5(b),
amended by
No. 58/2011
s. 104(Sch.
item 4.4(b)).

(v) the Commission;

S. 6(j)(vi)
inserted by
No. 8/2009
s. 5(b),
amended by
No. 58/2011
s. 104(Sch.
item 4.4(c)).

(vi) a gambling and liquor inspector; or

(k) to the granting of allowances of liquor to the crew of a vessel.

S. 6A
inserted by
No. 57/2010
s. 6.

6A Exemption from Act—bed and breakfast businesses

(1) A person who carries on a bed and breakfast business is exempt from any requirement of this Act to hold a licence in relation to the supply of liquor to a person staying at the bed and breakfast business if the following conditions are complied with—

* * * * *

S. 6A(1)(a)
repealed by
No. 21/2014
s. 5(1).

(b) the liquor is not supplied to a minor; and

(c) the proprietor of the business or the business purchased the liquor on a retail basis; and

(d) not more than 750ml of liquor is supplied in any one day per room that is occupied for the purposes of temporary accommodation.

S. 6A(1)(d) amended by No. 58/2011 s. 104(Sch. item 4.5), substituted by No. 21/2014 s. 5(2).

* * * * *

S. 6A(2)(3) amended by No. 58/2011 s. 104(Sch. item 4.5), repealed by No. 21/2014 s. 5(3).

Note

It is an offence under section 107 for a person who is not a licensee to sell or offer liquor for sale.

Notes to s. 6A substituted as note by No. 21/2014 s. 5(4).

6B Exemption from Act—florist or giftmaker

S. 6B inserted by No. 57/2010 s. 6.

- (1) A person who carries on a florist or giftmaker business is exempt from any requirement of this Act to hold a licence in relation to the supply of liquor by that business if the following conditions are met—
- (a) the business only supplies liquor that is packaged together with flowers, food or other gifts; and
 - (b) the liquor is not supplied to a minor; and
 - (c) the business does not accept orders to supply liquor from a minor; and
 - (d) the proprietor of the business or the business purchased the liquor on a retail basis; and
 - (e) not more than 1·5 litres of liquor is supplied to each recipient in any one day; and
 - (f) the value of the liquor and its container is not more than 50 per cent of the total sale price of the supplied items.

Liquor Control Reform Act 1998
No. 94 of 1998
Part 1—Preliminary

s. 6C

S. 6B(2)(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.6),
repealed by
No. 21/2014
s. 6(1).

* * * * *

Notes to s. 6B
substituted as
note by
No. 21/2014
s. 6(2).

Note

It is an offence under section 107 for a person who is not a licensee to sell or offer liquor for sale.

S. 6C
inserted by
No. 57/2010
s. 6.

6C Exemption from Act—hairdressers

- (1) A person who carries on a hairdresser business is exempt from any requirement of this Act to hold a licence in relation to the supply of liquor to a customer by that business if the following conditions are met—
- (a) the liquor is not supplied to a minor; and
 - (b) the liquor is consumed on the business premises; and
 - (c) the liquor is supplied without charge and the supply is ancillary to the provision of hairdressing or barber services.

S. 6C(2)(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.7),
repealed by
No. 21/2014
s. 7(1).

* * * * *

Notes to s. 6C
substituted as
note by
No. 21/2014
s. 7(2).

Note

It is an offence under section 107 for a person who is not a licensee to sell or offer liquor for sale.

6D Exemption from Act—butchers

- (1) A person who carries on a butcher business is exempt from any requirement of this Act to hold a licence in relation to the supply of liquor by that business if the following conditions are met—
- (a) the liquor is not supplied to a minor; and
 - (b) the liquor supplied is in sealed containers, bottles or cans for consumption off the business premises; and
 - (c) the liquor supplied is a type of liquor prescribed by the regulations; and
 - (d) not more than 1·5 litres of liquor is supplied to each recipient in any one day.

* * * * *

S. 6D
inserted by
No. 57/2010
s. 6.

S. 6D(2)(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.8),
repealed by
No. 21/2014
s. 8(1).

Note

It is an offence under section 107 for a person who is not a licensee to sell or offer liquor for sale.

Notes to s. 6D
substituted as
note by
No. 21/2014
s. 8(2).

6E Exemption from Act—hospitals

A person who owns or operates a hospital is exempt from any requirement of this Act to hold a licence in relation to the supply of liquor to a patient of the hospital, or a visitor of the patient, if the following conditions are met—

- (a) the liquor is not supplied to a minor; and
- (b) the person purchased the liquor on a retail basis; and

S. 6E
inserted by
No. 21/2014
s. 9.

s. 6F

- (c) not more than 2 standard drinks are supplied to each recipient in any one day.

Note

It is an offence under section 107 for a person who is not a licensee to sell or offer liquor for sale.

S. 6F
inserted by
No. 21/2014
s. 9.

6F Exemption from Act—residential care services

A person who owns or operates a residential care service is exempt from any requirement of this Act to hold a licence in relation to the supply of liquor to a resident of the residential care service, or a visitor of the resident, if the following conditions are met—

- (a) the liquor is not supplied to a minor; and
- (b) the person purchased the liquor on a retail basis; and
- (c) not more than 2 standard drinks are supplied to each recipient in any one day.

Note

It is an offence under section 107 for a person who is not a licensee to sell or offer liquor for sale.

S. 6G
inserted by
No. 21/2014
s. 9.

6G Exemption from Act—retirement villages

A person who owns or operates a retirement village is exempt from any requirement of this Act to hold a licence in relation to the supply of liquor to a resident of the retirement village, or a visitor of the resident, if the following conditions are met—

- (a) the liquor is not supplied to a minor; and
- (b) the person purchased the liquor on a retail basis; and

-
- (c) not more than 2 standard drinks are supplied to each recipient in any one day.

Note

It is an offence under section 107 for a person who is not a licensee to sell or offer liquor for sale.

6H Exemption from Act—cruise ships

S. 6H
inserted by
No. 21/2014
s. 9.

A person who owns or operates a cruise ship is exempt from any requirement of this Act to hold a licence in relation to the supply of liquor by that person, if the following conditions are met—

- (a) the liquor is only supplied to the registered passengers or crew members of the cruise ship; and
- (b) the liquor is only supplied for consumption aboard the cruise ship.

Note

It is an offence under section 107 for a person who is not a licensee to sell or offer liquor for sale.

PART 2—LICENCES AND BYO PERMITS

Division 1—Categories of licences and permits

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

S. 7
substituted by
No. 59/2009
s. 6.

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

- (a) general licence;
- (b) on-premises licence;
- (c) restaurant and cafe licence;
- (d) club licence;
- (e) packaged liquor licence;
- (f) late night licence;
- (g) pre-retail licence;
- (h) wine and beer producer's licence;

- (i) limited licence;
- (j) major event licence;
- (k) BYO permit.

S. 7(h)
amended by
No. 71/2011
s. 6.

8 General licence

- (1) A general licence authorises the licensee—
 - (a) to supply liquor on the licensed premises—
 - (i) during ordinary trading hours; and
 - (ii) between 11 p.m. on any particular day until 1 a.m. on the following day, if so determined by the Commission and specified in the licence; and

S. 8(1)(a)(ii)
substituted by
No. 59/2009
s. 7,
amended by
No. 58/2011
s. 104(Sch.
item 4.9).

(iii) subject to section 15A, between a time (not being earlier than 5 a.m.) before the commencement of ordinary trading hours and the commencement of ordinary trading hours on a particular day, if so determined by the Commission and specified in the licence—

S. 8(1)(a)(iii) inserted by No. 59/2009 s. 7, amended by Nos 8/2010 s. 4, 58/2011 s. 104(Sch. item 4.9).

for consumption on and off the licensed premises; and

(b) to supply liquor on the licensed premises at any time to a resident of the licensed premises or a guest of such a resident for consumption on the licensed premises; and

(ba) to supply liquor on the licensed premises between 11 p.m. on 31 December and 1 a.m. on 1 January for consumption on the licensed premises; and

S. 8(1)(ba) inserted by No. 21/2014 s. 10.

(c) if the licensee resides on the licensed premises, to supply liquor on that part of the licensed premises set aside for the licensee's private residence at any time to a guest of the licensee for consumption on that part of the licensed premises.

(2) A general licence is subject to—

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

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

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

s. 9

S. 8(2)(ca)
inserted by
No. 21/2001
s. 4,
repealed by
No. 39/2002
s. 16(b), new
s. 8(2)(ca)
inserted by
No. 71/2011
s. 7(1).

(ca) the condition that the supply of liquor only for consumption off the licensed premises must not be the whole of the licensee's ordinary business of supplying liquor; and

S. 8(2)(d)
amended by
No. 58/2011
s. 104(Sch.
item 4.10).

(d) any other conditions determined by the Commission and specified in the licence.

S. 8(3)
inserted by
No. 71/2011
s. 7(2).

(3) For the purposes of subsection (2)(ca), gratuitous supply of liquor under section 20 does not affect whether the supply of liquor only for consumption off the licensed premises is the whole of the licensee's ordinary business of supplying liquor.

9 On-premises licence

(1) An on-premises licence authorises the licensee—

(a) to supply liquor on the licensed premises—

(i) during ordinary trading hours; and

(ii) between 11 p.m. on any particular day until 1 a.m. on the following day, if so determined by the Commission and specified in the licence; and

S. 9(1)(a)(ii)
substituted by
No. 59/2009
s. 8(1),
amended by
No. 58/2011
s. 104(Sch.
item 4.11).

(iii) subject to section 15A, between a time (not being earlier than 5 a.m.) before the commencement of ordinary trading hours and the commencement of ordinary trading hours on a particular day, if so determined by the

S. 9(1)(a)(iii)
inserted by
No. 59/2009
s. 8(1),
amended by
Nos 8/2010
s. 5(1),
58/2011
s. 104(Sch.
item 4.11).

Commission and specified in the
licence—

for consumption on the licensed premises;
and

- (b) to supply liquor on any other premises authorised by the Commission and specified in the licence—
- (i) during ordinary trading hours; and
- (ii) between 11 p.m. on any particular day until 1 a.m. on the following day, if so determined by the Commission and specified in the licence; and
- (iii) subject to section 15A, between a time (not being earlier than 5 a.m.) before the commencement of ordinary trading hours and the commencement of ordinary trading hours on a particular day, if so determined by the Commission and specified in the licence—
- for consumption on those premises.
- (c) if specifically authorised by the Commission, to supply liquor in an open container for consumption in a food court next to, or near, the licensed premises.
- S. 9(1)(b) amended by No. 92/2004 s. 12(a), substituted by No. 59/2009 s. 8(2), amended by No. 58/2011 s. 104(Sch. item 4.11).
- S. 9(1)(b)(i) amended by No. 57/2010 s. 7.
- S. 9(1)(b)(ii) amended by Nos 57/2010 s. 7, 58/2011 s. 104(Sch. item 4.11).
- S. 9(1)(b)(iii) amended by Nos 8/2010 s. 5(2), 58/2011 s. 104(Sch. item 4.11).
- S. 9(1)(c) inserted by No. 92/2004 s. 12(b), amended by No. 58/2011 s. 104(Sch. item 4.11).

s. 9A

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

S. 9(2)(a)
repealed by
No. 59/2009
s. 8(3).

* * * * *

- (b) the condition set out in section 16 (compliance with planning scheme); and
- (c) if the licence authorises the licensee to supply liquor outside ordinary trading hours, the condition set out in section 17(1); and
- (d) if the licensee is a body corporate, the condition set out in section 18 (approval of directors); and
- (e) any other conditions determined by the Commission and specified in the licence.

S. 9(2)(e)
amended by
No. 58/2011
s. 104(Sch.
item 4.12).

S. 9(3)
amended by
No. 73/2007
s. 13(1),
repealed by
No. 59/2009
s. 8(4).

* * * * *

S. 9(4)(5)
inserted by
No. 73/2007
s. 13(2),
repealed by
No. 59/2009
s. 8(4).

* * * * *

S. 9A
inserted by
No. 59/2009
s. 9.

9A Restaurant and cafe licence

- (1) A restaurant and cafe licence authorises the licensee—
 - (a) to supply liquor on the licensed premises—
 - (i) during ordinary trading hours; and

- (ii) subject to section 15A, at any other times determined by the Commission and specified in the licence—

S. 9A(1)(a)(ii)
amended by
Nos 8/2010
s. 6(1),
58/2011
s. 104(Sch.
item 4.13).

for consumption on the licensed premises where the predominant activity carried out at all times on the premises is the preparation and serving of meals to be consumed on the licensed premises; and

- (b) subject to section 15A, to supply liquor on any other premises authorised by the Commission and specified in the licence, during ordinary trading hours or at the times referred to in paragraph (a)(ii) or at any other times determined by the Commission and specified in the licence, for consumption on those premises.

S. 9A(1)(b)
amended by
Nos 8/2010
s. 6(2),
58/2011
s. 104(Sch.
item 4.13).

- (2) A restaurant and cafe licence is subject to—

- (a) the conditions set out in subsection (3), and
(b) the condition set out in section 16 (compliance with planning scheme); and
(c) if the licence authorises the licensee to supply liquor outside ordinary trading hours, the condition set out in section 17(1); and
(d) if the licensee is a body corporate, the condition set out in section 18 (approval of directors); and
(e) any other conditions determined by the Commission and specified in the licence.

S. 9A(2)(e)
amended by
No. 58/2011
s. 104(Sch.
item 4.14).

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

10 Club licence

- (1) A club licence may be a full club licence or a restricted club licence.
- (2) A full club licence authorises the licensee to supply liquor on the licensed premises—
 - (a) during ordinary trading hours; and
 - (b) subject to section 15A, at any other times determined by the Commission and specified in the licence—

S. 10(2)(b)
amended by
Nos. 8/2010
s. 7(1),
58/2011
s. 104(Sch.
item 4.15).

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.

- (2A) A full club licence also authorises the licensee to supply liquor on the licensed premises to a member of the club, an authorised gaming visitor or a guest of a member between 11 p.m. on 31 December and 1 a.m. on 1 January for consumption on the licensed premises.
- (3) Subject to section 15A, a restricted club licence authorises the licensee to supply liquor at the times determined by the Commission and specified in the licence to a member of the club, an authorised gaming visitor or a guest of a member for consumption on the licensed premises.
- (4) A club licence is subject to—
 - (a) a condition that the rules of the club comply with Schedule 1 (except to the extent determined by the Commission under section 25(1)(a)); and

S. 10(2A)
inserted by
No. 21/2014
s. 11.

S. 10(3)
amended by
Nos 8/2010
s. 7(2),
58/2011
s. 104(Sch.
item 4.16).

S. 10(4)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.17).

s. 10

S. 10(4)(b)
amended by
No. 58/2011
s. 104(Sch.
item 4.18).

- (b) a condition that the secretary of the club keep on the licensed premises, in a form and 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 visitor admitted to the licensed premises and the date of that admission; and

S. 10(4)(c)
amended by
Nos 108/2004
s. 117(1)
(Sch. 3
item 115.1),
8/2009 s. 6,
57/2010 s. 8,
58/2011
s. 104(Sch.
item 4.19),
37/2014
s. 10(Sch.
item 96.2).

- (c) a condition that the registers be kept open for inspection at any time by a licensing inspector, a police officer, a gambling and liquor inspector, the Commission or a person employed under Part 3 of the **Public Administration Act 2004** in the administration of this Act who is authorised in writing by the Commission; and
- (d) a condition that the secretary of the club ensure that there are kept proper accounts and records of the transactions and affairs of the club and such other records as will sufficiently explain the financial operations and financial position of the club; and
- (e) the condition set out in section 16 (compliance with planning scheme); and
- (f) if the licence authorises the licensee to supply liquor outside ordinary trading hours, the condition set out in section 17(1); and

(g) any other conditions determined by the Commission and specified in the licence.

S. 10(4)(g) amended by No. 58/2011 s. 104(Sch. item 4.20).

(5) Despite subsection (1), the Commission may impose a condition on a club licence prohibiting the supply of liquor on the licensed premises during any time that a law other than this Act forbids the club from trading at the premises.

S. 10(5) amended by No. 58/2011 s. 104(Sch. item 4.21).

(6) Despite subsection (1), a club licence in respect of licensed premises within an electoral district referred to in clause 17(1) of Schedule 3 does not authorise the licensee to supply liquor to an authorised gaming visitor.

11 Packaged liquor licence

(1) A packaged liquor licence authorises the licensee to supply liquor on the licensed premises in sealed containers, bottles or cans—

(a) during ordinary trading hours; and

(b) between 11 p.m. on any particular day until 1 a.m. on the following day, if so determined by the Commission and specified in the licence; and

S. 11(1)(b) substituted by No. 59/2009 s. 10, amended by No. 58/2011 s. 104(Sch. item 4.22).

(c) subject to section 15A, between a time (not being earlier than 5 a.m.) before the commencement of ordinary trading hours and the commencement of ordinary trading hours on a particular day, if so determined by the Commission and specified in the licence; and

S. 11(1)(c) inserted by Nos 8/2010 s. 8, 71/2011 s. 8(1), 58/2011 s. 104(Sch. item 4.22).

s. 11

S. 11(1)(d)
inserted by
No. 71/2011
s. 8(2),
amended by
No. 58/2011
s. 104(Sch.
item 4.22).

(d) at any time on Christmas Day or on Good Friday determined by the Commission and specified in the licence—

for consumption off the licensed premises.

(2) If—

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

S. 11(2)(c)
amended by
No. 58/2011
s. 104(Sch.
item 4.23).

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

(3) A packaged liquor licence is subject to—

- (aa) a condition that the predominant activity carried on in the area set aside as the licensed premises is the sale by retail of liquor for consumption off the licensed premises; and

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

S. 11(3)
(aab)(aac)
inserted by
No. 39/2002
s. 6(1),
repealed by
No. 57/2010
s. 9(1).

* * * * *

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- (aad) a condition that the licensee comply with the code of conduct (if any) determined by the Minister under subsection (5) as in force from time to time; and
- (a) the condition set out in section 16 (compliance with planning scheme); and
- (b) if the licence authorises the licensee to supply liquor outside ordinary trading hours, the condition set out in section 17(1); and
- (c) if the licensee is a body corporate, the condition set out in section 18 (approval of directors); and
- (d) any other conditions determined by the Commission and specified in the licence.
- * * * * *
- (5) The Minister, by notice published in the Government Gazette, may determine a code of conduct, consistent with the objects of this Act, for licensees of packaged liquor licences.
- (6) The Minister may, at any time by notice published in the Government Gazette, vary or revoke the code of conduct under subsection (5).
- (7) The Minister must not determine a code of conduct, or vary or revoke it, until the Minister has consulted packaged liquor licensees.
- S. 11(3)(aad) inserted by No. 39/2002 s. 6(1).
- S. 11(3)(d) amended by No. 58/2011 s. 104(Sch. item 4.24).
- S. 11(4) inserted by No. 39/2002 s. 6(2), repealed by No. 57/2010 s. 9(2).
- S. 11(5) inserted by No. 39/2002 s. 6(2).
- S. 11(6) inserted by No. 39/2002 s. 6(2).
- S. 11(7) inserted by No. 39/2002 s. 6(2).

s. 11A

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

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

S. 11A
inserted by
No. 59/2009
s. 11.

11A Late night licence

- (1) A late night licence may be—
- (a) a late night (general) licence; or
 - (b) a late night (on-premises) licence; or
 - (c) a late night (packaged liquor) licence.
- (2) A late night (general) licence authorises the licensee—
- (a) to supply liquor on the licensed premises—
 - (i) during ordinary trading hours; and
 - (ii) subject to section 15A, at any other times determined by the Commission and specified in the licence—

S. 11A(2)(a)(ii)
amended by
Nos 8/2010
s. 9(1),
58/2011
s. 104(Sch.
item 4.25).

for consumption on and off the licensed premises; and

- (b) to supply liquor on the licensed premises at any time to a resident of the licensed premises or a guest of such a resident for consumption on the licensed premises; and

S. 11A(2)(ba)
inserted by
No. 21/2014
s. 12.

- (ba) to supply liquor on the licensed premises between 11 p.m. on 31 December and 1 a.m. on 1 January for consumption on the licensed premises; and
- (c) if the licensee resides on the licensed premises, to supply liquor on that part of the licensed premises set aside for the licensee's private residence at any time to a guest of the

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- licensee for consumption on that part of the licensed premises.
- (3) A late night (on-premises) licence authorises the licensee—
- (a) to supply liquor on the licensed premises—
- (i) during ordinary trading hours; and
- (ii) subject to section 15A, at any other times determined by the Commission and specified in the licence—
- for consumption on the licensed premises; and
- (b) subject to section 15A, to supply liquor on any other premises authorised by the Commission and specified in the licence at any times determined by the Commission and specified in the licence, for consumption on those premises; and
- (c) if specifically authorised by the Commission, to supply liquor in an open container for consumption in a food court next to, or near, the licensed premises.
- (4) A late night (packaged liquor) licence authorises the licensee to supply liquor on the licensed premises in sealed containers, bottles or cans—
- (a) during ordinary trading hours; and
- (b) subject to section 15A, at any other times determined by the Commission and specified in the licence; and
- S. 11A(3)(a)(ii) amended by Nos 8/2010 s. 9(2), 58/2011 s. 104(Sch. item 4.26).
- S. 11A(3)(b) amended by Nos 8/2010 s. 9(3), 58/2011 s. 104(Sch. item 4.26).
- S. 11A(3)(c) amended by No. 58/2011 s. 104(Sch. item 4.26).
- S. 11A(4)(b) amended by Nos 8/2010 s. 9(4), 71/2011 s. 9(1), 58/2011 s. 104(Sch. item 4.27).

s. 11A

S. 11A(4)(c)
inserted by
No. 71/2011
s. 9(2),
amended by
No. 71/2011
s. 34.

(c) at any time on Christmas Day or on Good Friday determined by the Commission and specified in the licence—

for consumption off the licensed premises.

(5) A late night licence is subject to—

- (a) the condition set out in section 16 (compliance with planning scheme); and
- (b) the condition set out in section 17(1); and
- (c) if the licensee is a body corporate, the condition set out in section 18 (approval of directors); and
- (d) in the case of a late night (packaged liquor) licence, the conditions set out in sections 11(3)(aa) to 11(3)(aad); and
- (da) in the case of a late night (general) licence, the condition that the supply of liquor only for consumption off the licensed premises must not be the whole of the licensee's ordinary business of supplying liquor; and
- (e) any other conditions determined by the Commission and specified in the licence.

S. 11A(5)(da)
inserted by
No. 71/2011
s. 9(3).

S. 11A(5)(e)
amended by
No. 58/2011
s. 104(Sch.
item 4.28).

S. 11A(5A)
inserted by
No. 71/2011
s. 9(4).

(5A) For the purposes of subsection (5)(da), gratuitous supply of liquor under section 20 does not affect whether the supply of liquor only for consumption off the licensed premises is the whole of the licensee's ordinary business of supplying liquor.

S. 11A(6)
amended by
No. 71/2011
s. 9(5).

(6) Sections 11(2) and 11(5) to 11(8) apply in relation to a late night (packaged liquor) licence as if it were a packaged liquor licence.

12 Pre-retail licence

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

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

S. 12(2)(b)
amended by
No. 58/2011
s. 104(Sch.
item 4.29).

13 Wine and beer producer's licence

- (1) A wine and beer producer's licence authorises the licensee—
- (a) to supply liquor that is the licensee's product at any time and on any premises to another licensee; and
 - (b) to supply during ordinary trading hours and at any other time determined by the Commission and specified in the licence—
 - (i) liquor that is the licensee's product for consumption on or off the licensed premises; and
 - (ii) liquor that is not the licensee's product for consumption on the licensed premises; and

S. 13
amended by
No. 58/2011
s. 104(Sch.
items 4.30,
4.31),
substituted by
No. 71/2011
s. 10.

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- (c) to supply packaged liquor that is the licensee's product during ordinary trading hours and at any other time determined by the Commission and specified in the licence to a person who makes an off-premises request.
- (2) A wine and beer producer's licence is subject to—
- (a) the conditions set out in section 16 (compliance with planning scheme); and
 - (b) if the licence authorises the licensee to supply liquor outside ordinary trading hours, the condition set out in section 17(1) (extended hours); and
 - (c) if the licensee is a body corporate, the condition set out in section 18 (approval of directors); and
 - (d) any other conditions determined by the Commission and specified in the licence.
- (3) In this Act, a reference to *liquor that is the licensee's product* is a reference to wine, cider, brandy, perry or beer that—
- (a) in the case of beer—has been brewed by or at the direction of the licensee and the licensee has assumed the financial risk of the production;
 - (b) in the case of wine, cider, brandy or perry—
 - (i) has been made from fruit grown by the licensee and the licensee has assumed the financial risk of the production; or
 - (ii) has been made under the direction of the licensee from fruit grown in Australia that was not grown by the licensee and the licensee has assumed the financial risk of the production.

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- (4) For the purposes of this section—
- (a) licensed premises may consist of a primary premises, or both a primary premises and a retail premises;
 - (b) in the case of licensed premises that consist of both a primary premises and a retail premises, both premises must be located in the same region specified in the Register of Protected Geographical Indications and Other Terms kept by the Registrar under the Australian Wine and Brandy Corporation Act 1980 of the Commonwealth.
- (5) A licensee under this section may apply under section 29 for a condition that authorises the supply of liquor that is the licensee's product at promotional events that are conducted off the licensed premises.
- (6) An application under subsection (5)—
- (a) must be accompanied by the prescribed fee; and
 - (b) is subject to any further condition determined by the Commission and specified on the licence.
- (7) Section 29(3)(c)(ia) does not apply to an application under subsection (5).
- (8) A licensee of a licence that has a condition of the type referred to in subsection (5) must keep a record of the name, date and location of all promotional events at which it has supplied liquor that is the licensee's product, including records of the times at which the licensee was supplying the product at the event, and produce the records for inspection upon request by an authorised person.

14 Limited licence

S. 14(1)
substituted by
No. 59/2009
s. 12(1).

- (1) A limited licence may be a temporary limited licence or a renewable limited licence.

S. 14(1A)
inserted by
No. 59/2009
s. 12(1).

- (1A) A temporary limited licence—

S. 14(1A)(a)
amended by
Nos 8/2010
s. 10(1),
58/2011
s. 104(Sch.
item 4.32).

- (a) authorises the licensee to supply liquor at the times determined by the Commission subject to section 15A and specified in the licence; and
(b) is not renewable.

S. 14(1B)
inserted by
No. 59/2009
s. 12(1).

- (1B) A renewable limited licence—

S. 14(1B)(a)
amended by
Nos 8/2010
s. 10(2),
58/2011
s. 104(Sch.
item 4.33).

- (a) subject to section 15A, authorises the licensee to supply liquor at the times determined by the Commission and specified in the licence; and

- (b) may be renewed in accordance with this Act.

- (2) A limited licence is subject to—

S. 14(2)(a)
repealed by
No. 21/2014
s. 13.

* * * * *

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

S. 14(2)(c)
amended by
No. 58/2011
s. 104(Sch.
item 4.34).

- (c) any other conditions determined by the Commission and specified in the licence.

* * * * *

S. 14(3)
amended by
Nos 59/2009
s. 12(2),
58/2011
s. 104(Sch.
item 4.35),
repealed by
No. 21/2014
s. 13.

14A Major event licence

S. 14A
inserted by
No. 59/2009
s. 13.

- (1) A major event licence authorises the licensee to supply liquor in relation to a major event at the times determined by the Commission subject to section 15A and specified in the licence.
- (2) A major event licence is subject to—
 - (a) if the licensee is a body corporate, the condition set out in section 18 (approval of directors); and
 - (b) any other conditions determined by the Commission and specified in the licence.

S. 14A(1)
amended by
Nos 8/2010
s. 11, 58/2011
s. 104(Sch.
item 4.36).

S. 14A(2)(b)
amended by
No. 58/2011
s. 104(Sch.
item 4.37).

14B Determination of major event

S. 14B
inserted by
No. 59/2009
s. 13.

- (1) The Commission may determine that an event is a major event for the purposes of sections 14A and 26.
- (2) The Commission may determine that an event is a major event only if the Commission is satisfied that the event is likely to have a significant impact.

S. 14B(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.38).

S. 14B(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.39).

s. 14B

S. 14B(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.40).

(3) Subject to subsection (7), an event is taken to be a major event if the Commission determines that the event is likely to attract more than 5000 patrons.

(4) An event is likely to have a significant impact if—

- (a) the event is likely to require significant effort or oversight by authorised persons; or
- (b) the event is likely to have a significant impact on the provision and organisation of public transport and emergency services; or
- (c) the event is likely to have a significant impact on public safety or the amenity of the area or both in which the event is to be held.

S. 14B(5)
amended by
No. 58/2011
s. 104(Sch.
item 4.41(a)).

(5) In determining the number of patrons that the event is likely to attract, the Commission may consider—

- (a) the nature of the event (including any activities held in conjunction with the event);
- (b) the location of the event;
- (c) if the same event or substantially the same event has been held previously, the estimated number of patrons who attended that event;
- (d) the proposed number of tickets to be available for the event, if applicable;
- (e) any relevant recommendations made by the Chief Commissioner.

S. 14B(6)
amended by
No. 58/2011
s. 104(Sch.
item 4.41(b)).

(6) In determining whether an event is likely to have a significant impact, the Commission must have regard to—

- (a) the number of patrons the event is likely to attract;
- (b) the proposed date, time and duration of the event;

- (c) the nature of the event (including any activities held in conjunction with the event);
 - (d) the location of the event;
 - (e) the potential impact on public transport, emergency services and the council of the municipal district in which the licensed premises to which the application relates are situated;
 - (f) the potential impact on public safety and the amenity of the area in which the event is to be held;
 - (g) the cumulative impact of the grant of other licence applications in relation to the event;
 - (h) if the proposed event, or similar event, has previously been held, the impact of that prior event on the factors in paragraphs (a) to (f);
 - (i) any relevant recommendations made by the Chief Commissioner;
 - (j) any other matter that the Commission considers relevant.
- (7) Despite subsection (3), the Commission may determine that an event that is likely to attract more than 5000 patrons is not a major event if, in the opinion of the Commission, the event is unlikely to have a significant impact on any of the factors set out in subsection (4).
- * * * * *

S. 14B(6)(j)
amended by
No. 58/2011
s. 104(Sch.
item 4.41(b)).

S. 14B(7)
amended by
No. 58/2011
s. 104(Sch.
item 4.41(c)).

S. 14B(8)
repealed by
No. 58/2011
s. 104(Sch.
item 4.42).

15 BYO permit

S. 15(1)
amended by
Nos 8/2010
s. 12, 58/2011
s. 104(Sch.
item 4.43).

(1) Subject to section 15A, a BYO permit authorises liquor to be consumed, possessed or controlled on the premises in respect of which the permit is granted at the times determined by the Commission and specified in the permit.

(2) A BYO permit is subject to—

(a) a condition that the permittee does not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the permit relates during or immediately after the periods to which the permit relates; and

S. 15(2)(b)
amended by
No. 88/2009
s. 5.

(b) a condition that the premises are a restaurant or a club or a party bus; and

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

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

S. 15(2)(e)
amended by
No. 58/2011
s. 104(Sch.
item 4.44).

(e) any other conditions, including conditions relating to entertainment, determined by the Commission and specified in the permit.

S. 15A
inserted by
No. 8/2010
s. 13.

15A ANZAC Day restrictions

(1) Subject to sections 15B(1), 15C(1) and 15D(1), the following licences do not authorise the supply of liquor at any time between 3 a.m. and 12 noon on ANZAC Day despite anything to the contrary in section 9A, 10, 11A or 14(1B) or the licence—

(a) a restaurant and cafe licence;

(b) a club licence;

- (c) a late night licence;
(d) a renewable limited licence.
- (2) A BYO permit does not authorise liquor to be consumed, possessed or controlled on the premises in respect of which the permit is granted at any time between 3 a.m. and 12 noon on ANZAC Day despite anything to the contrary in section 15 or the permit.
- (3) Subject to sections 15B(2), 15C(2) and 15D(2) the following licences do not authorise the supply of liquor at any time between 5 a.m. and 12 noon on ANZAC Day despite anything to the contrary in section 8, 9 or 11 or the licence—
- (a) a general licence;
(b) an on-premises licence;
(c) a packaged liquor licence.
- (4) The Commission must not make a determination under section 14(1A)(a) or 14A(1) authorising the supply of liquor at any time between 3 a.m. and 12 noon on ANZAC Day unless the Commission is satisfied that the supply of liquor—
- (a) will occur in connection with ANZAC Day commemorative activities; and
(b) will be consistent with the solemn observance of that day.
- (5) This section applies to a licence (other than a temporary limited licence or major event licence) or BYO permit whether granted before or after the commencement of section 13 of the **Liquor Control Reform Amendment (ANZAC Day) Act 2010**.

S. 15A(2)
amended by
No. 71/2011
s. 11.

S. 15A(4)
amended by
No. 58/2011
s. 104(Sch.
item 4.45).

- (6) This section applies to a temporary limited licence or major event licence granted after the commencement of section 13 of the **Liquor Control Reform Amendment (ANZAC Day) Act 2010**.
- (7) This section does not apply to a licence held by the Returned and Services League or a sub-branch of the Returned and Services League.

S. 15B
inserted by
No. 8/2010
s. 13.

15B Exemptions from ANZAC Day restrictions—Duty free shops and aircraft

- (1) Section 15A(1) does not prohibit the supply of liquor at any time between 3 a.m. and 12 noon on ANZAC Day under a licence if—
- (a) that licence is held in relation to—
 - (i) an outwards duty free shop within the meaning of section 96A of the Customs Act 1901 of the Commonwealth; or
 - (ii) an inwards duty free shop within the meaning of section 96B of the Customs Act 1901 of the Commonwealth; or
 - (b) that liquor is supplied for purchase or consumption on an aircraft.
- (2) Section 15A(3) does not prohibit the supply of liquor at any time between 5 a.m. and 12 noon on ANZAC Day under a licence if—
- (a) that licence is held in relation to—
 - (i) an outwards duty free shop within the meaning of section 96A of the Customs Act 1901 of the Commonwealth; or
 - (ii) an inwards duty free shop within the meaning of section 96B of the Customs Act 1901 of the Commonwealth; or
 - (b) that liquor is supplied for purchase or consumption on an aircraft.

**15C Exemptions from ANZAC Day restrictions—
Residents and guests**

S. 15C
inserted by
No. 8/2010
s. 13.

- (1) Section 15A(1) does not prohibit the supply of liquor at any time between 3 a.m. and 12 noon on ANZAC Day under a late night (general) licence, a late night (on-premises) licence or a renewable limited licence if that supply—
- (a) is authorised under section 11A(2), 11A(3) or 14(1B) or the licence; and
 - (b) is either—
 - (i) to a resident of the licensed premises or the guest of a resident for consumption on the licensed premises; or
 - (ii) if the licensee resides on the licensed premises, on that part of the licensed premises set aside for the licensee's private residence to a guest of the licensee for consumption on that part of the licensed premises.
- (2) Section 15A(3) does not prohibit the supply of liquor at any time between 5 a.m. and 12 noon on ANZAC Day under a general licence or an on-premises licence if that supply—
- (a) is authorised under section 8 or 9 or the licence; and
 - (b) is either—
 - (i) to a resident of the licensed premises or the guest of a resident for consumption on the licensed premises; or
 - (ii) if the licensee resides on the licensed premises, on that part of the licensed premises set aside for the licensee's private residence to a guest of the licensee for consumption on that part of the licensed premises.

s. 15D

S. 15D
inserted by
No. 8/2010
s. 13.

**15D Exemptions from ANZAC Day restrictions—
Wineries**

- (1) Section 15A(1) does not prohibit the supply of liquor at any time between 3 a.m. and 12 noon on ANZAC Day under a licence if that supply—
 - (a) takes place on a winery owned or occupied by the licensee; or
 - (b) is connected with the business activities of a winery owned or occupied by the licensee.
- (2) Section 15A(3) does not prohibit the supply of liquor at any time between 5 a.m. and 12 noon on ANZAC Day under a licence if that supply—
 - (a) takes place on a winery owned or occupied by the licensee; or
 - (b) is connected with the business activities of a winery owned or occupied by the licensee.
- (3) In this section—

winery means a vineyard or orchard containing fruit-bearing vines or fruit trees from which liquor is produced.

S. 15E
inserted by
No. 57/2010
s. 10.

**15E Sexually explicit entertainment licence condition—
fees**

- (1) This section applies to a licence that is subject to a condition relating to the provision of sexually explicit entertainment.
- (2) The renewal fee for a licence to which this section applies is—
 - (a) if no non-compliance incidents relate to the licence in the relevant period, 2566·30 fee units; or
 - (b) if there are one or 2 non-compliance incidents that relate to the licence in the relevant period, 3849·44 fee units; or

(c) if there are 3 or more non-compliance incidents that relate to the licence in the relevant period, 5132.59 fee units.

(3) In this section,

S. 15E(3)
amended by
No. 71/2011
s. 12(a).

* * * * *

S. 15E(3)
def. of
non-compliance incident
repealed by
No. 71/2011
s. 12(b).

relevant period means—

S. 15E(3)
def. of
relevant period
amended by
No. 71/2011
s. 12(c).

(a) for renewal fees payable for 2011,
1 January 2010 to 30 September 2010;
or

(b) for renewal fees payable for 2012,
1 October 2010 to 30 September 2011;
or

(c) for renewal fees payable for 2013 and
subsequent years, 1 October in the year
two years preceding the year in respect
of which the renewal fee is payable to
30 September in the year preceding the
year in respect of which the renewal fee
is payable.

* * * * *

S. 15E(3)
def. of
successful prosecution
repealed by
No. 71/2011
s. 12(d).

16 Licence and permit condition—compliance with planning scheme

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

S. 16(2)
amended by
No. 59/2009
s. 30(b).

17 Licence condition—extended hours

- (1) Subject to subsection (2), it is a condition of every licence that authorises the supply of liquor outside ordinary trading hours that the licensee does not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the licence relates during or immediately after the hours outside ordinary trading hours to which it relates.
- (2) Subsection (1) does not apply to—
 - (a) a general licence that authorises the supply of liquor outside ordinary trading hours only as set out in section 8(1)(b) or (c); or
 - (ab) a late night (general) licence that authorises the supply of liquor outside ordinary trading hours only as set out in section 11A(2)(b) or 11A(2)(c); or
 - (b) a pre-retail licence; or
 - (c) a wine and beer producer's licence that authorises the supply of liquor outside ordinary trading hours only as set out in section 13(1)(b); or

S. 17(2)(ab)
inserted by
No. 59/2009
s. 30(c).

S. 17(2)(c)
amended by
No. 71/2011
s. 13.

(d) a limited licence other than a limited licence that authorises late night trading hours; or

S. 17(2)(d) substituted by No. 59/2009 s. 14.

(e) a major event licence other than a major event licence that authorises late night trading hours.

S. 17(2)(e) inserted by No. 59/2009 s. 14.

18 Licence and permit condition—approval of directors

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

S. 18(1) amended by No. 58/2011 s. 104(Sch. item 4.46).

(2) Subsection (1) does not apply to—

(a) a licence or BYO permit held by—

(i) a Council; or

(ii) a university or a TAFE institute; or

S. 18(2)(a)(ii) substituted by Nos 24/2006 s. 6.1.2(Sch. 7 item 26), 8/2009 s. 7.

* * * * *

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

(b) a club licence.

* * * * *

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

18B Licence condition—security cameras

S. 18B
inserted by
No. 8/2006
s. 7,
amended by
No. 2/2009
s. 29(1),
substituted by
No. 8/2009
s. 8 (as
amended by
No. 55/2009
s. 55).

S. 18B(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.47).

- (1) The Commission may impose a condition on a licence requiring the licensee to fit security cameras that comply with the prescribed standards (if any) on the licensed premises or any authorised premises, or on any other premises, land, fixtures or objects that are under the control of the licensee and that are in the vicinity of the licensed premises or authorised premises.
- (2) The regulations may prescribe the testing of the security cameras to ensure compliance with any standard referred to in subsection (1) including—
 - (a) prescribing any standard, rule, guideline, specification or method formulated for the testing of the security cameras;
 - (b) prescribing the times at which tests must be made;
 - (c) prescribing the persons or class of persons who are to carry out the tests.

Division 2—Additional authority of licences

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

19 30-minute period for consumption of liquor after hours

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

20 Gratuitous supply of liquor

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

21 Bringing of liquor onto licensed premises

- (1) This section applies if—
- (a) a licence authorises the licensee to supply liquor for consumption on licensed premises or on any authorised premises; and
 - (b) the predominant activity carried on on the licensed premises is the preparation and serving of meals for consumption on the licensed premises; and
 - (c) tables and chairs are placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time.

- (2) If this section applies, the licence authorises a person of or over the age of 18 years, with the consent of the licensee, to—
- (a) bring liquor onto, or possess or control liquor on, the premises for consumption with a meal purchased on those premises; and
 - (b) consume that liquor with that meal; and
 - (c) take away from the premises any container brought onto the premises by him or her containing any such liquor that was not consumed with that meal.

Division 3—Restrictions on grant of licences and BYO permits

22 Certain premises not to be licensed

S. 22(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.48).

- (1) The Commission must not grant a licence or BYO permit in respect of—

- (a) premises used primarily as a drive-in cinema; or
- (b) premises used primarily as a petrol station; or
- (c) premises that, in the opinion of the Commission, are used primarily as a milk bar, convenience store or mixed business; or

S. 22(1)(c)
amended by
No. 58/2011
s. 104(Sch.
item 4.48).

- (ca) premises that, in the opinion of the Commission, are intended by the occupier of the premises to be primarily used by people under the age of 18 years, unless the Commission is satisfied that the grant of a licence or permit would not present a specific risk of supply of liquor to a person under the age of 18 years; or

S. 22(1)(ca)
inserted by
No. 92/2004
s. 5,
amended by
Nos 58/2011
s. 104(Sch.
item 4.48),
71/2011
s. 14(1) (as
amended by
No. 43/2012
s. 3(Sch.
item 27)).

- (d) premises in a class of premises prescribed for the purposes of this section.
- (2) The Commission, with the approval of the Minister, may grant a licence in respect of premises referred to in subsection (1)(c) if the Minister is satisfied that the area in which the premises are situated is a tourist area or an area with special needs and that there are not adequate existing facilities or arrangements for the supply of liquor in the area.
- (3) For the purposes of subsection (1)(b) regard must be had to the following factors—
- (a) the physical location of the area set aside as the licensed premises; and
 - (b) the primary means of access to and egress from the area set aside as the licensed premises; and
 - (c) whether or not a reasonable person would consider that the area set aside as the licensed premises is part of premises that are used primarily as a petrol station.
- (3A) For the purposes of section 22(1)(ca), factors that the Commission may consider include but are not limited to—
- (a) whether the proposed licence or permit authorises supply of liquor at a time when the premises will not be used primarily by persons under the age of 18 years; and
 - (b) whether the proposed licence or permit provides that any person under the age of 18 years must be accompanied by a responsible adult at all times during which the proposed supply of liquor is to occur.

S. 22(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.48).

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

S. 22(3A)
inserted by
No. 71/2011
s. 14(2).

s. 24

S. 22(4)
inserted by
No. 8/2006
s. 8,
amended by
No. 58/2011
s. 104(Sch.
item 4.48).

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

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

* * * * *

S. 24
(Heading)
inserted by
No. 59/2009
s. 15(1).

24 Further restriction on grant of packaged liquor and late night (packaged liquor) licences

S. 24
amended by
Nos 59/2009
s. 15(2),
58/2011
s. 104(Sch.
item 4.49).

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

25 Restrictions on grant of club licences

S. 25(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.50).

- (1) The Commission must not grant a club licence unless satisfied—

S. 25(1)(a)
amended by
Nos 58/2011
s. 104(Sch.
item 4.50),
21/2014
s. 14(a).

- (a) that the rules of the club comply with Schedule 1 except to the extent that the Commission determines it is appropriate that they should not so comply.

S. 25(1)(b)
amended by
No. 59/2009
s. 30(d),
repealed by
No. 21/2014
s. 14(b).

* * * * *

- (2) In deciding whether a club licence should be full or restricted, 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.

S. 25(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.50).

S. 25(2)(f)
amended by
No. 58/2011
s. 104(Sch.
item 4.50).

25A Restriction on insertion of licence condition permitting vending machines

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

S. 25A
inserted by
No. 92/2004
s. 14,
amended by
No. 58/2011
s. 104(Sch.
item 4.51).

26 Restriction on grant of limited licence

- (1) The Commission may grant a limited licence only if satisfied that the scale and scope of the supply of liquor the subject of the licence is limited in nature.

S. 26
amended by
No. 59/2009
s. 16 (ILA
s. 39B(1)).

S. 26(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.52).

s. 26A

S. 26(2)
inserted by
No. 59/2009
s. 16,
amended by
No. 58/2011
s. 104(Sch.
item 4.52).

- (2) The Commission must not grant a temporary limited licence for a major event.

S. 26(3)
inserted by
No. 59/2009
s. 16,
amended by
No. 58/2011
s. 104(Sch.
item 4.52).

- (3) If an application is made for a temporary limited licence in relation to an event and the Commission determines under section 14B that the event is a major event, the Commission must notify the applicant that the Commission will consider the application as an application for a major event licence on payment of the fee specified in the notice.

S. 26(4)
inserted by
No. 59/2009
s. 16.

- (4) The fee specified in a notice under subsection (3) must be the amount that is the difference between the prescribed fee for a temporary limited licence and the relevant prescribed fee for a major event licence.

S. 26(5)
inserted by
No. 59/2009
s. 16,
amended by
No. 58/2011
s. 104(Sch.
item 4.52).

- (5) If a notice is given under subsection (3), the Commission is not required to consider the application further until the fee specified in the notice is paid.

New s. 26A
inserted by
No. 59/2009
s. 17,
amended by
No. 58/2011
s. 104(Sch.
item 4.53).

26A Restriction on grant of major event licence

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

New s. 26B
inserted by
No. 57/2010
s. 11.

**26B Restriction on the grant of certain licences—
approved responsible service of alcohol programs**

- (1) This section applies to an application for a general licence, on-premises licence, packaged liquor licence or late night licence.

- (2) The Commission must not grant the licence unless satisfied that the applicant, or if the applicant is a body corporate, the person who will be responsible for the management or control of the licensed premises, has completed an approved responsible service of alcohol program in the 3 years prior to the date on which the application was made. **S. 26B(2) amended by No. 58/2011 s. 104(Sch. item 4.54).**
- (3) The Commission may exempt an applicant, or if the applicant is a body corporate, the person who will be responsible for the management or control of the licensed premises, from the requirement under subsection (2), if the Commission thinks it is appropriate to do so. **S. 26B(3) amended by No. 58/2011 s. 104(Sch. item 4.54).**
- (4) In making a decision under subsection (3), the Commission must consider—
- (a) the risk of harm arising from the misuse and abuse of liquor supplied under the licence; and
 - (b) the extent of the burden imposed on the licensee by the requirement under subsection (2).
- (5) The Commission may grant an exemption under subsection (3) for the period and on any conditions the Commission determines. **S. 26B(5) amended by No. 58/2011 s. 104(Sch. item 4.54).**
- (6) The Commission may revoke an exemption granted under subsection (3) by notice in writing. **S. 26B(6) amended by No. 58/2011 s. 104(Sch. item 4.54).**

26C Approval of responsible service of alcohol programs

The Commission may, from time to time, approve initial training programs and refresher training programs to be approved responsible service of alcohol programs for the purposes this Act.

New s. 26C inserted by No. 57/2010 s. 11, amended by No. 58/2011 s. 104(Sch. item 4.55).

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

s. 27

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

* * * * *

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

* * * * *

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

27 Who can apply for a licence or BYO permit?

S. 27(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.56).

- (1) A person who—
- (a) is a natural person of or over the age of 18 years or a body corporate (including an incorporated association, a co-operative or a Council); and
 - (b) is not disqualified from holding a licence or BYO permit under this Act—

may apply to the Commission for a licence or BYO permit.

S. 27(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.56).

- (2) A member of the committee of management of a club that is not a body corporate may apply to the Commission for a club licence on behalf of the club.

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

S. 27(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.56).

28 Form of application

- (1) An application for a licence or BYO permit must—

- (a) be in a form approved by the Commission;
and

S. 28(1)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.57).

- (aa) list the names, dates of birth and addresses of the associates—

S. 28(1)(aa)
inserted by
No. 92/2004
s. 15(1)(a),
amended by
No. 73/2007
s. 14,
substituted by
No. 8/2009
s. 9(1).

- (i) of the applicant; and

- (ii) if the applicant is a body corporate, of each director of the applicant; and

- (ab) disclose any demerit points that have accrued within the previous 3 years on a licence or permit that the applicant or a nominee of the applicant has held or holds at the time of the application; and

S. 28(1)(ab)
inserted by
No. 71/2011
s. 15.

- (b) include the prescribed particulars; and

- (c) be accompanied by—

- (i) the prescribed information (if any); and

- (ia) a plan or depiction of the premises in respect of which the licence or BYO permit is sought in a form specified by the Commission; and

S. 28(1)(c)(ia)
inserted by
No. 92/2004
s. 15(1)(b),
amended by
No. 58/2011
s. 104(Sch.
item 4.57).

- (ii) the prescribed fee for the licence or permit.

S. 28(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.58).

(2) If a change occurs in the particulars or information included in or with an application, the applicant must notify the Commission of the change within 14 days.

S. 28(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.59).

(3) If the Commission requests an applicant to give any other information, the applicant must comply with the request.

S. 28(4)
inserted by
No. 8/2009
s. 9(2).

(4) Subsection (1)(aa)(ii) does not apply to an application by a Council, a university or a TAFE institute.

29 Application for variation of licence or BYO permit

S. 29(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.60).

(1) An application to the Commission for the variation of a licence or BYO permit may be made by—

- (a) the licensee or permittee; or
- (b) the Chief Commissioner or a licensing inspector; or
- (c) the persons referred to in section 32(1)(a) or (b) in connection with an application for the transfer of the licence or permit.

(2) A variation of a licence or BYO permit may include—

S. 29(2)(aa)
inserted by
No. 59/2009
s. 18(1).

- (aa) a variation of the category of licence held by the licensee;
 - (a) a variation of the times outside ordinary trading hours at which the licence or permit authorises the supply of liquor;
 - (b) a variation of the size or perimeter of the licensed premises;

-
- (c) a variation of a condition of the licence or permit (other than a condition imposed by this Act);
- (d) the imposition of a new condition on the licence or permit;
- (e) the removal of a condition of the licence or permit (other than a condition imposed by this Act).
- (3) An application under subsection (1) must—
- (a) be in a form approved by the Commission; and
- (b) include the prescribed particulars; and
- (c) be accompanied by—
- (i) the prescribed information (if any); and
- (ia) a plan or depiction of the licensed premises in a form specified by the Commission; and
- (ii) (except in the case of an application by the Chief Commissioner or a licensing inspector or an application for a prescribed variation of a licence or BYO permit referred to in section 33, 34 or 35) the prescribed variation fee.
- (4) If the Commission requests an applicant for a variation of a licence or BYO permit to give any other information, the applicant must comply with the request.
- S. 29(3)(a) amended by No. 58/2011 s. 104(Sch. item 4.60).**
- S. 29(3)(c)(ia) inserted by No. 92/2004 s. 15(2), amended by No. 58/2011 s. 104(Sch. item 4.60).**
- S. 29(3)(c)(ii) amended by No. 59/2009 s. 18(2).**
- S. 29(4) amended by No. 58/2011 s. 104(Sch. item 4.60).**

s. 30

S. 30
amended by
No. 58/2011
s. 104(Sch.
item 4.61).

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

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

S. 30(a)
substituted by
No. 92/2004
s. 16(a),
amended by
No. 58/2011
s. 104(Sch.
item 4.62
(a)(b)).

(a) the Commission must, not later than 14 days after the application is received by the Commission, give a copy of the application—

S. 30(a)(ii)
amended by
No. 58/2011
s. 104(Sch.
item 4.62(c)).

(i) to the licensee or permittee; and

(ii) to the owner, and any mortgagee registered with the Commission, of the licensed premises;

S. 30(b)
substituted by
No. 92/2004
s. 16(a),
amended by
No. 58/2011
s. 104(Sch.
item 4.62(d)).

(b) the licensee or permittee may, within 21 days after receiving the copy of the application, object to the application by giving notice in writing to the Commission of the objection and the grounds for objecting;

S. 30(c)
amended by
Nos 92/2004
s. 16(b),
58/2011
s. 104(Sch.
item 4.63).

(c) the Commission must give a copy of any notice under paragraph (b) to the Chief Commissioner or the inspector within 7 days after the Commission receives the notice.

31 Application for relocation of licence or BYO permit

S. 31(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.64).

(1) A licensee or permittee may apply to the Commission for relocation of the licence or BYO permit from the licensed premises to other premises.

(2) An application for relocation must—

(a) be in a form approved by the Commission;
and

S. 31(2)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.64).

(b) include the prescribed particulars; and

(c) be accompanied by—

(i) the prescribed information (if any); and

(ia) a plan or depiction of the premises to
which it is sought to relocate the
licence or BYO permit in a form
specified by the Commission; and

S. 31(2)(c)(ia)
inserted by
No. 92/2004
s. 15(3),
amended by
No. 58/2011
s. 104(Sch.
item 4.64).

(ii) the prescribed relocation fee.

32 Application for transfer of licence or BYO permit

(1) An application to the Commission for transfer of a
licence or BYO permit from the licensee or
permittee to a person qualified to apply for the
licence or permit may be made by—

S. 32(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.65).

(a) the licensee or permittee and the proposed
transferee jointly; or

(b) the owner or mortgagee of the licensed
premises and the proposed transferee jointly,
if—

(i) the licensee or permittee has been
legally evicted from, or has deserted,
the licensed premises; or

(ii) the lease, tenancy or occupation of the
licensed premises has expired or been
determined by any lawful means; or

(iii) the licensee or permittee has ceased to carry on business on the premises and has refused or neglected to concur in the application.

(2) An application for transfer must—

S. 32(2)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.66).

(a) be in a form approved by the Commission;
and

S. 32(2)(ab)
inserted by
No. 8/2009
s. 9(3).

(ab) list the names, dates of birth and addresses of the associates—

(i) of the proposed transferee; and

(ii) if the proposed transferee is a body corporate, of each director of the proposed transferee; and

S. 32(2)(ac)
inserted by
No. 71/2011
s. 16.

(ac) disclose any demerit points that have accrued within the previous 3 years on a licence or permit that the proposed transferee or a nominee of the proposed transferee has held or holds at the time of the application; and

(b) include the prescribed particulars; and

(c) be accompanied by—

(i) the prescribed information (if any); and

S. 32(2)(c)(ia)
inserted by
No. 92/2004
s. 15(2),
amended by
No. 58/2011
s. 104(Sch.
item 4.66).

(ia) a plan or depiction of the licensed premises in a form specified by the Commission; and

(ii) the prescribed transfer fee.

S. 32(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.67).

(3) If the Commission requests an applicant for transfer to give any other information, the applicant must comply with the request.

- (4) Subsection (2)(ab)(ii) does not apply if the proposed transferee is a Council, a university or a TAFE institute.

S. 32(4)
inserted by
No. 8/2009
s. 9(4).

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

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

S. 33(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.68).

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

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

S. 33(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.68).

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

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

S. 33(3)
amended by
Nos 59/2009
s. 19, 58/2011
s. 104(Sch.
item 4.68).

34 Public display of licence application

S. 34(1)
amended by
No. 59/2009
s. 20(1),
substituted by
No. 57/2010
s. 12.

- (1) An applicant for the grant, variation or relocation of a licence (other than a limited licence, a major event licence or a prescribed variation of a licence) must ensure that a notice of the application is displayed on the premises or site to which the application relates or the premises to which the licence is sought to be relocated for the period determined under section (1A).

S. 34(1A)
inserted by
No. 57/2010
s. 12,
amended by
No. 58/2011
s. 104(Sch.
item 4.69).

- (1A) The notice must be continuously displayed for a period of 28 days (or a shorter period determined by the Commission) from the date determined by the Commission.

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

S. 34(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.69).

- (3) The Commission may require that the size and format of the notice comply with requirements specified by the Commission.

- (4) If it is not practicable to display the notice on the premises or site, it is sufficient compliance with subsection (1) if the notice is conspicuously displayed in accordance with subsection (2) on any adjoining premises.

S. 34(5)
amended by
No. 58/2011
s. 104(Sch.
item 4.69).

- (5) An applicant is deemed to have complied with subsections (1), (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 subsections; and
 - (b) that any failure to keep the notice so displayed was not the fault of the applicant.

- (6) A notice under this section must contain—
- (a) the name of the applicant; and
 - (b) the address of the premises to which the application relates or to which the licensed premises are sought to be relocated; and
 - (c) the type of licence to which the application relates; and
 - (d) if the application is for a variation of the times during which the licence authorises the supply of liquor, the times sought in the application; and
 - (e) any conditions sought in relation to the grant, variation or relocation of the licence; and
 - (f) any other information required by the Commission.
- (7) The Commission may require an applicant for the grant, variation or relocation of a limited licence or a major event licence or a prescribed variation of a licence to display the application in accordance with this section.
- (8) This section does not apply in respect of an application made under section 29(1)(b) for the variation of a licence.

S. 34(6)(f)
amended by
No. 58/2011
s. 104(Sch.
item 4.69).

S. 34(7)
amended by
Nos 59/2009
s. 20(2),
58/2011
s. 104(Sch.
item 4.69).

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

Note

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

35 Advertisement of licence application

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

S. 35(1)
amended by
Nos 59/2009
s. 21(1),
58/2011
s. 104(Sch.
item 4.70).

- (1) An applicant for the grant, variation or relocation of a packaged liquor licence, a late night (packaged liquor) licence or a prescribed licence must cause notice of the application to be advertised in a newspaper circulating in the area—
- (a) in which the premises to which the application relates are or are to be situated;
or
 - (b) to which the licensed premises are sought to be relocated—

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

S. 35(1A)
inserted by
No. 59/2009
s. 21(2),
amended by
No. 70/2013
s. 3(Sch. 1
item 26.2).

- (1A) Subsection (1) does not apply to a prescribed variation of a licence.

S. 35(2)
amended by
Nos 59/2009
s. 21(3),
58/2011
s. 104(Sch.
item 4.70).

- (2) The Commission may direct an applicant for the grant, variation or relocation of a licence to cause notice of the application to be advertised in a newspaper circulating in the area—
- (a) in which the premises to which the application relates are or are to be situated;
or
 - (b) to which the licensed premises are sought to be relocated—

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

- (2A) Subsection (2) applies to a prescribed variation of a packaged liquor licence, late night (packaged liquor) licence or prescribed licence but does not otherwise apply to a packaged liquor licence, a late night (packaged liquor) licence or a prescribed licence. **S. 35(2A) inserted by No. 59/2009 s. 21(4).**
- (3) The Commission may—
- (a) specify the newspaper in which notice of an application, or of applications of a specified class, is or are to be advertised;
- (b) direct that an application, or applications of a specified class, is or are to be advertised in another manner specified by the Commission. **S. 35(3) amended by No. 58/2011 s. 104(Sch. item 4.70).**
- (4) A notice referred to in subsection (1) or (2) must comply with any requirements specified by the Commission as to size and the information contained in it. **S. 35(4) amended by No. 58/2011 s. 104(Sch. item 4.70).**
- (5) The Commission must refuse to consider an application until the applicant has complied with subsection (1) or (2), as the case requires. **S. 35(5) amended by No. 58/2011 s. 104(Sch. item 4.70).**
- (6) In this section—
- prescribed licence* means a licence, other than a limited licence or a major event licence, of a class that is prescribed for the purposes of subsection (1). **S. 35(6) amended by No. 59/2009 s. 21(5).**

36 Notification of particular persons

- (1) The Commission may direct an applicant for a licence or for a variation or relocation of a licence to give notice of the application to a specified person or to persons in a specified area personally or by post. **S. 36(1) amended by No. 58/2011 s. 104(Sch. item 4.71).**

s. 37

S. 36(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.72).

(2) The Commission may give a direction under subsection (1) only if the Commission considers that the grant, variation or relocation of the licence may cause material detriment to the persons to be notified.

S. 36(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.73).

(3) The Commission may refuse to consider an application until a direction under subsection (1) is complied with.

S. 37
amended by
No. 58/2011
s. 104(Sch.
item 4.74).

37 Guidelines

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

Division 5—Objections

38 Objection on ground of amenity

S. 38(1A)
inserted by
No. 39/2002
s. 11(1),
amended by
No. 59/2009
s. 22.

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

(1A) In addition to the ground referred to in subsection (1), any person may object to the grant, variation or relocation of a packaged liquor licence or late night (packaged liquor) licence on the ground that the grant, variation or relocation would be conducive to or encourage the misuse or abuse of alcohol.

(2) An objection must—

S. 38(2)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.75).

(a) be made to the Commission in writing within 30 days after the day on which notice of the application for the grant, variation or

relocation was first displayed under section 34(1); and

- (b) state the reasons for the objection.
- (3) None of the following is a valid reason for an objection under this section—
 - (a) that the business carried on under the licence would or would not be successful;
 - (b) that the business of another licensee or permittee (including the objector) may be adversely affected by the grant, variation or relocation;
 - (c) that there is insufficient need or demand to justify the grant, variation or relocation.

39 Objection by Chief Commissioner

- (1) The Chief Commissioner may object to the grant, variation or relocation of a licence or BYO permit on any grounds he or she thinks fit.
- (2) The Chief Commissioner may object to the transfer of a licence or BYO permit on the ground that the proposed transferee is not a suitable person to hold the licence or permit.
- (3) An objection must—
 - (a) be made to the Commission in writing within 21 days after the day on which a copy of the application for the grant, variation, transfer or relocation was given to the Chief Commissioner under section 33(1); and
 - (b) state the grounds of, and the reasons for, the objection.

S. 39(3)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.76).

40 Objection by local council

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

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

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

- (1A) In addition to the ground referred to in subsection (1), the Council of the municipal district in which premises are situated may object to—

S. 40(1A)(a)
amended by
No. 59/2009
s. 23.

- (a) the grant or variation of a packaged liquor licence or late night (packaged liquor) licence in respect of those premises; or

S. 40(1A)(b)
amended by
No. 59/2009
s. 23.

- (b) the relocation of a packaged liquor licence or late night (packaged liquor) licence to those premises—

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

- (2) An objection must—

S. 40(2)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.77).

- (a) be made to the Commission in writing within 30 days after the day on which notice of the application for the grant, variation or relocation was first displayed under section 34(1); and
- (b) state the reasons for the objection.

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- (3) None of the following is a valid reason for an objection under this section—
- (a) that the business carried on under the licence would or would not be successful;
 - (b) that the business of another licensee or permittee may be adversely affected by the grant, variation or relocation;
 - (c) that there is insufficient need or demand to justify the grant, variation or relocation.

41 Objection to licence by licensing inspector

- (1) A licensing inspector may object to the grant, variation, transfer or relocation of a licence on any of the following grounds—
- (a) in the case of a grant or transfer, that the licensee or proposed licensee is not a suitable person to hold the licence;
 - (b) in the case of a grant, variation or relocation—
 - (i) that the grant, variation or relocation would detract from or be detrimental to the amenity of the area in which the licensed premises or proposed licensed premises are situated; or
 - (ii) that the grant, variation or relocation would be conducive to or encourage the misuse or abuse of alcohol;
 - (c) in the case of an application in relation to a club licence, any ground referred to in section 44(2)(c).
- (2) A licensing inspector may object to the grant or transfer of a BYO permit on the ground that the proposed permittee or transferee is not a suitable person to hold the permit.

S. 41(3)(a)
substituted by
No. 39/2002
s. 11(3),
amended by
No. 58/2011
s. 104(Sch.
item 4.78).

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

S. 42
(Heading)
inserted by
No. 58/2011
s. 104(Sch.
item 4.79).
S. 42
amended by
No. 58/2011
s. 104(Sch.
item 4.80)

42 Commission may refuse to accept objection

The Commission may refuse to accept an objection if the Commission considers that—

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

43 Withdrawal of objection

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

Division 6—Determination of applications

44 Determination of uncontested applications

- (1) Subject to Division 3, the Commission must grant or refuse to grant an uncontested application at any time after the expiry of the period for objection under Division 5 (or that period as extended under section 174). **S. 44(1) amended by No. 58/2011 s. 53(1)(a).**
- (2) The Commission may refuse to grant an uncontested application on any of the following grounds— **S. 44(2) amended by No. 58/2011 s. 53(1)(b).**
- (a) in the case of a grant or transfer of a licence or BYO permit, that the applicant or proposed transferee is not a suitable person to hold or carry on business under the licence or BYO permit;
 - (b) in any case—
 - (i) that the granting of the application would detract from or be detrimental to the amenity of the area in which the premises to which the application relates are situated;
 - (ii) that the granting of the application would be conducive to or encourage the misuse or abuse of alcohol;
 - (iii) if the applicant or proposed transferee is a natural person—that the applicant or proposed transferee does not have an adequate knowledge of this Act;

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- (iv) if the applicant or proposed transferee is a body corporate—that no director of the applicant or proposed transferee has an adequate knowledge of this Act;
 - (v) that the application has not been made, displayed or advertised in accordance with this Act;
- (c) in the case of an application in relation to a club licence—
- (i) that the club is not conducted in good faith as a club; or
 - (ii) that the club is kept or habitually used for any unlawful purpose; or
 - (iii) that the club is used mainly for the supply of liquor; or
 - (iv) that liquor purchased by or belonging to the club has been supplied illegally whether on the club premises or elsewhere; or
 - (v) that persons who are not members have been admitted to the club for the purpose only of obtaining liquor; or
 - (vi) that the supply of liquor to the club is not under the control of the management committee of the club; or
 - (vii) that any of the rules of the club have been habitually broken.
- (3) Without limiting the reasons why a person is not a suitable person to hold, or carry on business under, a licence or BYO permit, a person is not a suitable person to hold, or carry on business under, a licence or BYO permit if the person or, if the person is a body corporate, any director of the person has, within the preceding 3 years—

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- (a) been convicted, whether in Victoria or elsewhere, of an offence of supplying liquor without a licence or of supplying adulterated liquor or of an offence against any law relating to customs or excise; or
- (b) engaged in activities involving the trading in or marketing of liquor in a manner contrary to the provisions of this Act.
- (4) The Commission may—
- (a) in respect of an uncontested application, have regard to any matter the Commission considers relevant; and
- (b) make any enquiries the Commission considers appropriate but is not required to give any person an opportunity to be heard concerning the application.
- (5) If the Commission refuses to grant an uncontested application for a late night (general) licence, the Commission may grant a general licence instead.
- (6) If the Commission refuses to grant an uncontested application for a late night (on-premises) licence, the Commission may grant an on-premises licence or a restaurant and cafe licence instead.
- (7) If the Commission refuses to grant an uncontested application for a late night (packaged liquor) licence, the Commission may grant a packaged liquor licence instead.
- S. 44(4) substituted by No. 58/2011 s. 53(2).**
- S. 44(5) inserted by No. 59/2009 s. 24, amended by No. 58/2011 s. 104(Sch. item 4.81).**
- S. 44(6) inserted by No. 59/2009 s. 24, amended by No. 58/2011 s. 104(Sch. item 4.82).**
- S. 44(7) inserted by No. 59/2009 s. 24, amended by No. 58/2011 s. 104(Sch. item 4.83).**

Ss 45, 46
repealed by
No. 58/2011
s. 65.

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S. 47
(Heading)
inserted by
No. 58/2011
s. 54(1).

47 Determination of contested application

S. 47(1)
substituted by
No. 58/2011
s. 54(2).

(1) Subject to Division 3, the Commission must, after the period for making an objection under Division 5 has expired, including any extension of time granted for making an objection, grant or refuse a contested application.

S. 47(2)
amended by
No. 58/2011
s. 54(3).

(2) The Commission may refuse to grant a contested application on any of the grounds set out in section 44(2) and section 44(3) applies accordingly.

S. 47(3)
substituted by
No. 58/2011
s. 54(4).

(3) Before granting or refusing a contested application under subsection (1), the Commission—

- (a) may have regard to any matter the Commission considers relevant; and
- (b) may make any enquiries the Commission considers appropriate; and
- (c) must give the applicant and each objector a reasonable opportunity to be heard.

S. 47(3A)
inserted by
No. 58/2011
s. 54(4).

(3A) If an inquiry is conducted for the purposes of this section—

- (a) the Commission must conduct the inquiry in public unless the Commission determines that the inquiry, or part of the inquiry should be conducted in private as—
 - (i) confidential information will be disclosed at the inquiry; or

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- (ii) it is in the public interest to conduct the inquiry in private; or
- (iii) it is in the interests of justice to conduct the inquiry in private; and
- (b) the Commission may grant or refuse a contested application without hearing from a person who has notice of the inquiry if the person is not present or represented at the time and place appointed for the inquiry; and
- (c) the Commission may consider evidence of anything said or done at the inquiry in any internal review of that decision.
- (3B) A person who has a right to be heard by the Commission may—
- (a) appear and be heard in person; or
- (b) be represented by any other person.
- (3C) The Commission must advise the applicant and each objector of the decision made in respect of the contested application within 28 days after that decision has been made.
- (3D) The Commission must give a statement of reasons for the decision to the applicant and each objector in respect of the contested application as soon as practicable after the decision is made.
- (4) If the Commission refuses to grant a contested application for a late night (general) licence, the Commission may grant a general licence instead.
- (5) If the Commission refuses to grant a contested application for a late night (on-premises) licence, the Commission may grant an on-premises licence or a restaurant and cafe licence instead.
- S. 47(3B)**
inserted by
No. 58/2011
s. 54(4).
- S. 47(3C)**
inserted by
No. 58/2011
s. 54(4).
- S. 47(3D)**
inserted by
No. 58/2011
s. 54(4).
- S. 47(4)**
inserted by
No. 59/2009
s. 25,
amended by
No. 58/2011
s. 54(5).
- S. 47(5)**
inserted by
No. 59/2009
s. 25,
amended by
No. 58/2011
s. 54(5).

S. 47(6)
inserted by
No. 59/2009
s. 25,
amended by
No. 58/2011
s. 54(5).

- (6) If the Commission refuses to grant a contested application for a late night (packaged liquor) licence, the Commission may grant a packaged liquor licence instead.

S. 48
(Heading)
inserted by
No. 58/2011
s. 104(Sch.
item 4.84).
S. 48
amended by
No. 58/2011
s. 104(Sch.
item 4.85)

48 Commission may permit amendments and disregard errors

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

S. 48(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.85).

- (a) permit the amendment of the application or of any information given to the Commission in connection with the application; and

S. 48(b)
amended by
No. 58/2011
s. 104(Sch.
item 4.85).

- (b) disregard any omission, error, defect or insufficiency in the application or any information given to the Commission in connection with the application; and

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

S. 49
amended by
No. 58/2011
s. 104(Sch.
item 4.86).

49 Licence and BYO permit conditions

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

50 Period of licence or BYO permit

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

51 Form of licence or BYO permit and endorsements

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

S. 51(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.87).

S. 51(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.87).

52 Copy of licence or BYO permit

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

S. 52
amended by
No. 58/2011
s. 104(Sch.
item 4.88).

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

- (1) If a licence or BYO permit is granted or transferred to two or more persons, those persons are severally liable as licensee or permittee.
- (2) If a licence or BYO permit is granted or transferred to a body corporate, the directors of the body corporate are severally liable as if they were the licensee or permittee.

S. 53(2)
amended by
No. 71/2011
s. 17(1).

s. 53A

S. 53(2A)
inserted by
No. 13/2013
s. 26.

(2A) Subsection (2) does not apply in respect of an offence against a provision specified in section 53A(2), 53B(2) or 53C(2) that is alleged to have been committed by a body corporate.

S. 53(3)
amended by
No. 71/2011
s. 17(2).

(3) If a club licence is granted to a person on behalf of an unincorporated club, the members of the committee of management of the club are severally liable as if they were the licensee.

(4) Subsection (2) or (3) does not apply at any time when a nominee of the body corporate or club (as the case requires) is in place under section 54.

(5) Nothing in subsection (4) affects or limits the application of Part 6.

S. 53A
inserted by
No. 13/2013
s. 27.

**53A Criminal liability of officers of bodies corporate—
accessorial liability**

(1) If a body corporate commits an offence against a provision specified in subsection (2) or a body corporate is under section 106A(3) liable for such an offence, an officer of the body corporate also commits an offence against the provision if the officer—

(a) authorised or permitted the commission of the offence by the body corporate; or

(b) was knowingly concerned in any way (whether by act or omission) in the commission of the offence by the body corporate.

(2) For the purposes of subsection (1), the following provisions are specified—

(a) section 54(11);

(b) section 99;

(c) section 99A(1);

(d) section 100;

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- (e) section 101;
 - (f) section 101A(3);
 - (g) section 101B(1) and (2);
 - (h) section 102(1) and (2);
 - (i) section 103(1) and (2);
 - (j) section 103A(2);
 - (k) section 105(1);
 - (l) section 106B;
 - (m) section 106K(1), (2), (4) and (5);
 - (n) section 108(1);
 - (o) section 108AD(2);
 - (p) section 108AE(2);
 - (q) section 108B(1);
 - (r) section 109(1);
 - (s) section 115(1);
 - (t) section 122(1);
 - (u) section 148Q(1);
 - (v) section 148ZA;
 - (w) section 148ZL(1).
- (3) Without limiting any other defence available to the officer, an officer of a body corporate may rely on a defence that would be available to the body corporate if it were charged with the offence with which the officer is charged and, in doing so, the officer bears the same burden of proof that the body corporate would bear.
- (4) An officer of a body corporate may commit an offence against a provision specified in subsection (2) whether or not the body corporate

has been prosecuted for, or found guilty of, an offence against that provision.

(5) In this section—

body corporate has the same meaning as corporation has in section 57A of the Corporations Act;

officer in relation to a body corporate means—

- (a) a person who is an officer (as defined by section 9 of the Corporations Act) of the body corporate; or
- (b) a person (other than a person referred to in paragraph (a)), by whatever name called, who is concerned in, or takes part in, the management of the body corporate.

(6) This section does not affect the operation of section 323 or 324 of the **Crimes Act 1958** or section 52 of the **Magistrates' Court Act 1989**.

(7) This section does not apply at any time when a nominee of the body corporate is in place under section 54.

(8) Nothing in subsection (7) affects or limits the application of Part 6.

**53B Criminal liability of officers of bodies corporate—
failure to exercise due diligence**

- (1) If a body corporate commits an offence against a provision specified in subsection (2) or a body corporate is under section 106A(3) liable for such an offence, an officer of the body corporate also commits an offence against the provision if the officer failed to exercise due diligence to prevent the commission of the offence by the body corporate.

S. 53B
inserted by
No. 13/2013
s. 27.

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- (2) For the purposes of subsection (1), the following provisions are specified—
- (a) section 108AA(3);
 - (b) section 108AB(2);
 - (c) section 108AC(2);
 - (d) section 148ZK;
 - (e) clause 25(5) and (7) of Schedule 3.
- (3) In determining whether an officer of a body corporate failed to exercise due diligence, a court may have regard to—
- (a) what the officer knew, or ought reasonably to have known, about the commission of the offence by the body corporate; and
 - (b) whether or not the officer was in a position to influence the body corporate in relation to the commission of the offence by the body corporate; and
 - (c) what steps the officer took, or could reasonably have taken, to prevent the commission of the offence by the body corporate; and
 - (d) any other relevant matter.
- (4) Without limiting any other defence available to the officer, an officer of a body corporate may rely on a defence that would be available to the body corporate if it were charged with the offence with which the officer is charged and, in doing so, the officer bears the same burden of proof that the body corporate would bear.
- (5) An officer of a body corporate may commit an offence against a provision specified in subsection (2) whether or not the body corporate has been prosecuted for, or found guilty of, an offence against that provision.

(6) In this section—

body corporate has the same meaning as in section 53A;

officer in relation to a body corporate, has the same meaning as in section 53A.

(7) This section does not apply at any time when a nominee of the body corporate is in place under section 54.

(8) Nothing in subsection (7) affects or limits the application of Part 6.

S. 53C
inserted by
No. 13/2013
s. 27.

**53C Criminal liability of officers of bodies corporate—
failure to exercise due diligence (evidential burden
of proof)**

(1) Subject to subsection (3), if a body corporate commits an offence against a provision specified in subsection (2) or a body corporate is under section 106A(3) liable for such an offence, an officer of the body corporate also commits an offence against the provision.

(2) For the purposes of subsection (1), the following provisions are specified—

(a) section 106(1);

(b) section 108(4);

(c) section 115A(2);

(d) section 119(1) and (2);

(e) section 120(1);

(f) section 148ZJ(1).

(3) An officer of a body corporate does not commit an offence against a provision specified in subsection (2) if—

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- (a) the officer presents or points to evidence that suggests a reasonable possibility that the officer exercised due diligence to prevent the commission of the offence by the body corporate; and
 - (b) the contrary is not proved (beyond reasonable doubt) by the prosecution.
- (4) In determining whether an officer of a body corporate exercised due diligence, a court may have regard to—
- (a) what the officer knew, or ought reasonably to have known, about the commission of the offence by the body corporate; and
 - (b) whether or not the officer was in a position to influence the body corporate in relation to the commission of the offence by the body corporate; and
 - (c) what steps the officer took, or could reasonably have taken, to prevent the commission of the offence by the body corporate; and
 - (d) any other relevant matter.
- (5) Without limiting any other defence available to the officer, an officer of a body corporate may rely on a defence that would be available to the body corporate if it were charged with the offence with which the officer is charged and, in doing so, the officer bears the same burden of proof that the body corporate would bear.
- (6) An officer of a body corporate may commit an offence against a provision specified in subsection (2) whether or not the body corporate has been prosecuted for, or found guilty of, an offence against that provision.

(7) In this section—

body corporate has the same meaning as in section 53A;

officer in relation to a body corporate, has the same meaning as in section 53A.

(8) This section does not apply at any time when a nominee of the body corporate is in place under section 54.

(9) Nothing in subsection (8) affects or limits the application of Part 6.

54 Nominee of licensee or permittee

S. 54(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.89).

(1) A licensee or permittee that is a body corporate may apply to the Commission for the approval of a person as nominee of the licensee or permittee.

S. 54(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.90).

(2) A person who holds a club licence on behalf of an unincorporated club may apply to the Commission for the approval of a person as nominee of the club.

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

(2A) An application under this section must be accompanied by the fee specified in the regulations for the purposes of this section.

S. 54(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.91).

(3) The Commission must give a copy of the application to the Chief Commissioner.

(4) The Chief Commissioner may object to the application on the ground that the person is not a suitable person to be the nominee of the licensee or permittee.

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

S. 54(5)(a) amended by No. 58/2011 s. 104(Sch. item 4.92).

S. 54(6) amended by No. 58/2011 s. 104(Sch. item 4.93).

S. 54(6A) inserted by No. 92/2004 s. 19(1), amended by No. 58/2011 s. 104(Sch. item 4.94).

S. 54(7) amended by No. 58/2011 s. 104(Sch. item 4.95).

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

Note

On a person ceasing to be a nominee, section 53(4) ceases to apply. This has the effect under section 53 of re-imposing liability as a licensee or permittee on the directors or

members of the committee of management (as the case may be) of the body holding the licence or permit.

S. 54(11)
inserted by
No. 92/2004
s. 19(2),
amended by
No. 58/2011
s. 104(Sch.
item 4.96).

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

Penalty applying to this subsection: 5 penalty units.

Note to
s. 54(11)
inserted by
No. 13/2013
s. 29(1).

Note

Section 53A applies to an offence against this subsection.

S. 55
amended by
Nos 58/2011
s. 104(Sch.
item 4.97),
20/2012
s. 226(Sch. 5
item 18(1)).

55 Transfer of club licence to incorporated association

If a copy of a certificate of incorporation of a club under the **Associations Incorporation Reform Act 2012** is lodged with the Commission, a club licence held on behalf of the club before that incorporation is deemed to have been transferred to the incorporated association and the Commission must amend the licence or permit accordingly.

56 Concurrent dealing with transfer and relocation

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

57 Effect of transfer or relocation

- (1) A transfer of a licence or BYO permit operates as a like licence or BYO permit granted to the transferee—
- (a) for the residue of the term for which the licence or BYO permit was granted to the transferor; or

- (b) if the transfer takes place after application for renewal of the licence or BYO permit has been made and before the date of operation of that renewal—for the period for which the licence or BYO permit is to be renewed.
- (2) If the Commission grants an application for the relocation of a licence or BYO permit, the licence or permit has effect as if it had been granted in respect of the premises to which it is relocated.

S. 57(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.98).

**Division 7—Variation of licence or BYO permit by
Commission**

Pt 2 Div. 7
(Heading)
substituted by
No. 58/2011
s. 104(Sch.
item 4.99) (as
amended by
No. 70/2013
s. 3(Sch. 1
item 57.2)).

**58 Variation of licence or BYO permit at initiative of
Commission**

S. 58
(Heading)
inserted by
No. 58/2011
s. 104(Sch.
item 4.100).

- (1) The Commission, at its own initiative, may vary a licence or BYO permit in accordance with this section.
- (2) A variation under this section may include—
- (aa) a variation of the category of licence held by the licensee—
- (i) from a late night (general) licence to a general licence;
- (ii) from a late night (on-premises) licence to an on-premises licence;
- (iii) from a late night (packaged liquor) licence to a packaged liquor licence;

S. 58(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.101).

S. 58(2)(aa)
inserted by
No. 59/2009
s. 26.

S. 58(2)(ba)
inserted by
No. 21/2014
s. 15.

- (a) a variation of the times outside ordinary trading hours at which the licence or permit authorises the supply of liquor;
- (b) a variation of the size or perimeter of the licensed premises;
- (ba) a variation of the times within ordinary trading hours between 31 December and 1 January at which the licence or permit authorises the supply of liquor;
- (c) a variation of a condition of the licence or permit (other than a condition imposed by this Act);
- (d) the imposition of a new condition on the licence or permit;
- (e) the removal of a condition of the licence or permit (other than a condition imposed by this Act).

S. 58(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.102).

- (3) If the Commission proposes to vary a licence or BYO permit, the Commission must give the licensee or permittee written notice of the proposed variation.

S. 58(4)
amended by
No. 58/2011
s. 104(Sch.
item 4.103).

- (4) Within 21 days after notice is given to the licensee or permittee under subsection (3), the licensee or permittee may give the Commission written notice of objection to the proposed variation.

S. 58(5)
amended by
No. 58/2011
s. 104(Sch.
item 4.104).

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

58A Correcting mistakes

The Commission, at its own initiative, may at any time vary a licence or BYO permit to correct—

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

S. 58A inserted by No. 92/2004 s. 20, amended by No. 58/2011 s. 104(Sch. item 4.105).

Division 7A—Late hour entry declarations

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

58B Commission may make late hour entry declarations

S. 58B (Heading) amended by No. 58/2011 s. 104(Sch. item 4.106)

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

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

S. 58B(1) amended by No. 58/2011 s. 104(Sch. item 4.107).

- (2) A late hour entry declaration—

- (a) must specify—
 - (i) the area or locality to which it applies; and

S. 58B(2)(b)
amended by
No. 58/2011
s. 104(Sch.
item 4.108).

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

58C Making a late hour entry declaration

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

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

S. 58C(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.109).

S. 58C(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.109).

S. 58C(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.109).

58CA Temporary late hour entry declaration

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

- (1) Despite anything to the contrary in section 58C, the Commission may make a late hour entry declaration under section 58B without giving written notice under section 58C if the Commission believes on reasonable grounds that—
 - (a) alcohol-related violence or disorder has occurred in the area or locality to which the order is to apply; and

S. 58CA(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.110).

s. 58CA

(b) a late hour entry declaration in relation to the area or locality is reasonably likely to be an effective means of reducing or preventing the occurrence of alcohol-related violence or disorder in the area or locality.

S. 58CA(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.110).

(2) Before making a late hour entry declaration referred to in subsection (1), the Commission must consult the Chief Commissioner.

S. 58CA(3)
amended by
Nos 21/2008
s. 27, 58/2011
s. 104(Sch.
item 4.110).

(3) The Commission must give written notice of a late hour entry declaration referred to in subsection (1) to each licensee of licensed premises in the area or locality to which the declaration applies.

(4) A late hour entry declaration referred to in subsection (1) takes effect on the day specified in the notice and expires when the earliest of the following occurs—

(a) the declaration is revoked under section 58D;

(b) a late hour entry declaration is made in accordance with section 58C in relation to the area or locality;

(c) a period of 3 months elapses after the day on which the declaration takes effect.

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

(5) Nothing in this section prevents the Commission from making a late hour entry declaration in accordance with section 58C in relation to the area or locality to which a late hour entry declaration referred to in subsection (1) applies while the declaration referred to in subsection (1) is in force.

S. 58CA(5)
amended by
Nos 21/2008
s. 27, 58/2011
s. 104(Sch.
item 4.110).

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

S. 58D
(Heading)
amended by
No. 58/2011
s. 104(Sch.
item 4.111).

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

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

S. 58D(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.112).

S. 58D(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.112).

S. 58D(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.112).

S. 58D(4)
amended by
No. 58/2011
s. 104(Sch.
item 4.112).

Division 8—Renewal of licences and BYO permits

59 Licence to be renewed within 3 months

S. 59
(Heading)
inserted by
No. 57/2010
s. 13(1).

S. 59(1)
amended by
No. 57/2010
s. 13(2).

- (1) If, not later than 3 months after the day on which, but for this section, a licence or BYO permit would cease to be in force, the licensee or permittee pays the prescribed renewal fee in respect of the licence or permit, the licence or permit is renewed accordingly.
- (2) The licence or BYO permit remains in force from the day on which it would otherwise cease to be in force until the day on which it is renewed in accordance with subsection (1).

60 Licence renewal after 3 months

S. 60
(Heading)
inserted by
No. 57/2010
s. 13(3).

S. 60(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.113).

- (1) If a licence or BYO permit is not renewed in accordance with section 59(1), the former licensee or permittee may apply to the Commission for renewal of the licence or permit under this section.
- (2) An application under this section—
 - (a) must be made by 30 June next following the day on which the licence or permit ceased to be in force; and
 - (b) must be in a form approved by the Commission; and
 - (c) must be accompanied by the prescribed renewal fee.

S. 60(2)(b)
amended by
No. 58/2011
s. 104(Sch.
item 4.113).

- (3) The Commission must renew a licence or permit on application made in accordance with subsection (2). **S. 60(3) amended by No. 58/2011 s. 104(Sch. item 4.113).**
- (4) A licence or permit that is renewed in accordance with this section—
- (a) in the case of a renewable limited licence or a restricted club licence, takes effect on the day, and for the period, specified in the licence; **S. 60(4)(a) amended by No. 59/2009 s. 30(e).**
- (b) in any other case—
- (i) takes effect on the day on which it is renewed; and
- (ii) remains in force, subject to section 59, until the end of the calendar year in which it is renewed.

61 Notice of failure to renew licence or BYO permit

- (1) If a licensee or permittee fails to apply for renewal of the licence or BYO permit by 30 June next following the day on which the licence or permit ceased to be in force, the Commission must give notice of the failure to the owner or mortgagee of the licensed premises or to any other person who, to the Commission's knowledge, may be prejudicially affected by the failure. **S. 61(1) amended by No. 58/2011 s. 104(Sch. item 4.114).**
- (2) Subsection (1) does not apply to the failure to renew a renewable limited licence. **S. 61(2) amended by No. 59/2009 s. 30(e).**

62 Power to owner and others to renew licence

- (1) If a licensee or permittee has failed to renew the licence or BYO permit by 30 June next following the day on which the licence or permit ceased to be in force— **S. 62(1) amended by No. 58/2011 s. 104(Sch. item 4.115).**

- (a) the owner of the licensed premises (if he or she was not that licensee or permittee); or
- (b) a mortgagee of the licensed premises; or
- (c) any other person prejudicially affected by the failure—

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

(2) An application under subsection (1) must be—

- (a) made by 30 September next following the day on which the licence or permit ceased to be in force or within such later time as the Commission determines; and
- (b) in a form approved by the Commission; and

(c) accompanied by the prescribed renewal fee.

(3) The Commission must give a copy of an application under this section to the Chief Commissioner.

(4) The Chief Commissioner may object to the application on the ground that the applicant or nominated person is not a suitable person to hold the licence or permit.

(5) An objection must—

- (a) be made to the Commission in writing within 21 days after the day on which a copy of the application was given to the Chief Commissioner; and
- (b) state the reasons for the objection.

S. 62(2)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.115).

S. 62(2)(b)
amended by
No. 58/2011
s. 104(Sch.
item 4.115).

S. 62(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.115).

S. 62(5)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.115).

- (6) After the period referred to in subsection (5)(a) (or that period as extended under section 174) has expired, the Commission may grant a renewal of the licence or BYO permit to the applicant or nominated person, after considering any objection made under subsection (4), if satisfied that the applicant or nominated person is a suitable person to hold the licence or permit. **S. 62(6) amended by No. 58/2011 s. 104(Sch. item 4.115).**
- (7) Section 44(3) applies to the determination of an application under this section.
- (8) This section does not apply to a renewable limited licence. **S. 62(8) amended by No. 59/2009 s. 30(e).**

Division 9—Surrender and lapse of licence or BYO permit

63 Surrender of licence or BYO permit

- (1) A licensee or permittee may apply to the Commission to surrender the licence or BYO permit. **S. 63(1) amended by No. 58/2011 s. 104(Sch. item 4.116).**
- (2) The Commission must give notice of the application to any person to whom the Commission considers the surrender would cause material detriment. **S. 63(2) amended by No. 58/2011 s. 104(Sch. item 4.116).**
- (3) A person who is given notice under subsection (2) may make a written objection to the Commission within 14 days stating the grounds of the objection. **S. 63(3) amended by No. 58/2011 s. 104(Sch. item 4.116).**
- (4) After the period referred to in subsection (3) (or that period as extended under section 174) has expired, the Commission—
- (a) must accept the surrender if no objections have been made; or
- S. 63(4) amended by No. 58/2011 s. 104(Sch. item 4.116).**

- (b) if any objection has been received, must decide whether or not to accept the surrender after considering the objection.

64 Release of licensee or permittee

S. 64(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.117).

- (1) A licensee or permittee who desires to vacate licensed premises of which the licensee or permittee has been a tenant may apply to the Commission for release from their obligations under this Act.

S. 64(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.117).

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

65 Partner leaving partnership

S. 65(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.118).

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

- (b) if the partnership is dissolved, the former member or members remaining in occupation of the licensed premises are deemed to be the licensees or permittees.

66 Licence or permit lapses if not endorsed

If a licensee or permittee—

- (a) dies; or
- (b) becomes an insolvent under administration; or
- (c) becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**; or
- (d) becomes an externally-administered body corporate within the meaning of the Corporations Act; or
- (e) in the case of a body corporate, is wound up, or is deregistered under the Corporations Act—

S. 66 amended by No. 58/2011 s. 104(Sch. item 4.119).

S. 66(d) amended by Nos 44/2001 s. 3(Sch. item 73.5), 8/2009 s. 10(a).

S. 66(e) inserted by No. 8/2009 s. 10(b).

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

Pt 2 Div. 10
(Heading and
s. 66A)
inserted by
No. 59/2009
s. 27.

S. 66A
inserted by
No. 59/2009
s. 27.

Division 10—Provision of information

66A Information in relation to fees

- (1) An authorised person may from time to time request a licensee or permittee to provide information about the conduct of the licensed premises or premises to which the permit applies for either or both of the following purposes—
 - (a) to assist in determining the relevant fee in relation to the licence or permit;
 - (b) to assist in identifying and measuring the factors that contribute to the risk of alcohol-related harms.
- (2) The licensee or permittee must comply with a request under this section.
- (3) If there is any change in the information provided by a licensee or permittee under this section, the licensee or permittee must notify an authorised person of the change as soon as practicable.
- (4) The Secretary may authorise, for the purposes of this section, any person employed under Part 3 of the **Public Administration Act 2004** in the Department of Justice.
- (4A) The Commission may authorise, for the purposes of this section, any person employed under Part 3 of the **Public Administration Act 2004** by the Commission.
- (5) In this section, *authorised person* also includes a person who is authorised under subsection (4) or (4A).

S. 66A(4A)
inserted by
No. 58/2011
s. 55.

S. 66A(5)
substituted by
No. 58/2011
s. 104(Sch.
item 4.120).

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

Division 1—Club licences for amalgamated clubs

67 Application by amalgamated club for a club licence

- (1) If two or more clubs, at least one of which holds a club licence, amalgamate under Part 2, Division 3 of **Associations Incorporation Reform Act 2012**, the amalgamated club may apply to the Commission under this Division for a club licence.
- (2) An application must—
- (a) be in the form, and include the particulars, approved by the Commission; and
 - (b) state the conditions that the amalgamated club wishes the licence to be subject to; and
 - (c) be accompanied by—
 - (i) a copy of the certificate of incorporation and the rules of the amalgamated club; and
 - (ii) any other information required by the Commission; and
 - (iii) the prescribed fee.
- (3) The Commission must give a copy of the application to the Chief Commissioner.
- (4) The following provisions of this Act do not apply to an application under this section—
- (a) Divisions 4 and 5 of Part 2 (applications and objections);

S. 67(1)
amended by
Nos 58/2011
s. 104(Sch.
item 4.121),
20/2012
s. 226(Sch. 5
item 18(2)).

S. 67(2)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.121).

S. 67(2)(c)(ii)
amended by
No. 58/2011
s. 104(Sch.
item 4.121).

S. 67(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.121).

- (b) Division 6 of Part 2 (determination of applications), except sections 48, 49, 50, 51, 52, 53 and 54.

68 Objection to grant of licence to amalgamated club

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

S. 68(3)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.122).

69 Grant of licence to amalgamated club

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

S. 69(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.123).

S. 69(1)(b)
amended by
No. 58/2011
s. 104(Sch.
item 4.123).

S. 69(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.124).

70 Division does not affect Division 4 of Part 2

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

Division 2—Casino premises

71 Definitions

In this Division—

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

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

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

72 Application of Division

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

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

S. 72(a)
amended by
No. 59/2009
s. 30(f).

73 Requirements for an application to which this Division applies

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

S. 73(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.125).

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

S. 74
amended by
No. 58/2011
s. 104(Sch.
item 4.126).

74 Grant of application

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

Division 3—Australian Grand Prix

75 Definitions

In this Division—

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

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

76 Application of Division

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

77 Requirements for an application to which this Division applies

- (1) An application to which this Division applies must be accompanied by copies of plans of the premises to which the application relates showing to the satisfaction of the Commission the area or proposed area of the licensed premises. **S. 77(1) amended by No. 58/2011 s. 104(Sch. item 4.127).**
- (2) The Commission must give a copy of each application to which this Division applies to the Chief Commissioner. **S. 77(2) amended by No. 58/2011 s. 104(Sch. item 4.127).**
- (3) The following provisions of this Act do not apply to an application to which this Division applies—
- (a) section 28(1)(c)(i) (information to accompany application);
 - (b) sections 33, 34, 35 and 36 (notification, display and advertisement requirements);
 - (c) Division 5 of Part 2 (objections);
 - (d) sections 44, 45, 46 and 47 (determination of applications).

78 Objection by Chief Commissioner

- (1) The Chief Commissioner may object to the grant of an application to which this Division applies on any grounds he or she thinks fit.
- (2) An objection must—
- (a) be made to the Commission in writing within 21 days after the day on which a copy of the application was given to the Chief Commissioner under section 77(2); and **S. 78(2)(a) amended by No. 58/2011 s. 104(Sch. item 4.128), substituted by No. 23/2012 s. 6(1).**
 - (b) state the grounds of, and the reasons for, the objection.

79 Grant of application

S. 79(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.129).

(1) If no objection to an application under this Division is received within the period referred to in section 78(2)(a) (or that period as extended under section 174), the Commission must grant the application if satisfied that it was made in accordance with this Act.

S. 79(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.129).

(2) If an objection to an application under this Division is received within the period referred to in section 78(2)(a) (or that period as extended under section 174), the Commission must grant or refuse the application after considering the objection.

**PART 4—AUTHORISATION OF OTHERS TO CARRY ON
LICENSED BUSINESS**

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

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

S. 80(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.130).

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

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

s. 81

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

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

S. 81(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.131).

- (1) The owner or a mortgagee of licensed premises may apply to the Commission to have their name or the name of their agent endorsed on a licence or BYO permit if—
- (a) the licensee or permittee has been legally evicted from, or has deserted, the licensed premises; and
 - (b) the owner or mortgagee is in possession of the licensed premises.

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

- (2) An application under this section must be accompanied by the fee specified in the regulations for the purposes of this section.

82 Application procedure

S. 82(1)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.132).

- (1) An application under section 80 or 81 must—
- (a) be in the form, and contain the particulars, approved by the Commission; and
 - (b) be accompanied by the prescribed fee.

S. 82(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.132).

- (2) The Commission must give a copy of each application under section 80 or 81 to the Chief Commissioner.

83 Objection by Chief Commissioner

- (1) The Chief Commissioner may object to the grant of an application under section 80 or 81 on the ground that the applicant or agent is not a suitable person to carry on business under the licence or BYO permit.

- (2) An objection must—
- (a) be made to the Commission in writing within 21 days after the day on which a copy of the application was given to the Chief Commissioner under section 82(2); and
 - (b) state the reasons for the objection.

S. 83(2)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.133).

84 Grant of application

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

S. 84(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.134).

S. 84(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.135).

85 Endorsement at initiative of Commission

If—

- (a) a licensee or permittee—
 - (i) dies; or
 - (ii) becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**; or
 - (iii) becomes an insolvent under administration; or

S. 85
(Heading)
inserted by
No. 58/2011
s. 104(Sch.
item 4.136).

S. 85
amended by
No. 58/2011
s. 104(Sch.
item 4.137)

s. 86

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

(iv) becomes an externally-administered
body corporate within the meaning of
the Corporations Act; and

(b) an application is not made under section 80
for endorsement of the licence or BYO
permit—

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

86 Effect of endorsement

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

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

PART 4A—DEMERITS REGISTER

Pt 4A
(Heading and
ss 86A–86K)
inserted by
No. 71/2011
s. 18.

86A Demerits Register

The Commission must keep a Demerits Register and must record against a licence or permit any demerit points that are incurred in relation to that licence or permit.

S. 86A
inserted by
No. 71/2011
s. 18.

86B Commission to record demerit points

- (1) The Commission must record in the Register a demerit point against a licence or permit if the Commission is notified by an authorised notifier that a non-compliance incident has occurred in respect of the licensed premises.
- (2) Despite anything to the contrary in this Part, the Commission must not record demerit points against a licence or permit in the Register if more than 12 months have elapsed since the Commission was notified by an authorised notifier of the non-compliance incident.
- (3) In this Part, a reference to a licence or permit does not include a licence granted under section 14(1A) or 14A.

S. 86B
inserted by
No. 71/2011
s. 18.

86C Record of day on which offence was committed

The Commission must record demerit points in the Register in relation to the day the offence that is the basis of the non-compliance incident to which the demerit point relates is alleged to have been committed.

S. 86C
inserted by
No. 71/2011
s. 18.

s. 86D

S. 86D
inserted by
No. 71/2011
s. 18.

86D Commission must notify licensee or permittee when demerit point is incurred

- (1) If a demerit point has been incurred in respect of a licence or permit, the Commission must give the licensee or permittee a notice advising that the demerit point has been incurred.
- (2) A notice under subsection (1) must contain the following details—
 - (a) details of the licence or permit;
 - (b) details of the offence that is alleged to have been committed which is the basis of the non-compliance incident to which the demerit point relates;
 - (c) the date on which the demerit point was recorded in the Register;
 - (d) the total number of demerit points recorded against the licence or permit in the previous 3 years.

S. 86E
inserted by
No. 71/2011
s. 18.

86E Automatic suspension of licence or permit if certain number of demerit points incurred

- (1) The Commission must suspend a licence or permit—
 - (a) in the case of a licence or permit that has accrued 5 demerit points in a 3 year period, for 24 hours, commencing during ordinary trading hours;
 - (b) in the case of a licence or permit that has accrued 10 demerit points in a 3 year period, for 7 days, commencing during ordinary trading hours;
 - (c) in the case of a licence or permit that has accrued 15 demerit points in a 3 year period, for 28 days, commencing during ordinary trading hours.

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- (2) For the purposes of subsection (1), the 3 year period commences on the date that the first demerit point is recorded on the Register.
 - (3) For the purposes of subsection (1), a suspension must not commence on a day which is not during the authorised trading hours of the licence.
 - (4) If the Commission suspends a licence or permit under subsection (1)(c), the Commission must, when calculating demerit points recorded against the licence or permit at any time after the period of suspension, disregard all demerit points recorded against the licence or permit as at the date of suspension.
 - (5) A suspension under this section must commence—
 - (a) on the same day of the week as the day that the alleged offence that is the basis of the non-compliance incident occurred that resulted in the latest demerit point being recorded; or

Example

If an offence that results in a licence's 5th demerit point being recorded occurs on a Friday, the 24 hour suspension must commence on a subsequent Friday.

- (b) if the alleged offence that is the basis of the non-compliance incident that resulted in the latest demerit point being recorded occurred between 12.01am and 7.00am, on the same day of the week as the previous day of the week that the incident occurred; or

Example

If an offence that results in a licence's 5th demerit point being recorded occurs at 12.01am on a Sunday, the 24 hour suspension must commence on a subsequent Saturday.

s. 86F

- (c) if the alleged offence that is the basis of the non-compliance incident that resulted in the latest demerit point being recorded occurred on a day that was not ordinarily part of the licensee's authorised trading hours, on the next day that falls within the licensee's authorised trading hours.

S. 86F
inserted by
No. 71/2011
s. 18.

86F Date of commencement of suspension

The date of commencement of a suspension under section 86E must be a day no less than 14 days after the date of a notice under section 86G and no more than 60 days after the date that the latest demerit point was recorded on the Register.

S. 86G
inserted by
No. 71/2011
s. 18.

86G Notice of suspension

If a licence or permit is to be suspended under section 86E, the Commission must give a notice to the licensee or permittee containing the following details—

- (a) details of the licence or permit to which the suspension relates;
- (b) the period of the suspension;
- (c) the date the suspension commences;
- (d) the date the suspension ends;
- (e) any other prescribed details.

S. 86H
inserted by
No. 71/2011
s. 18.

86H Minister may suspend, cancel or delay a suspension

- (1) The Minister may suspend, cancel or delay the suspension of a licence or permit under section 86E if the Minister is satisfied that the cost to the community of the suspension outweighs the benefit of the suspension.
- (2) If a licensee or permittee makes an application under this section, the suspension of the licence or permit under section 86F does not take effect until the Minister determines the application.

86I Commission may deduct demerit points

S. 86I
inserted by
No. 71/2011
s. 18.

- (1) If a licence or permit that has accrued demerit points has been transferred under section 32, the new licensee or permittee may apply to the Commission to remove any demerit points from the Register accrued in respect of the licence or permit before the transfer.
- (2) An application under subsection (1) must be accompanied by the prescribed fee.
- (3) The Commission must not remove any demerit points under subsection (1) unless the Commission is satisfied that the new licensee or permittee has taken sufficient measures in respect of the licence or permit to improve compliance with this Act.
- (4) For the purposes of subsection (3), factors that the Commission may consider include but are not limited to—
 - (a) written evidence that the new licensee or permittee has no business or family association with the previous licensee, permittee or the nominee of the licensee or permittee or any associates of the licensee or permittee;
 - (b) evidence of a change of management practices or staff training.

86J Demerit point automatically deducted after 3 years

S. 86J
inserted by
No. 71/2011
s. 18.

The Commission must remove a demerit point from the Register on the day immediately after 3 years have expired since the date the demerit point was incurred.

s. 86K

S. 86K
inserted by
No. 71/2011
s. 18.

86K Commission may publish details of licences and permits

- (1) The Commission may publish the following details on its website—
 - (a) details of any licence or permit that appear on the licence or permit;
 - (b) details of a licence or permit that has accrued demerit points, including details of the licensee or permittee or nominee of the licensee or permittee;
 - (c) a copy of any licence or permit;
 - (d) the total accumulated demerit points relating to a licence or permit;
 - (e) any other prescribed information.
- (2) To the extent necessary to give effect to subsection (1), sections 32 and 33 of the **Infringements Act 2006** do not apply.

Pt 5 (Heading and ss 87–89) amended by Nos 92/2004 s. 21, 8/2006 ss 10, 11, 73/2007 s. 16, 57/2010 s. 14, repealed by No. 58/2011 s. 66.

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PART 6—INQUIRIES AND DISCIPLINARY PROVISIONS

Division 1—Disciplinary action against licensee or permittee

Pt 6 Div. 1
(Heading and
ss 90–93)
amended by
Nos 21/2001
s. 10, 88/2001
s. 6, 39/2002
s. 16(b),
92/2004 ss 22,
23(1), 32/2006
s. 87(1),
73/2007 ss 17,
26, 68/2009
s. 97(Sch.
item 78.1),
64/2010
ss 8–10,
substituted as
Pt 6 Div. 1
(Heading and
ss 90–93E) by
No. 58/2011
s. 56.

90 Definitions

S. 90
substituted by
No. 58/2011
s. 56.

(1) In this Division—

disciplinary action, against a licensee or permittee, means any one, or a combination, of the following—

- (a) the cancellation, or suspension for a specified period, of the licensee's licence or permittee's BYO permit;
- (b) the variation of the licensee's licence or permittee's BYO permit;
- (c) the endorsement of the licensee's licence or permittee's BYO permit;
- (d) the issuing of a letter of censure to the licensee or permittee;
- (e) the imposition of a fine not exceeding an amount that is 250 times the value of a penalty unit fixed by the Treasurer

S. 90(1) def. of
*grounds for
disciplinary
action*
amended by
No. 37/2014
s. 10(Sch.
item 96.3).

under section 5(3) of the **Monetary
Units Act 2004** on the licensee or
permittee;

grounds for disciplinary action, in relation to a
licensee or permittee, means any of the
following—

- (a) that the licensee or permittee has
contravened a provision of this Act, the
regulations, the licence or BYO permit
or a condition of the licence or BYO
permit (as the case may be);
- (b) that the licensee or permittee has
contravened a condition of an approval
or consent of the Commission under
this Act (other than a licence or BYO
permit);
- (c) that the licensee or permittee has been
found guilty of an offence against
section 118A or an offence against
regulations made under section 118B;
- (d) that the licensee has contravened an
undertaking given under section 133F;
- (e) that the licensee or permittee has been
found guilty of an offence against this
Act or the regulations;
- (f) that the licensee or permittee has been
found guilty of an offence under Part II
of the **Food Act 1984** in relation to
liquor supplied by the licensee or
permittee;
- (g) that the licensee or permittee has been
found guilty of an offence under
section 253 of the **Victoria Police Act
2013** relating to a police officer or
under the **Police Regulation Act 1958**

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- relating to bribery of a member of the police force;
- (h) that the licensee or permittee has been found guilty, whether in Victoria or elsewhere, of an offence punishable by a maximum term of imprisonment of 3 years or more;
 - (i) that the licensee or permittee is a body corporate, a director of which has been found guilty, whether in Victoria or elsewhere, of an offence punishable by a maximum term of imprisonment of 3 years or more;
 - (j) the licensee or permittee is a club that is not a body corporate, a member of the committee of management of which has been found guilty, whether in Victoria or elsewhere, of an offence punishable by a maximum term of imprisonment of 3 years or more;
 - (k) that the licensee or permittee has knowingly assisted a person to breach a disqualification determination imposed under section 93D;
 - (l) that the licensee or permittee has paid a penalty for an offence under this Act for which an infringement notice within the meaning of the **Infringements Act 2006** has been served;
 - (m) that the licensee or permittee has altered the premises in a way that would have prevented the granting of the licence under section 22 had the alterations been in place immediately before the licence was granted;

- (n) that the licensee or permittee has obtained the licence or BYO permit by fraud or false representations;
- (o) that the licensee or permittee has conducted the business under the licence or BYO permit, or allowed it to be conducted, in a manner that detracts from or is detrimental to the amenity of the area in which the licensed premises are situated;
- (p) that a licensee or permittee has contravened the terms of a closure and evacuation notice;
- (q) that the licensee or permittee is otherwise not a suitable person to hold a licence or BYO permit;

variation, in relation to a licence or BYO permit, means any of the following—

- (a) a variation of the times outside ordinary trading hours at which the licence or permit authorises the supply of liquor;
- (b) a variation of the size or perimeter of the licensed premises;
- (c) a variation of a condition of the licence or permit (other than a condition imposed by this Act);
- (d) the imposition of a new condition on the licence or permit;
- (e) the removal of a condition of the licence or permit (other than a condition imposed by this Act);

- (f) a variation of the category of the licence—
- (i) from a late night (general) licence to a general licence; or
 - (ii) from a late night (on-premises) licence to an on-premises licence; or
 - (iii) from a late night (packaged liquor) licence to a packaged liquor licence.
- (2) A reference in paragraphs (h) and (i) of the definition of *grounds for disciplinary action* in subsection (1) to the maximum term of imprisonment for an offence, in the case of an indictable offence that may be heard and determined summarily under section 28(1) of the **Criminal Procedure Act 2009**, is a reference to the maximum term of imprisonment for the offence if it were not dealt with summarily.

91 Inquiry into whether there are grounds to take disciplinary action

S. 91
substituted by
No. 58/2011
s. 56.

- (1) The Commission may conduct an inquiry into whether there are grounds to take disciplinary action against a licensee or permittee—
- (a) on its own initiative; or
 - (b) at the written request of—
 - (i) the Chief Commissioner of Police; or
 - (ii) a licensing inspector; or
 - (iii) or the Council in whose municipal district the licensed premises are situated.
- (2) A request made under subsection (1)(b) must set out the reasons for the request.

S. 92
substituted by
No. 58/2011
s. 56.

92 Licensee or permittee to be given notice of any inquiry under this Division

- (1) If the Commission proposes to conduct an inquiry into whether there are grounds to take disciplinary action against a licensee or permittee under section 91, the Commission must give written notice to the licensee or permittee.
- (2) A notice under subsection (1) must—
 - (a) state that the Commission proposes to inquire into whether there are grounds to take disciplinary action against the licensee or permittee; and
 - (b) specify the grounds the Commission proposes to consider; and
 - (c) specify—
 - (i) the date and time of the inquiry; and
 - (ii) the venue at which the inquiry will be conducted; and
 - (d) invite the licensee or permittee to make a written or oral submission to the Commission; and
 - (e) specify that a licensee or permittee may—
 - (i) be represented by another person at the inquiry and that the representative may make a submission on behalf of the licensee or permittee; or
 - (ii) send another person to represent the licensee or permittee at the inquiry and that the representative may make a submission on behalf of the licensee or permittee; and
 - (f) specify that the Commission may make a determination under section 93 following the inquiry whether or not the licensee or

permittee (or a person representing the licensee or permittee) has made a submission to the Commission.

- (3) The Commission must consider any submissions made by a licensee or permittee or on the behalf of the licensee or permittee in accordance with this section.

92A Other interested persons to be given notice of any inquiry under this Division

S. 92A
inserted by
No. 58/2011
s. 56.

- (1) In addition to serving a notice on the licensee or permittee under section 92, if the Commission proposes to conduct an inquiry into whether there are grounds to take disciplinary action against the licensee or permittee, the Commission must—
- (a) give written notice to the following interested persons—
 - (i) a person who has applied to have the person's name endorsed on the licence or BYO permit of the licensee or permittee under Part 4;
 - (ii) a person who may be the subject of a determination of the Commission under section 93D if the Commission has contact details for that person; and
 - (b) publish notice of the inquiry—
 - (i) in a newspaper circulating generally throughout Victoria;
 - (ii) on the Commission's Internet site.
- (2) A notice under subsection (1)(a) must—
- (a) state that the Commission proposes to inquire into whether there are grounds to take disciplinary action against the licensee or permittee; and

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- (b) specify the grounds the Commission proposes to consider; and
 - (c) specify—
 - (i) the date and time of the inquiry;
 - (ii) the venue at which the inquiry will be conducted; and
 - (d) invite the interested person to make a submission to the Commission; and
 - (e) specify that the interested person may—
 - (i) be represented by another person at the inquiry and that the representative may make a submission on behalf of the interested person; or
 - (ii) send another person to represent the interested person at the inquiry and that the representative may make a submission on behalf of the interested person; and
 - (f) specify that the Commission may make a determination under section 93 following the inquiry whether or not the interested person (or a person representing the interested person) has made a submission to the Commission.
- (3) A notice under subsection (1)(b) must specify details of the inquiry and—
- (a) invite persons whose commercial or financial interests may be detrimentally affected by the inquiry to make a submission to the Commission; and
 - (b) if the Commission does not have contact details for an interested person referred to in subsection (1)(a)(ii), invite that person to make a submission.

- (4) The Commission must consider any submissions made by a person or on behalf of a person invited to make submissions in accordance with this section.

93 Commission's determination following inquiry into existence of grounds for disciplinary action

S. 93
substituted by
No. 58/2011
s. 56.

- (1) After the Commission has conducted an inquiry into whether grounds for disciplinary action against a licensee or permittee exist, the Commission—
- (a) must make a determination based on that inquiry; and
 - (b) if the outcome of that inquiry is that the Commission considers that there are grounds for taking disciplinary action—may, subject to section 93A(2), take disciplinary action against the licensee or permittee as the Commission sees fit.
- (2) The Commission must—
- (a) as soon as practicable after making the determination, give written notice of the determination to—
 - (i) the licensee or permittee; and
 - (ii) any person who made a request under section 91(1)(b); and
 - (iii) any person given notice under section 92A; and
 - (b) give a statement of reasons for the determination to the licensee or permittee—
 - (i) at the same time as the written notice of the determination; or
 - (ii) as soon as practicable after the determination is made.

- (3) A written notice given by the Commission under subsection (2)(a)(i) may be given in the form of a letter of censure under section 93C.
- (4) A failure by the Commission to comply with this section does not affect the validity of the Commission's determination.

S. 93A
inserted by
No. 58/2011
s. 56.

93A Disciplinary action that is a cancellation, suspension or variation of licence or permit

- (1) If the disciplinary action taken is the cancellation, suspension or variation of the licensee's licence or permittee's BYO permit, the disciplinary action takes effect when the notice under section 93(2) is served or at a later time specified in the notice.
- (2) If the Commission finds that a ground for disciplinary action against the licensee or permittee is that the licensee or permittee has been found guilty, whether in Victoria or elsewhere, of an offence punishable by a maximum term of imprisonment of 3 years or more, the Commission must—
 - (a) cancel the licence or permit; or
 - (b) suspend the licence or permit for the period specified by the Commission; or
 - (c) endorse the licence or permit under section 93E.
- (3) The Commission may take other disciplinary action against a licensee or permittee in respect of whom grounds for disciplinary action have been established in addition to the disciplinary action specified in subsection (2) if the Commission sees fit.

93B Disciplinary action that is a fine

If the disciplinary action is the imposition of a fine, the fine may be recovered by the Minister as a debt due to the State in a court of competent jurisdiction.

S. 93B
inserted by
No. 58/2011
s. 56.

93C Disciplinary action that is a letter of censure

- (1) Disciplinary action taken by the Commission in the form of a letter of censure—
 - (a) must specify the grounds for disciplinary action the Commission has determined exist; and
 - (b) may—
 - (i) censure the licensee or permittee in respect of any matter connected with the operation of the licensed premises;
 - (ii) include a direction to the licensee or permittee to rectify within a specified time any matter giving rise to the censure.
- (2) If a letter of censure includes a direction to the licensee or permittee to rectify within a specified time any matter giving rise to the censure, the letter must also specify that if the direction given to the licensee or permittee is not complied with by the licensee or permittee, in the time specified in the letter, it may result in further disciplinary action being taken against the licensee or permittee.
- (3) If a direction given in a letter of censure is not complied with within the time specified in the letter, the Commission, by giving written notice to the licensee or permittee, may take further disciplinary action against the licensee or permittee for failure to comply with the direction.

S. 93C
inserted by
No. 58/2011
s. 56.

- (4) Disciplinary action taken under subsection (3) must not be in the form of another letter of censure.

S. 93D
inserted by
No. 58/2011
s. 56.

93D Disqualification

- (1) If the Commission finds that a ground for taking disciplinary action exists under section 90, the Commission may also determine that the licensee or permittee or a related person be disqualified—
- (a) from holding a licence or BYO permit;
 - (b) from being a director in any body corporate that holds a licence or BYO permit;
 - (c) from being a partner in any partnership that holds a licence or BYO permit;
 - (d) from having a beneficial interest (whether directly or indirectly) in the shares of any body corporate that holds a licence or BYO permit;
 - (e) from in any way (whether directly or indirectly) taking part in, or being concerned in, the management of any licensed premises or any body corporate that holds a licence or BYO permit or any licensed club;
 - (f) from being employed by any licensed club or any person that holds a licence or BYO permit.
- (2) The Commission may disqualify a person in all or any of the ways listed in subsection (1) and may make a determination under this section even though it does not take any disciplinary action under section 93.
- (3) The Commission must specify the period for which the disqualification is to apply.

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- (4) The Commission must give, as soon as practicable after a determination has been made under this section—
- (a) written notice of the determination to persons served notice of the inquiry under section 92 or 92A; and
 - (b) a statement of reasons for the determination to the persons specified in paragraph (a).
- (5) In this section, *related person*, in relation to a licensee or permittee, means—
- (a) any director or nominee of the licensee or permittee (if it is a body corporate); or
 - (b) any member the committee of management or nominee of the licensee or permittee (if it is a club); or
 - (c) any person who, whether directly or indirectly, is concerned in or takes part in the management of licensed premises or club of the licensee or permittee.

93E Endorsement of licence or permit by Commission

S. 93E
inserted by
No. 58/2011
s. 56.

- (1) The Commission may endorse the name of the owner or a mortgagee of the licensed premises or their agent on the licence or BYO permit if the Commission is satisfied—
- (a) that a ground for disciplinary action under section 90 exists; and
 - (b) the owner or mortgagee is in possession, or has the legal right to possession, of the licensed premises; and
 - (c) the owner, mortgagee or agent (as the case may be) is a suitable person to carry on business under the licence or BYO permit.

- (2) The Commission may endorse a licence or permit under this section on its own initiative or at the request of the owner or mortgagee.
- (3) The Commission must give, as soon as practicable after a determination has been made under this section—
 - (a) written notice of the determination to persons served notice of the inquiry under section 92 or 92A; and
 - (b) a statement of reasons for the determination to the persons specified in paragraph (a).

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

94 Inquiry into amenity or disuse

S. 94
substituted by
No. 58/2011
s. 57.

- (1) The Commission may inquire into—
 - (a) whether the continuation of a licence or BYO permit would detract from or be detrimental to the amenity of the area in which the licensed premises are situated; or
 - (b) circumstances where, during a continuous period of 12 months, a licence or BYO permit has not been used.
- (2) The Commission may conduct an inquiry under subsection (1)—
 - (a) on its own initiative; or
 - (b) at the written request of—
 - (i) the Chief Commissioner; or
 - (ii) a licensing inspector; or
 - (iii) the Council of the municipal district in which the licensed premises are situated.

- (3) A request made to the Commission under subsection (2)(b) must state the reasons for the request.

94A Commission must give notice of proposal to conduct inquiry under section 94

S. 94A
inserted by
No. 58/2011
s. 57.

- (1) If the Commission proposes to conduct an inquiry under section 94, the Commission must give written notice to the licensee or permittee.
- (2) A notice under subsection (1) must—
- (a) state that the Commission proposes to inquire into (as appropriate)—
- (i) whether the continuation of the licensee's licence or permittee's BYO permit would detract from or be detrimental to the amenity of the area in which the licensed premises are situated; or
- (ii) circumstances where, during a continuous period of 12 months, the licensee's licence or permittee's BYO permit has not been used; and
- (b) specify—
- (i) the date and time of the inquiry; and
- (ii) the venue at which the inquiry will be conducted; and
- (c) invite the licensee or permittee to make a submission to the Commission; and
- (d) specify that the licensee or permittee may—
- (i) be represented by another person at the inquiry and that the representative may make a submission on behalf of the licensee or permittee; or

- (ii) send another person to represent the licensee or permittee at the inquiry and that the representative may make a submission on behalf of the licensee or permittee; and
- (e) specify that the Commission may cancel, suspend or vary the licence or BYO permit or make any other direction the Commission thinks fit, in accordance with section 95(3), whether or not the licensee or permittee, or a representative of the licensee or permittee, makes a submission in accordance with this section.

S. 94B
inserted by
No. 58/2011
s. 57.

94B Other interested persons to be given notice of proposal to conduct inquiry under section 94

- (1) In addition to giving notice to the licensee or permittee under section 94A, if the Commission proposes to conduct an inquiry under section 94, the Commission must give written notice to any interested person—
 - (a) who has applied to have the person's name endorsed on the licence or BYO permit of the licensee or permittee under Part 4;
 - (b) who may apply to have the person's name endorsed on the licence or BYO permit of the licensee or permittee under Part 4 if the contact details of that person are known to the Commission.
- (2) A notice under subsection (1) must—
 - (a) state that the Commission proposes to inquire into (as appropriate)—
 - (i) whether the continuation of the licensee's licence or permittee's BYO permit would detract from or be detrimental to the amenity of the area in

-
- which the licensed premises are situated; or
- (ii) circumstances where, during a continuous period of 12 months, the licensee's licence or permittee's BYO permit has not been used; and
- (b) specify—
- (i) the date and time of the inquiry; and
- (ii) the venue at which the inquiry will be conducted; and
- (c) invite the interested person to make a submission to the Commission; and
- (d) specify that the interested person may—
- (i) be represented by another person at the inquiry and that the representative may make a submission on behalf of the interested person; or
- (ii) send another person to represent the interested person at the inquiry and that the representative may make a submission on behalf of the interested person; and
- (f) specify that the Commission may cancel, suspend or vary the licence or BYO permit or make any other direction the Commission thinks fit, in accordance with section 95(3), whether or not the interested person, or a representative of the interested person, makes a submission in accordance with this section.
- (3) If the Commission knows of an interested person who may apply to have the person's name endorsed on the licence or BYO permit of the licensee or permittee under section 93E but the contact details of that person are unknown to the

Commission, the Commission must publish notice of the inquiry—

- (a) in a newspaper circulating generally throughout Victoria; and
 - (b) on the Commission's Internet site.
- (4) A notice under subsection (3) must—
- (a) specify details of the inquiry and invite any interested person who may apply to have the person's name endorsed on the licence or BYO permit of the licensee or permittee under Part 4 to make a submission to the Commission; and
 - (b) specify any prescribed details.

S. 95
substituted by
No. 58/2011
s. 57.

95 Cancellation, suspension or variation of licence or BYO permit by Commission

- (1) Subject to subsection (2), the Commission may make a determination under subsection (3) if satisfied, after conducting an inquiry under section 94, that—
- (a) the continuation of a licence or BYO permit would detract from or be detrimental to the amenity of the area in which the licensed premises are situated; or
 - (b) for a continuous period of 12 months, a licence or BYO permit has not been used.
- (2) Before the Commission makes a determination under subsection (3)—
- (a) the Commission must consider any submissions made by the licensee or permittee or an interested person referred to in section 94B; and
 - (b) if the determination is to be based on the ground referred to in subsection (1)(a), the Commission must consider whether the

S. 95(2)
substituted by
No. 64/2014
s. 43.

- licensee or permittee had been operating the licensed premises before any change to the area in which the licensed premises are situated that may affect the Commission's view of the amenity of the area.
- (3) The Commission may do one of, or a combination of, the following—
- (a) cancel the licence or BYO permit;
 - (b) suspend the licence or permit for the period specified by the Commission;
 - (c) make a variation (within the meaning of Division 1) to the licence or permit;
 - (d) make any other direction the Commission thinks fit.
- (4) The Commission must give a statement of reasons for a determination made under this section to the licensee or permittee and any interested person given notice of the inquiry under section 94B.

* * * * *

S. 96
repealed by
No. 58/2011
s. 67.

96A Suspension by police

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

- (1) A senior police officer, by notice in writing to a licensee, may suspend the licensee's licence for a period not exceeding 24 hours, if the officer believes on reasonable grounds that—
- (a) the licensee has engaged in conduct that would constitute grounds for a request under section 91(1)(b) for an inquiry into the licensee; and

S. 96A(1)
amended by
No. 37/2014
s. 10(Sch.
item 96.4(a)).

S. 96A(1)(a)
amended by
No. 64/2014
s. 44.

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

s. 96B

S. 96A(1)(b)
repealed by
No. 8/2009
s. 11.

* * * * *

(c) there is a danger that a person may suffer substantial harm, loss or damage as a result of the licensee's conduct unless the licence is suspended.

S. 96A(2)
amended by
No. 37/2014
s. 10(Sch.
item 96.4(b)).

(2) A notice of suspension under this section must specify the conduct which the licensee is believed to have engaged in and the grounds for the senior police officer's belief.

(3) In this section—

S. 96A(3)
def. of
senior police member
substituted as
senior police officer by
No. 37/2014
s. 10(Sch.
item 96.4(c)).

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

S. 96B
inserted by
No. 8/2009
s. 12,
substituted by
No. 58/2011
s. 58.

96B Suspension by Commission

(1) The Commission, by notice in writing given to a licensee, may suspend the licensee's licence for a period not exceeding 5 days, if the Commission believes on reasonable grounds that—

(a) the licensee has engaged in conduct that would constitute grounds for disciplinary action (within the meaning of section 90); and

(b) there is a danger that a person may suffer harm, loss or damage as a result of the licensee's conduct unless the licence is suspended.

(2) The Commission cannot suspend a licence under subsection (1) unless the Commission—

-
- (a) has served a notice in writing on the licensee, at least 48 hours before suspending the licence—
- (i) specifying the conduct which the licensee is believed to have engaged in and the grounds for the Commission's belief; and
 - (ii) stating the time period within which the licensee must respond to the notice (being not less than 48 hours after service of the notice); and
 - (iii) stating that the Commission intends to suspend the licence, for a specified period, unless the Commission is satisfied with the licensee's response; and
- (b) has considered any response made by the licensee within the time period specified under paragraph (a)(ii).
- (3) The suspension of a licence under this section—
- (a) takes effect when notice of it is given to the licensee under subsection (1) or at the later time specified in that notice; and
 - (b) ceases to have effect at the time specified in that notice.
- (4) A licence may be suspended under this section whether or not—
- (a) the Commission has commenced an inquiry under section 91 into whether there are grounds for disciplinary action; or
 - (b) the Commission has invited the licensee to make a submission; or
 - (c) the Commission has commenced an inquiry under section 94; or

- (d) a breach notice has been served on the licensee under section 97A.
- (5) No compensation is payable in respect of any loss or damage resulting from or arising out of the suspension of a licence in accordance with this section.

S. 96C
inserted by
No. 58/2011
s. 58.

96C Evidentiary matters

In conducting an inquiry under Division 1 or this Division, the Commission may rely on information, material or evidence that—

- (a) the Commission has previously relied on in an earlier inquiry conducted under Division 1 or this Division;
- (b) VCAT relied on in an earlier inquiry or proceeding under Division 1 or this Division as in force immediately before the commencement of section 58 of the **Victorian Commission for Gambling and Liquor Regulation Act 2011**.

Division 3—Effect of suspension

97 Effect of suspension of licence or permit

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

S. 97(2)
amended by
No. 9/2008
s. 4.

Division 4—Breach notices

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

97A Service of breach notice

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

- (1) The Commission may serve a breach notice in writing on a licensee if the Commission believes on reasonable grounds that the licensee has engaged in conduct that would constitute grounds for disciplinary action in relation to the licensee under Division 1.
- (2) A breach notice may be served on a licensee whether or not—
 - (a) the Commission has conducted an inquiry under section 91 or 94 of its own motion or at the request of—
 - (i) the Chief Commissioner of Police; or
 - (ii) a licensing inspector; or
 - (iii) the Council in which the licensed premises are situated;
 - (b) the licensee's licence has been suspended under section 96B(1) or a notice has been served on the licensee under section 96B(2).
- (3) A breach notice must—
 - (a) specify the conduct which the licensee is believed to have engaged in and the grounds for the Commission's belief;

S. 97A(1)
substituted by
No. 8/2009
s. 13(1),
amended by
Nos 58/2011
s. 59(1),
64/2014 s. 45.

S. 97A(2)
substituted by
Nos 8/2009
s. 13(1),
58/2011
s. 59(2).

S. 97A(3)(a)
amended by
No. 58/2011
s. 59(3).

s. 97B

- (b) state the time period within which the licensee must respond to the notice, that time period being not less than 14 days from the date of service of the notice;
- (c) state what steps need to be taken by the licensee to respond to the notice;
- (d) state the consequences for the licensee of not responding to the notice.

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

97B Variation or suspension of licence

S. 97B(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.138).

- (1) If a licensee does not respond to a breach notice within the period stated in the notice, or if the Commission is not satisfied with the licensee's response, the Commission may, by notice in writing to the licensee—
 - (a) vary the licence; or
 - (b) suspend the licence.

S. 97B(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.138).

- (2) The Commission may suspend a licence under this section only if the Commission believes on reasonable grounds that there is a danger that a person may suffer substantial harm, loss or damage as a result of the licensee's conduct unless the licence is suspended.
- (3) The variation of a licence under this section may include—
 - (a) a variation of the times at which the licence authorises the supply of liquor (including a variation reducing the times to less than ordinary trading hours);
 - (b) a variation of a condition of the licence (other than a condition imposed by this Act);

-
- (c) the imposition of a new condition on the licence.
- (4) The variation of a licence under this section takes effect when notice of it is given to the licensee or at the later time specified in the notice. **S. 97B(4) substituted by No. 8/2009 s. 13(2).**
- (5) The suspension of a licence under this section—
- (a) takes effect when notice of it is given to the licensee or at the later time specified in the notice; and **S. 97B(5) substituted by No. 8/2009 s. 13(2).**
- (b) ceases to have effect 7 days after the day on which it takes effect.
- (6) No compensation is payable in respect of any loss or damage resulting from or arising out of the suspension of a licence in accordance with this section.
- (7) Nothing in this Division affects the power of the Commission to vary a licence under section 58. **S. 97B(7) amended by No. 58/2011 s. 104(Sch. item 4.138).**
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**PART 7—OBLIGATIONS OF OWNERS, MORTGAGEES,
LICENSEES AND PERMITTEES**

98 Owners and mortgagees of licensed premises

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

S. 98(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.139).

- (a) must register with the Commission their name and their address for service within Victoria; and

S. 98(b)
amended by
No. 58/2011
s. 104(Sch.
item 4.139).

- (b) must notify any change of address to the Commission.

Penalty: 5 penalty units.

99 Refreshments to be available

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

Penalty: 5 penalty units.

Note to s. 99
inserted by
No. 13/2013
s. 29(2).

Note

Section 53A applies to an offence against this section.

S. 99A
inserted by
No. 57/2010
s. 15.

99A Free drinking water to be provided at licensed premises

- (1) The licensee under a licence that authorises the licensee to supply liquor for consumption on the licensed premises or authorised premises (if any) must have available for patrons on the licensed premises or authorised premises, or must provide

on the request of a patron, free drinking water at any time at which liquor is available for supply.

Penalty: 30 penalty units.

Note

Section 53A applies to an offence against this subsection.

Note to s. 99A(1) inserted by No. 13/2013 s. 29(1).

- (2) Subsection (1) does not apply to a licensee, a class of licensees or a class of activities that the Commission has exempted under section 99B or 99C.

S. 99A(2) amended by No. 58/2011 s. 104(Sch. item 4.140).

- (3) In this section—

drinking water means water that is intended for human consumption.

99B Exemption from requirement to provide free drinking water—without application

S. 99B inserted by No. 57/2010 s. 15.

- (1) The Commission may, by notice in writing, exempt a licensee or a class of licensees or class of activities from the requirement to provide free drinking water to patrons under section 99A, if the Commission thinks it is appropriate to do so.
- (2) The Commission may grant an exemption under subsection (1) for the period and on any conditions the Commission determines.
- (3) The Commission may revoke an exemption granted under subsection (1) by notice in writing.

S. 99B(1) amended by No. 58/2011 s. 104(Sch. item 4.141).

S. 99B(2) amended by No. 58/2011 s. 104(Sch. item 4.141).

S. 99B(3) amended by No. 58/2011 s. 104(Sch. item 4.141).

s. 99C

S. 99C
inserted by
No. 57/2010
s. 15.

99C Exemption from requirement to provide free drinking water—on application

S. 99C(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.142).

- (1) A licensee may apply to the Commission to be exempted from the requirement to provide free drinking water to patrons under section 99A.

S. 99C(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.142).

- (2) The Commission may approve an application if the Commission thinks it is appropriate to do so.

S. 99C(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.142).

- (3) The Commission must give the licensee notice in writing of the approval or refusal of an application.

S. 99C(4)
amended by
No. 58/2011
s. 104(Sch.
item 4.142).

- (4) The Commission may grant an exemption under subsection (2) for the period and on any conditions the Commission determines.

S. 99C(5)
amended by
No. 58/2011
s. 104(Sch.
item 4.142).

- (5) The Commission may revoke an exemption granted under subsection (2) by notice in writing.

S. 99D
(Heading)
amended by
No. 58/2011
s. 104(Sch.
item 4.143).

99D Matters Commission must consider when exempting licensees from free drinking water requirements

S. 99D
inserted by
No. 57/2010
s. 15,
amended by
No. 58/2011
s. 104(Sch.
item 4.144).

In making a decision under section 99B or 99C to exempt a licensee, class of licensees or class of activities from the requirement to provide free drinking water to patrons under section 99A, the Commission must consider—

- (a) the risk of harm arising from the misuse and abuse of liquor supplied under the licence;
and

- (b) the extent of the burden imposed on the licensee by the requirement under section 99A.

100 Residents' register

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

- (a) must keep a residents' register in a form approved by the Commission;
- (b) must cause to be entered in the register the particulars determined by the Commission relating to residents of the licensed premises;
- (c) must keep the register on the licensed premises;
- (d) must not make or cause or permit to be made in the register any false or misleading entry;
- (e) must produce the register for inspection if asked to do so by a police officer or a gambling and liquor inspector.

S. 100 amended by No. 59/2009 s. 30(g).

S. 100(a) amended by No. 58/2011 s. 104(Sch. item 4.145(a)).

S. 100(b) amended by No. 58/2011 s. 104(Sch. item 4.145(a)).

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

S. 100(e) inserted by No. 92/2004 s. 24(b), amended by Nos 8/2009 s. 14, 58/2011 s. 104(Sch. item 4.145(b)), 37/2014 s. 10(Sch. item 96.5).

Penalty: 10 penalty units.

Note

Section 53A applies to an offence against this section.

Note to s. 100 inserted by No. 13/2013 s. 29(2).

s. 101

S. 101
amended by
No. 57/2010
s. 16.

101 Copy of licence or permit to be displayed on premises

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

Penalty: 5 penalty units.

Note to s. 101
inserted by
No. 13/2013
s. 29(2).

Note

Section 53A applies to an offence against this section.

S. 101A
(Heading)
amended by
No. 58/2011
s. 104(Sch.
item 4.146).

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

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

S. 101A(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.147).

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

Penalty: 10 penalty units.

Note to
s. 101A(3)
inserted by
No. 13/2013
s. 29(1).

Note

Section 53A applies to an offence against this subsection.

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

S. 101A(4)
amended by
No. 58/2011
s. 104(Sch.
item 4.148).

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

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

- (1) A licensee or permittee must keep on the licensed premises at all times a copy of the last plan or depiction of the licensed premises that was—

(a) submitted to the Commission under Division 4 of Part 2 as part of an application that was granted; or

S. 101B(1)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.149).

(b) that was certified by the Commission under section 101A—

S. 101B(1)(b)
amended by
No. 58/2011
s. 104(Sch.
item 4.149).

(whichever is the later document).

Penalty: 10 penalty units.

- (2) The licensee or permittee must produce a copy of the plan or depiction for inspection if asked to do so by a police officer or a gambling and liquor inspector.

S. 101B(2)
amended by
Nos 8/2009
s. 14, 58/2011
s. 104(Sch.
item 4.150),
37/2014
s. 10(Sch.
item 96.5).

Penalty: 10 penalty units.

Note

Section 53A applies to an offence against subsection (1) or (2).

Note to
s. 101B
inserted by
No. 13/2013
s. 29(3).

s. 102

S. 102
(Heading)
inserted by
No. 58/2011
s. 104(Sch.
item 4.151).

102 Notices required by the Commission must be displayed

S. 102(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.152).

- (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.

Penalty: 5 penalty units.

S. 102(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.152).

- (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.

Note to s. 102
inserted by
No. 13/2013
s. 29(3).

Note

Section 53A applies to an offence against subsection (1) or (2).

103 Change of directors

S. 103(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.153).

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

Penalty: 5 penalty units.

S. 103(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.153).

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

Penalty: 5 penalty units.

(3) This section does not apply to—

(a) a licensee or permittee that is—

(i) a Council; or

(ii) a university or a TAFE institute; or

S. 103(3)(a)(ii)
substituted by
Nos 24/2006
s. 6.1.2(Sch. 7
item 26),
8/2009
s. 15(1).

* * * * *

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

(b) a licensee under a club licence.

Note

Section 53A applies to an offence against subsection (1) or (2).

Note to s. 103
inserted by
No. 13/2013
s. 29(3).

103A Change of associates

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

* * * * *

S. 103A(1)
repealed by
No. 8/2009
s. 15(2)(a).

(2) A licensee or permittee must, within 14 days after the occurrence of either of the following events, notify the Commission in writing of the event—

S. 103A(2)
amended by
Nos 8/2009
s. 15(2)(b),
58/2011
s. 104(Sch.
item 4.154).

(a) that a person has ceased to be his, her or its associate; or

s. 104

(b) that a person has become his, her or its associate.

Penalty: 5 penalty units.

Note to
s. 103A(2)
inserted by
No. 13/2013
s. 29(1).

Note

Section 53A applies to an offence against this subsection.

104 Approval of directors

S. 104(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.155).

(1) A licensee or permittee that is a body corporate may apply to the Commission for the approval of a person to be a director of the licensee or permittee.

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

(1A) An application under this section must be accompanied by the fee specified in the regulations for the purposes of this section.

S. 104(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.156).

(2) The Commission must give a copy of an application under this section to the Chief Commissioner.

(3) The Chief Commissioner may object to the application on the ground that the person is not a suitable person to be a director of the licensee or permittee.

(4) An objection must—

S. 104(4)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.157).

(a) be made to the Commission in writing within 21 days after the day on which a copy of the application was given to the Chief Commissioner; and

(b) state the reasons for the objection.

S. 104(5)
amended by
No. 58/2011
s. 104(Sch.
item 4.158).

(5) After the period referred to in subsection (4)(a) (or that period as extended under section 174) has expired, the Commission must approve or refuse to approve the person as a director, after

considering any objection made under subsection (3).

105 No letting or sub-letting without consent

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

S. 105(1) amended by Nos 92/2004 ss 23(2)(a), 27, 58/2011 s. 104(Sch. item 4.159).

Penalty: 60 penalty units.

Note

Section 53A applies to an offence against this subsection.

Note to s. 105(1) inserted by No. 13/2013 s. 29(1).

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

S. 105(1A) inserted by No. 92/2004 s. 18(1)(6), amended by No. 58/2011 s. 104(Sch. item 4.160).

- (2) The Commission may require the licensee or permittee to give notice of a request for consent under this section to a specified person, or persons in a specified area, in the manner approved by the Commission.

S. 105(2) amended by No. 58/2011 s. 104(Sch. item 4.161).

- (3) The Commission may—

S. 105(3) amended by No. 58/2011 s. 104(Sch. item 4.162(a)).

- (a) consent in writing under this section and impose any conditions the Commission thinks fit on that consent, including a condition that the consent is not effective until any requirements specified in it have been met; or
- (b) refuse consent.

S. 105(3)(a) amended by No. 58/2011 s. 104(Sch. item 4.162(b)).

s. 106

S. 105(4)
amended by
Nos 39/2002
s. 12(a),
58/2011
s. 104(Sch.
item 4.163).

- (4) In doing so, the Commission must consider any objections made to the Commission against the giving of consent.

S. 105(5)
amended by
No. 58/2011
s. 104(Sch.
item 4.164).

- (5) The consent of the Commission is valid for the period specified in the consent.

106 Control of business of supply of liquor

S. 106(1)
amended by
Nos 92/2004
s. 23(2)(a),
58/2011
s. 104(Sch.
item 4.165).

- (1) A licensee or permittee must not—

- (a) permit any other person to carry on a business of supplying liquor on the licensed premises; or
(b) permit any person who is not employed by the licensee or permittee to be engaged in the carrying on of such a business—

except in accordance with the consent of the Commission given to the licensee or permittee.

Penalty: 60 penalty units.

Note to
s. 106(1)
inserted by
No. 13/2013
s. 29(4).

Note

Section 53C applies to an offence against this subsection.

S. 106(1A)
inserted by
No. 92/2004
s. 18(1)(7),
amended by
No. 58/2011
s. 104(Sch.
item 4.166).

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

S. 106(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.167).

- (2) The Commission may require the licensee or permittee to give notice of a request for consent under this section to a specified person, or persons in a specified area, in the manner approved by the Commission.

(3) The Commission may—

S. 106(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.168(a)).

(a) consent in writing under this section and impose any conditions the Commission thinks fit on that consent, including a condition that the consent is not effective until any requirements specified in it have been met; or

S. 106(3)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.168(b)).

(b) refuse consent.

(4) In doing so, the Commission must consider any objections made to the Commission against the giving of consent.

S. 106(4)
amended by
Nos 39/2002
s. 12(a),
58/2011
s. 104(Sch.
item 4.169).

(5) The consent of the Commission is valid for the period specified in the consent.

S. 106(5)
amended by
No. 58/2011
s. 104(Sch.
item 4.170).

106A Lessees etc. are liable for offences

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

(1) This section applies to a person—

(a) who, under a consent given under section 105, lets or sub-lets any part of any licensed premises or is assigned the right to supply liquor; or

(b) who, under a consent given under section 106, carries on the business of supplying liquor on any licensed premises.

(2) This section applies if the person does, or omits to do, anything while operating under the consent given under section 105 or 106 that would be an offence under this Act if the person were the licensee or permittee of the premises in respect of which the consent was given.

s. 106B

- (3) The person is liable for his, her or its act or omission as if he, she or it were the licensee or permittee.
- (4) If the person is a body corporate, the directors of the body corporate at the time of the act or omission are severally liable for the act or omission as if they were the licensee or permittee.
- (4A) Subsection (4) does not apply in respect of an offence against a provision specified in section 53A(2), 53B(2) or 53C(2) that is alleged to have been committed by a body corporate.
- (5) Nothing in this section is intended to affect or reduce the liability of the licensee or permittee with respect to the act or omission of the person.

S. 106A(4A)
inserted by
No. 13/2013
s. 28.

106B Requirement to notify Commission that sexually explicit entertainment provided on licensed premises

A licensee must notify the Commission in writing within 21 days after commencing to provide sexually explicit entertainment on the licensed premises.

Penalty: 10 penalty units.

S. 160B
(Heading)
amended by
No. 58/2011
s. 104(Sch.
item 4.171).
S. 106B
inserted by
No. 57/2010
s. 17,
amended by
No. 58/2011
s. 104(Sch.
item 4.172).

Note to
s. 106B
inserted by
No. 13/2013
s. 29(2).

Note

Section 53A applies to an offence against this section.

PART 7A—BARRING ORDERS

Pt 7A
(Heading and
ss 106C–
106K)
inserted by
No. 12/2011
s. 4.

106C Definitions

For the purposes of this Part, a reference to *licensed premises* includes any area adjacent to the licensed premises that is owned or occupied by the licensee or permittee.

S. 106C
inserted by
No. 12/2011
s. 4.

106D Barring orders

A licensee, permittee, responsible person or police officer may, by order served on a person, bar the person from entering or remaining on licensed premises for a specified period if—

S. 106D
inserted by
No. 12/2011
s. 4,
amended by
No. 37/2014
s. 10(Sch.
item 96.5).

- (a) the person is drunk, violent or quarrelsome in the licensed premises; or
- (b) the licensee, permittee, responsible person or police officer reasonably believes that the safety of the person, or any other person in the licensed premises, is at substantial or immediate risk as a result of the consumption of alcohol by the person.

S. 106D(b)
amended by
No. 37/2014
s. 10(Sch.
item 96.5).

106E Police must produce proof of identity

A police officer must produce proof of his or her identity and official status before serving a barring order on a person, unless the police officer is in uniform.

S. 106E
inserted by
No. 12/2011
s. 4,
amended by
No. 37/2014
s. 10(Sch.
item 96.6).

106F Content of barring order

A barring order must be in the prescribed form.

S. 106F
inserted by
No. 12/2011
s. 4.

s. 106G

S. 106G
inserted by
No. 12/2011
s. 4.

106G Duration of barring order

- (1) A person on whom a barring order has been served may be barred under that order—
 - (a) if the person has not previously been served with a barring order barring the person from entering or remaining on the licensed premises, for a period not exceeding one month;
 - (b) if the person has on one previous occasion been served with a barring order barring the person from entering or remaining on the licensed premises, for a period not exceeding 3 months;
 - (c) if the person has on at least 2 previous occasions been served with a barring order barring the person from entering or remaining on the licensed premises, for a period not exceeding 6 months.
- (2) Subject to subsection (1), a barring order has effect from the date and time the order is served and remains in force until the date and time of expiry as set out in the order, unless earlier revoked.
- (3) For the purposes of determining whether a person has previously been barred, regard may only be had to barring orders that have been issued within the previous 3 years.

S. 106H
inserted by
No. 12/2011
s. 4.

106H Requirement to give name and address

S. 106H(1)
amended by
No. 37/2014
s. 10(Sch.
item 96.7(a)).

- (1) A police officer who intends to serve a barring order on a person may request the person to state the person's name and address.

-
- (2) A police officer who makes a request under subsection (1) must inform the person of the police officer's intention to serve a barring order on the person. **S. 106H(2) amended by No. 37/2014 s. 10(Sch. item 96.7(b)).**
- (3) A person must not, in response to a request made by a police officer in accordance with this section— **S. 106H(3) amended by No. 37/2014 s. 10(Sch. item 96.7(c)).**
- (a) refuse or fail to comply with the request without a reasonable excuse for not doing so; or
- (b) state a name or address that is false in a material particular.
- Penalty: 5 penalty units.
- (4) A person who is requested to state his or her name or address may request the police officer who made the request to state, orally or in writing, the police officer's name, rank and place of duty. **S. 106H(4) amended by No. 37/2014 s. 10(Sch. item 96.7(d)).**
- (5) A police officer must not, in response to a request under subsection (4)— **S. 106H(5) amended by No. 37/2014 s. 10(Sch. item 96.7(e)(i)).**
- (a) refuse or fail to comply with the request, including refusing or failing to answer the request in writing if specifically requested to do so; or
- (b) state a name or rank that is false in a material particular; or
- (c) state as his or her place of duty an address other than the name of the police station which is the police officer's ordinary place of duty. **S. 106H(5)(c) amended by No. 37/2014 s. 10(Sch. item 96.7(e)(ii)).**
- Penalty: 5 penalty units.
- (6) If a person states a name or address in response to a request made under subsection (1) and the police officer who made the request suspects on reasonable grounds that the stated name or address **S. 106H(6) amended by No. 37/2014 s. 10(Sch. item 96.7(f)).**

s. 106I

may be false, the police officer may request the person to produce evidence of the correctness of the name or address.

- (7) A person must comply with a request under subsection (6), unless he or she has a reasonable excuse for not doing so.

Penalty: 5 penalty units.

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

S. 106H(8)
amended by
No. 37/2014
s. 10(Sch.
item 96.7(f)).

S. 106I
inserted by
No. 12/2011
s. 4.

106I Variation and revocation of barring order

- (1) A licensee, permittee, responsible person or police officer who issues a barring order may, by subsequent order served on a person, revoke or vary that order.

- (2) The Commission may, either upon request or on the Commission's own motion, vary or revoke a barring order.

- (3) For the purposes of subsection (2), a request may only be made by—

(a) a licensee, permittee, or responsible person in respect of the licensed premises to which the order relates; or

(b) a police officer; or

(c) the person the subject of the order.

S. 106I(1)
amended by
No. 37/2014
s. 10(Sch.
item 96.8).

S. 106I(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.173
(a)(b)).

S. 106I(3)(b)
amended by
No. 37/2014
s. 10(Sch.
item 96.8).

- (4) If the Commission varies or revokes a barring order under subsection (2), the Commission must—
- (a) serve notice of the variation or revocation on the person the subject of the barring order; and
 - (b) give a copy of the variation or revocation to the person who issued the order; and
 - (c) if the person who issued the order is not the licensee or permittee, give a copy of the variation or revocation to the licensee or permittee.
- (5) If the Commission varies an order under subsection (2), the variation is final and not subject to further variation or revocation by a licensee, permittee, responsible person or police officer.
- (6) A notice of variation of a barring order must be in the prescribed form.
- (7) A notice of revocation of a barring order must be in writing and must contain the prescribed particulars.

S. 106(4)
amended by
No. 58/2011
s. 104(Sch.
item 4.173(c)).

S. 106(5)
amended by
Nos 58/2011
s. 104(Sch.
item 4.173(d)),
37/2014
s. 10(Sch.
item 96.8).

106J Offences

- (1) A person must not without reasonable excuse enter or remain on licensed premises if there is a barring order in force in respect of the person for the licensed premises.
- Penalty: 20 penalty units.
- (2) A person must not without reasonable excuse re-enter or remain in the vicinity of licensed premises if there is a barring order in force in respect of the person for the licensed premises.
- Penalty: 20 penalty units.

S. 106J
inserted by
No. 12/2011
s. 4.

s. 106K

S. 106K
inserted by
No. 12/2011
s. 4.

106K Licensee or permittee must keep records of barring orders

- (1) A licensee or permittee must keep a record of any barring order issued under this Part, including a copy of any variation or revocation of a barring order, in respect of the licensee's or permittee's licensed premises.

Penalty: 5 penalty units.

S. 106K(2)
amended by
No. 37/2014
s. 10(Sch.
item 96.9(a)).

- (2) A licensee or permittee must produce the records required to be kept under subsection (1) for inspection on being asked to do so by a police officer or a compliance inspector.

Penalty: 5 penalty units.

S. 106K(3)
amended by
No. 37/2014
s. 10(Sch.
item 96.9(b)).

- (3) A police officer or compliance inspector must not, except to the extent necessary to carry out the police officer's or inspector's functions under this Part, give to any other person, any information acquired under subsection (2).

Penalty: 5 penalty units.

- (4) A licensee or permittee must not disclose any records required to be kept under subsection (1), or information contained in those records, to any other person except in accordance with subsection (2).

Penalty: 5 penalty units.

- (5) The records required to be kept under subsection (1) in relation to a barring order must be destroyed 3 years after the expiry or revocation of the barring order.

Penalty: 5 penalty units.

**Note to
s. 106K**
inserted by
No. 13/2013
s. 29(5).

Note

Section 53A applies to an offence against subsection (1), (2), (4) or (5).

PART 8—OFFENCES AND ENFORCEMENT

Division 1—General offences

107 Unlicensed selling of liquor

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

Penalty: 240 penalty units or imprisonment for 2 years.

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

- (2) Subsection (1) does not apply to the sale of liquor, or the offer of liquor for sale, by an employee or agent of a licensee if the sale or offer is in accordance with the licence and this Act.

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

- (3) If a person is convicted of an offence under this section, the court must also order all liquor which is found in the possession of the person and the vessels containing it to be forfeited.

- (4) For the purposes of this section, proof of consumption or intended consumption of liquor on any premises by a person other than the occupier of the premises is, as against the occupier, evidence that the liquor was sold to the person consuming or intending to consume it.

- (5) The fact of there being on any premises more liquor than is reasonably required for the use of the persons residing on those premises is evidence of the sale of liquor by the occupier.

- (6) Subsections (4) and (5) do not apply to premises if the court is satisfied that the premises are used solely for residential purposes.

108 Offences by licensee and permittee

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

- (1) A licensee or permittee—
- (a) must not, except in accordance with the licence or BYO permit and this Act—
 - (i) supply liquor; or
 - (ii) permit or cause liquor to be supplied; or
 - (iii) permit liquor to be consumed—
on the licensed premises or on any authorised premises;
 - (b) must not use any place or premises, other than the licensed premises or authorised premises, for the supply of liquor;

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

* * * * *

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

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

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

* * * * *

Penalty: 60 penalty units.

Note to
s. 108(1)
inserted by
No. 13/2013
s. 29(1).

Note

Section 53A applies to an offence against this subsection.

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

S. 108(2)(b)
amended by
No. 71/2011
s. 19.

- (a) a licensee of a pre-retail licence; or
- (b) a licensee of a wine and beer producer's licence in respect of the supply of liquor under that licence to a person who holds a licence under this Act.

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

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

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

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

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

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

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

(4) A licensee or permittee—

(a) must not supply liquor to a person who is in a state of intoxication;

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

(b) must not permit drunken or disorderly persons to be on the licensed premises or on any authorised premises.

Penalty: 120 penalty units.

Note

Section 53C applies to an offence against this subsection.

Note to s. 108(4) inserted by No. 13/2013 s. 29(4).

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

(a) neither the accused nor any relevant person who was on the premises at the time of the alleged offence knew that drunken or disorderly persons were on the premises; and

S. 108(5) inserted by No. 73/2007 s. 21(2), amended by No. 8/2009 s. 16, substituted by No. 56/2014 s. 56.

(b) either the accused or a relevant person had taken reasonable steps to ensure that drunken or disorderly persons were not on the premises.

S. 108(5A)
inserted by
No. 56/2014
s. 56.

(5A) For the purposes of subsection (5), a person is a *relevant person* if he or she is—

- (a) an employee or agent of the accused; or
- (b) in the case of an accused that is a body corporate—
 - (i) an officer of the accused; or
 - (ii) the nominee of the accused; or
- (c) in the case of an accused who is a member of the committee of management of an unincorporated club, on behalf of the club—
 - (i) a member of the committee of management; or
 - (ii) the nominee of the accused; or
- (d) in the case of an accused who is a member of a partnership, another member of the partnership.

S. 108(6)
inserted by
No. 88/2009
s. 6.

(6) Subsection (4)(b) does not apply to a licensee or permittee if the licensed premises are a party bus.

S. 108A
inserted by
No. 92/2004
s. 29,
amended by
No. 8/2009
s. 17(a),
repealed by
No. 57/2010
s. 18.

* * * * *

108AA Licensee must complete refresher approved responsible service of alcohol programs

S. 108AA
inserted by
No. 57/2010
s. 19.

- (1) This section applies to a general licence, on-premises licence, packaged liquor licence or late night licence.
- (2) The licensee (except in the case of a body corporate) must complete an approved responsible service of alcohol program within 3 years from the date on which the licensee last completed an approved responsible service of alcohol program.

Penalty: 60 penalty units.

- (3) If the licensee is a body corporate, the licensee must ensure that the responsible person completes an approved responsible service of alcohol program within 3 years from the date on which the person last completed an approved responsible service of alcohol program.

S. 108AA(3)
amended by
No. 12/2011
s. 5.

Penalty: 60 penalty units.

Note

Section 53B applies to an offence against this subsection.

Note to
s. 108AA(3)
inserted by
No. 13/2013
s. 29(6).

108AB Licensee must ensure staff complete approved responsible service of alcohol programs

S. 108AB
inserted by
No. 57/2010
s. 19.

- (1) This section applies to a general licence, on-premises licence, packaged liquor licence or late night licence.
- (2) The licensee must ensure that any person who sells, offers for sale or serves liquor on the licensed premises of the licensee—
 - (a) has completed an approved responsible service of alcohol program within the period of 3 years prior to the date on which that person first sells, offers for sale or serves liquor on the licensed premises; or

s. 108AC

- (b) completes an approved responsible service of alcohol program within one month after the date on which that person first sells, offers for sale or serves liquor on the licensed premises.

Penalty: 60 penalty units.

Note to
s. 108AB(2)
inserted by
No. 13/2013
s. 29(6).

Note

Section 53B applies to an offence against this subsection.

S. 108AC
inserted by
No. 57/2010
s. 19.

108AC Licensee must ensure staff complete refresher approved responsible service of alcohol programs

- (1) This section applies to a general licence, on-premises licence, packaged liquor licence or late night licence.
- (2) The licensee must ensure that any person who sells, offers for sale or serves liquor on the licensed premises of the licensee completes an approved responsible service of alcohol program within 3 years from the date on which that person last completed an approved responsible service of alcohol program.

Penalty: 60 penalty units.

Note to
s. 108AC(2)
inserted by
No. 13/2013
s. 29(6).

Note

Section 53B applies to an offence against this subsection.

S. 108AD
inserted by
No. 57/2010
s. 19.

108AD Licensee must keep approved responsible service of alcohol register

- (1) This section applies to a general licence, on-premises licence, packaged liquor licence, late night licence or any other licence which is subject to a condition in relation to responsible service of alcohol.

- (2) The licensee must establish and maintain an approved responsible service of alcohol program register in accordance with subsection (3).

Penalty: 5 penalty units.

Note

Section 53A applies to an offence against this subsection.

**Note to
s. 108AD(2)
inserted by
No. 13/2013
s. 29(1).**

- (3) An approved responsible service of alcohol program register must—

- (a) record the name of the licensee, and if the licensee is a body corporate, the name of the responsible person; and
- (b) include a copy of the most recent certificate or report evidencing completion of an approved responsible service of alcohol program issued to the licensee or responsible person; and
- (c) record the name of each person who sells, offers for sale or serves liquor on the licensed premises and the date on which each person first sold, offered for sale or served liquor on the licensed premises; and
- (d) include a copy of the most recent certificate or report evidencing completion of an approved responsible service of alcohol program issued to each person who sells, offers for sale or serves liquor on the licensed premises.

**S. 108AD(3)(a)
amended by
No. 12/2011
s. 6(1).**

**S. 108AD(3)(b)
amended by
No. 12/2011
s. 6(2).**

108AE Licensee must produce approved responsible service of alcohol program register for inspection

**S. 108AE
inserted by
No. 57/2010
s. 19.**

- (1) This section applies to a general licence, on-premises licence, packaged liquor licence, late night licence or any other licence which is subject to a condition in relation to responsible service of alcohol.

s. 108AF

S. 108AE(2)
amended by
Nos 58/2011
s. 104(Sch.
item 4.174),
37/2014
s. 10(Sch.
item 96.10).

- (2) The licensee must produce the approved responsible service of alcohol program register kept by the licensee for inspection on being asked to do so by a police officer or a gambling and liquor inspector.

Penalty: 5 penalty units.

Note to
s. 108AE(2)
inserted by
No. 13/2013
s. 29(1).

Note

Section 53A applies to an offence against this subsection.

S. 108AF
inserted by
No. 57/2010
s. 19.

108AF Exemption from approved responsible service of alcohol program requirements—without application

S. 108AF(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.175).

- (1) The Commission may, by notice in writing, exempt a licensee or a class of licensees from any of the requirements of sections 108AA to 108AE, if the Commission thinks it is appropriate to do so.

S. 108AF(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.175).

- (2) The Commission may grant an exemption under subsection (1) for the period and on any conditions the Commission determines.

S. 108AF(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.175).

- (3) The Commission may revoke an exemption granted under subsection (1) by notice in writing.

S. 108AG
inserted by
No. 57/2010
s. 19.

108AG Exemption from approved responsible service of alcohol program requirements—on application

S. 108AG(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.176).

- (1) A licensee may apply to the Commission to be exempted from any of the requirements of sections 108AA to 108AE.

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- | | |
|--------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|
| (2) The Commission may approve an application if the Commission thinks it is appropriate to do so. | S. 108AG(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.176). |
| (3) The Commission must give the licensee notice in writing of the approval or refusal of an application. | S. 108AG(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.176). |
| (4) The Commission may grant an exemption under subsection (2) for the period and on any conditions the Commission determines. | S. 108AG(4)
amended by
No. 58/2011
s. 104(Sch.
item 4.176). |
| (5) The Commission may revoke an exemption granted under subsection (2) by notice in writing. | S. 108AG(5)
amended by
No. 58/2011
s. 104(Sch.
item 4.176). |

108AH Matters Commission must consider when exempting licensees from responsible service of alcohol program requirements

S. 108AH
(Heading)
amended by
No. 58/2011
s. 104(Sch.
item 4.177).
S. 108AH
inserted by
No. 57/2010
s. 19,
amended by
No. 58/2011
s. 104(Sch.
item 4.178).

In making a decision under section 108AF or 108AG to exempt a licensee or class of licensees from any of the requirements of sections 108AA to 108AE, the Commission must consider—

- (a) the risk of harm arising from the misuse and abuse of liquor supplied under the licence;
and
- (b) the extent of the burden imposed on the licensee by the requirement under sections 108AA to 108AE.

s. 108B

108B Corporate licensee must provide details of directors

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

S. 108B(1)
amended by
Nos 8/2009
s. 17(b),
58/2011
s. 104(Sch.
item 4.179),
37/2014
s. 10(Sch.
item 96.11(a)).

Note to
s. 108B(1)
inserted by
No. 13/2013
s. 29(1).

S. 108B(2)
amended by
Nos 8/2009
s. 17(b),
58/2011
s. 104(Sch.
item 4.179),
37/2014
s. 10(Sch.
item 96.11(b)).

S. 108B(3)
amended by
Nos 8/2009
s. 17(c),
37/2014
s. 10(Sch.
item 96.11(c)).

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

Penalty: 10 penalty units.

Note

Section 53A applies to an offence against this subsection.

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

Penalty: 10 penalty units.

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

Penalty: 20 penalty units.

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

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

109 Taking orders for liquor at unlicensed premises

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

Penalty: 15 penalty units.

Note

Section 53A applies to an offence against this subsection.

Note to
s. 109(1)
inserted by
No. 13/2013
s. 29(1).

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

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

S. 109(2)(b)
amended by
No. 71/2011
s. 20.

109A Sale of liquor through vending machines

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

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

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

S. 109A(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.180).

S. 109A(c)
amended by
No. 58/2011
s. 104(Sch.
item 4.180).

Penalty: 60 penalty units.

110 Holding out

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

Penalty: 15 penalty units.

111 Bringing liquor to premises outside trading hours

A person must not—

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

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

Penalty: 25 penalty units.

112 Keeping liquor in unlicensed club

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

Penalty: 25 penalty units.

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

113 Consuming or having liquor on unlicensed premises

- (1) A person must not consume or supply liquor on any premises to which this section applies unless a licence or BYO permit is in force in respect of those premises.

S. 113(1)
substituted by
No. 9/2008
s. 5(1).

Penalty: 50 penalty units.

- (1A) A person must not have in possession or under control any liquor other than liquor in a sealed container on any premises to which this section applies unless a licence or BYO permit is in force in respect of those premises.

S. 113(1A)
inserted by
No. 9/2008
s. 5(1).

Penalty: 50 penalty units.

- (1B) A person must not permit or allow any liquor to be consumed or supplied on any premises to which this section applies unless a licence or BYO permit is in force in respect of those premises.

S. 113(1B)
inserted by
No. 9/2008
s. 5(1).

Penalty: 50 penalty units.

- (1C) A person must not permit or allow any liquor other than liquor in a sealed container to be in the possession or under the control of a person on any premises to which this section applies unless a licence or BYO permit is in force in respect of those premises.

S. 113(1C)
inserted by
No. 9/2008
s. 5(1).

Penalty: 50 penalty units.

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

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

S. 113A
inserted by
No. 88/2009
s. 7.

113A Consumption of liquor on party buses

- (1) A person who is the operator of a party bus must not permit or allow any liquor to be consumed on the party bus in the prescribed circumstances unless a licence or a BYO permit is in force in respect of the party bus.

Penalty: 50 penalty units.

- (2) It is a defence to a prosecution for an offence under subsection (1) for the accused to prove that—
- (a) the accused did not knowingly permit or allow the consumption of liquor on the party bus; and
 - (b) the accused had taken reasonable steps to ensure the liquor was not consumed on the party bus.
- (3) For the purposes of subsection (1) the prescribed circumstances are that the party bus—
- (a) is operating on or after 8 p.m. on a particular day and before 5 a.m. on the following day; and
 - (b) is operating—
 - (i) in a designated area; or
 - (ii) for the purpose of carrying passengers travelling to or from or visiting a designated area.

(4) In this section—

Australian Design Rules means the Australian Design Rules for Motor Vehicles and Trailers, endorsed by the Australian Transport Advisory Council and published pursuant to section 7 of the Motor Vehicle Standards Act 1989 of the Commonwealth;

bus means—

- (a) a motor vehicle that has been built—
 - (i) with seating positions for 10 or more adults (including the driver); and
 - (ii) to comply with the requirements specified in the Australian Design Rules for a passenger omnibus (within the meaning of those Rules); or
- (b) a motor vehicle prescribed to be a bus—

but does not include—

- (c) a vehicle that is a taxi-cab in respect of which a taxi-cab licence is granted under the **Transport Act 1983**; or
- (d) a motor vehicle prescribed not to be a bus;

community and private bus service means a service—

- (a) consisting of the carriage of passengers by a bus for or in connection with the activities of a religious, educational, health, welfare, philanthropic, sporting or social body; and

- (b) which is provided for no consideration or for consideration which is limited to the costs or part of the costs incurred in making the journey;

operator, in relation to a party bus, means a person who is responsible for controlling or directing the operations of the party bus but does not include—

- (a) a person who merely maintains or arranges for the maintenance of a bus; or
- (b) a person who carries out those functions as the employee of, or under the direction of, another person; or
- (c) a person in a prescribed class of persons;

party bus means a bus that is operated for hire or reward for the carriage of passengers on the basis that the bus is pre-booked for those passengers but does not include—

- (a) a bus operated by or for a community and private bus service; or
- (b) a bus hired by or for a group of passengers who provide their own driver.

S. 114
amended by
No. 9/2008
s. 5(3) (ILA
s. 39B(1)).

114 Offences by persons other than licensee or permittee

- (1) A person—
 - (a) must not on licensed premises—
 - (i) obtain liquor from the licensee, or an employee or agent of the licensee; or

- (ii) consume liquor—
except at a time and in the manner authorised
under the licence or BYO permit and this
Act;
- (b) must not, on licensed premises—
- (i) procure liquor for a person in a state of
intoxication; or
- (ii) aid or abet a person in a state of
intoxication to obtain liquor;
- (c) must not obtain liquor from a licensee under
a general licence or a late night (general)
licence or from an employee or agent of such
a licensee by fraudulently representing
himself or herself to be a resident of the
licensed premises;

S. 114(1)(c)
amended by
No. 59/2009
s. 30(h).

* * * * *

S. 114(1)(d)
repealed by
No. 9/2008
s. 5(2).

Penalty: 20 penalty units.

- (2) A person who is drunk, violent or quarrelsome
must not refuse or fail to leave licensed premises
if requested to do so by—
- (a) the licensee or permittee; or
- (b) an employee or agent of the licensee or
permittee; or
- (c) a police officer.

S. 114(2)
inserted by
No. 9/2008
s. 5(3),
amended by
No. 12/2011
s. 7(1).

S. 114(2)(c)
substituted by
No. 37/2014
s. 10(Sch.
item 96.12).

Penalty: 50 penalty units.

- (3) A person who has been refused entry from
licensed premises or who has left licensed
premises following a request by any of the

S. 114(3)
inserted by
No. 12/2011
s. 7(2).

s. 115

persons referred to in subsection (2)(a), (b) or (c) must not without reasonable excuse remain in the vicinity of the licensed premises.

Penalty: 20 penalty units.

S. 114(4)
inserted by
No. 12/2011
s. 7(2).

- (4) A person who has been refused entry from licensed premises or who has left licensed premises following a request by any of the persons referred to in subsection (2)(a), (b) or (c) must not without reasonable excuse enter the licensed premises for a period of 24 hours commencing from the time of being refused entry or leaving the licensed premises.

Penalty: 20 penalty units.

S. 114(5)
inserted by
No. 12/2011
s. 7(2).

- (5) For the purposes of this section, a reference to licensed premises includes any area adjacent to the licensed premises that is owned or occupied by the licensee or permittee.

115 Betting on licensed premises

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

Penalty: 20 penalty units.

Note to
s. 115(1)
inserted by
No. 13/2013
s. 29(1).

Note

Section 53A applies to an offence against this subsection.

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

(a) if—

- (i) the premises are on a licensed racecourse within the meaning of the **Racing Act 1958**; and

-
- (ii) the betting is engaged in during the holding of a race meeting within the meaning of that Act on the licensed racecourse; or
- (b) if—
- (i) a betting facility of the holder of the wagering licence or the wagering operator under Chapter 4 of the **Gambling Regulation Act 2003** is established in the premises; and
- (ii) the betting takes place through that licence holder or wagering operator; or
- (ba) if—
- (i) a betting facility of the holder of the wagering and betting licence under Chapter 4 of the **Gambling Regulation Act 2003** is established in the premises; and
- (ii) the betting takes place through that licence holder; or
- (c) if—
- (i) the premises are being used by any sub-branch of the Returned and Services League or are approved under section 2.3.2(1)(b) of the **Gambling Regulation Act 2003**; and
- (ii) the betting is engaged in during a game of two-up on ANZAC Day; or
- S. 115(2)(b)(i) substituted by No. 114/2003 s. 12.1.3 (Sch. 6 item 9.3(a)).
- S. 115(2)(b)(ii) substituted by No. 114/2003 s. 12.1.3 (Sch. 6 item 9.3(a)).
- S. 115(2)(ba) inserted by No. 60/2011 s. 74.
- S. 115(2)(c)(i) amended by No. 114/2003 s. 12.1.3 (Sch. 6 item 9.3(b)).
- S. 115(2)(c)(ii) amended by No. 96/2003 s. 14(3).

s. 115A

(d) if—

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

(i) the betting is engaged in during a game of two-up not more than 7 days before ANZAC Day; and

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

(ii) a function to which section 2.3.2(3) of the **Gambling Regulation Act 2003** applies is being held on the premises.

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

115A Prohibited advertising or promotion

S. 115A(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.181).

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

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

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

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

Penalty: 120 penalty units.

Note to
s. 115A(2)
inserted by
No. 13/2013
s. 29(4).

Note

Section 53C applies to an offence against this subsection.

116 Falsely indicating that premises are licensed

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

- (a) indicate that premises are licensed premises or are licensed premises under a particular kind of licence or under a BYO permit if they are not such licensed premises; or
- (b) that a person is authorised under a licence or BYO permit to supply liquor or permit liquor to be brought onto or consumed on premises if the person is not so authorised.

Penalty: 15 penalty units.

117 Procuring transfer by fraud

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

Penalty: 50 penalty units.

- (2) If a person is found guilty of an offence under subsection (1), the principal registrar of the Magistrates' Court must notify, in writing, the Commission of that finding of guilt as soon as practicable after that finding.
- (3) The Commission, the Chief Commissioner of Police or a gambling and liquor inspector may apply to the Magistrates' Court for a declaration that the transfer is void.
- (4) On application under subsection (3), the Magistrates' Court may—
 - (a) declare the transfer void; and
 - (b) if it does so, make an order that the person found guilty under subsection (1) be disqualified from holding a licence or BYO permit for a period not exceeding 3 years.

S. 117(2)
substituted by
No. 58/2011
s. 60.

S. 117(3)
substituted by
No. 58/2011
s. 60.

S. 117(4)
substituted by
No. 58/2011
s. 60.

118 False or misleading statements

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

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

Penalty: 60 penalty units.

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

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

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

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

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

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

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

Penalty: 30 penalty units.

118B Regulations prohibiting supply of classes of liquor

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

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

- (4) Regulations under this section are subject to disallowance by a House of the Parliament.

Division 2—Underage drinking

119 Supplying liquor to minors

S. 119(1)
amended by
Nos 92/2004
s. 23(2)(a),
56/2014
s. 57(1).

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

Penalty: 120 penalty units.

S. 119(2)
amended by
Nos 92/2004
s. 23(2)(a),
56/2014
s. 57(1).

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

Penalty: 120 penalty units.

S. 119(3)
amended by
Nos 92/2004
s. 23(2)(a),
56/2014
s. 57(1).

- (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: 120 penalty units.

S. 119(4)
amended by
Nos 92/2004
s. 23(2)(c),
56/2014
s. 57(2).

- (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: 20 penalty units.

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

(a) to the supply of liquor to a person under the age of 18 years for consumption as part of a meal if the person is accompanied by his or her spouse, being a person of or over the age of 18 years, or his or her parent or guardian; or

(b) to the supply of liquor to the spouse or a member of the family of the licensee or permittee; or

(c) to the supply of liquor on licensed premises to a spouse of a resident of those premises if the resident is of or over the age of 18 years; or

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

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

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

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

(e) to the supply of liquor in a residence to a person under the age of 18 years by—

(i) a parent, guardian or spouse of the person (if the spouse is of or over the age of 18 years); or

(ii) someone who is authorised by a parent, guardian or spouse of the person (if the spouse is of or over the age of 18 years) to supply liquor to the person.

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

S. 119(5)(e)
substituted by
No. 13/2011
s. 3.

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

Note to s. 119
inserted by
No. 13/2013
s. 29(7).

Note

Section 53C applies to an offence against subsection (1) or (2).

120 Allowing minors on licensed or authorised premises

S. 120(1)
amended by
Nos 92/2004
s. 23(2)(a),
56/2014 s. 58.

- (1) If a person under the age of 18 years—
- (a) is on licensed premises or any authorised premises; and
 - (b) is not—
 - (i) in the company of a responsible adult; or
 - (ii) on the premises for the purpose of partaking of a meal; or
 - (iii) in the case of a licence under which accommodation is provided, a resident of those premises—

the licensee or permittee is guilty of an offence.

Penalty: 120 penalty units.

Note to
s. 120(1)
inserted by
No. 13/2013
s. 29(4).

Note

Section 53C applies to an offence against this subsection.

- (2) Subsection (1) does not apply—
- (a) to the presence on any part of the licensed premises or authorised premises of a person under the age of 18 years at any time at which—

-
- (i) entertainment for or mainly for people under the age of 18 years is provided on that part of the premises in accordance with the approval of the Commission and any conditions to which that approval is subject; and
- (ii) liquor is not supplied, consumed or made available on that part of the premises; or
- (b) to the presence on licensed premises or authorised premises of a person who is engaged in a training program in hospitality or in training for the purposes of employment or work experience, if the person is so present in accordance with any conditions to which that program or training is subject; or
- (ba) to the presence on any part of the licensed premises or authorised premises of a person under the age of 18 at which—
- (i) a live music event is being held in accordance with notice given to the Commission in accordance with subsection (2B) and any conditions prescribed for the purposes of this section; and
- (ii) liquor is not supplied, consumed or made available on that part of the premises; or
- (c) to the presence on licensed premises or authorised premises of persons employed on the premises otherwise than in the supply of liquor; or
- (ca) to the presence on licensed premises or authorised premises of a person who is employed to deliver packaged liquor for
- S. 120(2)(a)(i) amended by No. 58/2011 s. 104(Sch. item 4.182).**
- S. 120(2)(ba) inserted by No. 21/2014 s. 16(1).**
- S. 120(2)(ca) inserted by No. 92/2004 s. 6(2).**

s. 120

consumption off the premises to people of or over the age of 18 years and who is on the premises by reason of that employment; or

S. 120(2)(d) amended by No. 59/2009 s. 28.

(d) to the presence during ordinary trading hours on licensed premises or authorised premises of a person under the age of 18 years if the licence in respect of the premises is—

S. 120(2)(d)(i) inserted by No. 59/2009 s. 28.

(i) an on-premises licence where the permitted use of the licensed premises under the **Planning and Environment Act 1987** is that of a restaurant; or

S. 120(2)(d)(ii) inserted by No. 59/2009 s. 28.

(ii) a restaurant and cafe licence; or

S. 120(2)(e) amended by No. 58/2011 s. 104(Sch. item 4.182).

(e) to the presence on licensed premises or authorised premises of a person under the age of 18 years in accordance with the approval of the Commission and any conditions to which that approval is subject.

S. 120(2A) inserted by No. 92/2004 s. 18(1)(8), amended by No. 58/2011 s. 104(Sch. item 4.183).

(2A) A request for the Commission's approval for the purposes of subsection (2)(a)(i) must be accompanied by the fee specified in the regulations for the purposes of that subsection.

S. 120(2B) inserted by No. 21/2014 s. 16(2).

(2B) A notice for the purposes of subsection (2)(ba) must be given to the Commission at least 7 business days prior to the date of the live music event and must contain the following details—

- (a) the name of the event; and
- (b) the date and start and finish times of the event; and
- (c) the times at which persons under the age of 18 will be present at the event; and
- (d) any other prescribed details.

- (3) If the Commission grants or revokes an approval for the purposes of subsection (2)(a) or (e), the Commission must cause the licence or permit to be endorsed accordingly. **S. 120(3) amended by No. 58/2011 s. 104(Sch. item 4.184).**
- (4) It is a defence to a prosecution under this section for the defendant to prove that, at the time of the alleged offence, the defendant had seen an evidence of age document of the person whose age is material to the offence, indicating that that person is of or over the age of 18 years.
- (5) If an issue arises under this section as to whether a person accompanying a person under the age of 18 years is a responsible adult or not, the test to be used is whether or not a reasonable person would be justified in assuming at the relevant time that the accompanying person was a responsible adult. **S. 120(5) inserted by No. 92/2004 s. 4(2).**

121 Sending minor to obtain liquor

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

Penalty: 120 penalty units.

S. 121 amended by Nos 92/2004 s. 23(2)(a), 56/2014 s. 59.

122 Permitting minor to supply liquor

- (1) A licensee must not permit a person under the age of 18 years to supply liquor on the licensed premises or on any authorised premises. **S. 122(1) amended by Nos 92/2004 s. 23(2)(d), 56/2014 s. 60.**

Penalty: 120 penalty units.

Note

Section 53A applies to an offence against this subsection.

Note to s. 122(1) inserted by No. 13/2013 s. 29(1).

- (2) Subsection (1) does not apply to the supply of liquor on licensed or authorised premises by a person under the age of 18 years if the person is **S. 122(2) amended by No. 58/2011 s. 104(Sch. item 4.185).**

engaged in a training program approved by the Commission and is supplying the liquor in accordance with any conditions to which the Commission has determined that the training program is subject.

123 Offences by minors

- (1) A person under the age of 18 years—
- (a) must not purchase or receive liquor from another person; and
 - (b) must not possess or consume liquor; and
 - (c) must not enter or remain on any part of premises where liquor is served by a licensee—
 - (i) except for the purpose of partaking of a meal; or
 - (ii) unless the person is an employee or agent of the licensee or is acting under, or employed in connection with, a contract with the licensee; or
 - (iii) in the case of a general licence, a late night (general) licence, an on-premises licence or a late night (on-premises) licence under which accommodation is provided, unless the person is a resident of the licensed premises; or
 - (iv) unless, in accordance with the approval of the Commission under section 120(2)(a) or (e) and any conditions to which that approval is subject, the person is authorised to be present on the premises; or
 - (v) unless he or she is in the company of a responsible adult; or

S. 123(1)(c)(iii) amended by No. 59/2009 s. 30(i).

S. 123(1)(c)(iv) amended by No. 58/2011 s. 104(Sch. item 4.186).

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

- (vi) unless the person is engaged in a training program in hospitality or in training for the purposes of employment or work experience and the person is so present in accordance with any conditions to which that program or training is subject.

Penalty: 5 penalty units.

(2) Subsection (1) does not apply—

- (a) to the receipt, possession or consumption of liquor by a person under the age of 18 years as part of a meal if the person is accompanied by his or her spouse, being a person of or over the age of 18 years or his or her parent or guardian; or
- (b) to the purchase, receipt, possession or consumption of liquor by the spouse or a member of the family of a licensee or permittee; or
- (c) to the purchase, receipt, possession or consumption of liquor in licensed premises under a general licence or a late night (general) licence by the spouse of a resident who is of or over the age of 18 years; or
- (d) to the receipt or possession of packaged liquor from a licensee or permittee by a person who is—
- (i) a member of the family of the licensee or permittee; or
- (ii) an employee or apprentice of the licensee or permittee—

S. 123(2)(c)
amended by
No. 59/2009
s. 30(h).

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

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

S. 123(2)(f)
amended by
No. 59/2009
s. 30(h).

- (e) to the receipt, possession or consumption of liquor in a residence; or
- (f) to the possession or consumption of liquor by a person under the age of 18 years in licensed premises under a general licence or a late night (general) licence if the person—

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

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

- (3) Subsection (1)(c) does not apply to a person under the age of 18 years who enters or remains on premises during ordinary trading hours if the licence in respect of the premises is an on-premises licence that is subject to the conditions set out in section 9(3).
- (4) A person must not falsely represent himself or herself to be of or over the age of 18 years for the purpose of avoiding being found to be in contravention of subsection (1).

Penalty: 5 penalty units.

124 Wrongful dealing in evidence of age document

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

(b) to obtain a proof of age card for a person other than the person to whom the document was issued.

Penalty: 20 penalty units.

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

Penalty: 20 penalty units.

(3) A person must not—

(a) make a false document that could reasonably be taken to be an evidence of age document;
or

(b) give such a false document to another person—

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

Penalty: 20 penalty units.

125 Offence to falsely procure proof of age card

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

(1) A person who applies for a proof of age document must not, in support of that application—

(a) supply any information, document or material that he or she knows is false or misleading; or

(b) pass off any document or material that does not relate to him or her as a document or material that does relate to him or her.

Penalty: 20 penalty units.

(2) A person must not give a document or other material to another person if he or she knows—

(a) both that the other person intends to use the document or material to support an application for a proof of age document, and

- that the document or material contains information that is false or misleading; or
- (b) that the other person intends to use the document or material contrary to subsection (1)(b).

Penalty: 20 penalty units.

Division 3—Investigatory powers

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

S. 126(1)
amended by
Nos 8/2009
s. 18(1)(b),
37/2014
s. 10(Sch.
item 96.13).

(1) If—

S. 126(1)(a)
amended by
Nos 8/2009
s. 18(1)(a),
58/2011
s. 104(Sch.
item 4.187),
37/2014
s. 10(Sch.
item 96.13).

- (a) a police officer or a gambling and liquor inspector has reason to believe that a person appearing to be under the age of 18 years—
- (i) has requested or received a supply of liquor; or
- (ii) has consumed, is consuming or is about to consume liquor; or
- (iii) is on licensed premises or on any authorised premises—

in contravention of this Act; or

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

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

- (2) If a protective services officer on duty at a designated place has reason to believe that a person at or in the vicinity of a designated place who appears to be under the age of 18 years has consumed, is consuming or is about to consume liquor in contravention of this Act, the protective services officer may demand particulars of the person's age, name and address.

S. 126(2)
repealed by
No. 92/2004
s. 31, new
s. 126(2)
inserted by
No. 43/2011
s. 30(1).

* * * * *

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

- (4) A person must not—
- (a) refuse to give particulars of his or her age, name and address;
 - (b) give any false particulars of his or her age, name and address; or
 - (c) give any false evidence as to his or her age, name or address—

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

pursuant to a demand made under this section.

Penalty: 15 penalty units.

- (5) If a person refuses to give his or her name and address on being required to do so under this section, a police officer or a protective services officer referred to in subsection (2) may caution him or her and if he or she persists in the refusal, may arrest him or her without a warrant.
- (6) If a protective services officer arrests a person under subsection (5), the protective services officer must hand the person into the custody of a police officer as soon as practicable after the person is arrested.

S. 126(5)
amended by
Nos 43/2011
s. 30(2),
37/2014
s. 10(Sch.
item 96.13).

S. 126(6)
inserted by
No. 43/2011
s. 30(3),
amended by
No. 37/2014
s. 10(Sch.
item 96.13).

127 Seizure of evidence of age document

(1) A document (except a driver licence), that is represented to be an evidence of age document, may be seized by the person to whom it has been produced if that person is—

(a) a police officer; or

(ab) a gambling and liquor inspector; or

(ac) a protective services officer on duty at a designated place; or

(b) the licensee or permittee or an employee of the licensee or permittee of the licensed premises in or in the vicinity of which the document has been produced.

(2) A person must not seize a document under subsection (1) unless that person reasonably believes that—

(a) the person who produced the document is not the person to whom the document was issued; or

(b) the document contains false or misleading information about the name or age of the person who produced the document; or

(c) the document has been forged or fraudulently altered; or

(d) the document is being used in contravention of this Act.

S. 127(1)(a) amended by No. 37/2014 s. 10(Sch. item 96.13).

S. 127(1)(ab) inserted by No. 8/2009 s. 18(2)(a), amended by No. 58/2011 s. 104(Sch. item 4.188).

S. 127(1)(ac) inserted by No. 43/2011 s. 31(1).

- (3) If a document has been seized under subsection (1) by a person other than a police officer, a protective services officer or a gambling and liquor inspector, that person must give the document to a police officer.
- (4) A police officer, a protective services officer or a gambling and liquor inspector who has seized a document under subsection (1) or a police officer to whom a document has been given under subsection (3) must return the document within 28 days to the person who produced it unless—
- (a) the person who produced the document is not the person to whom the document was issued; or
 - (b) the document contains false or misleading information about the name or age of the person who produced the document; or
 - (c) the document has been forged or fraudulently altered; or
 - (d) the document is being used in contravention of this Act.

S. 127(3) amended by Nos 8/2009 s. 18(2)(b), 43/2011 s. 31(2), 58/2011 s. 104(Sch. item 4.188), 37/2014 s. 10(Sch. item 96.13).

S. 127(4) amended by Nos 8/2009 s. 18(2)(c), 43/2011 s. 31(3), 58/2011 s. 104(Sch. item 4.188), 37/2014 s. 10(Sch. item 96.13).

128 Seizure of liquor from minors

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

- (1) If a police officer, a protective services officer on duty at a designated place or a gambling and liquor inspector reasonably believes that a person under the age of 18 years is in possession of liquor in contravention of this Act, the police officer, protective services officer or inspector may seize and tip out or take away the liquor or cause the

S. 128(1) amended by Nos 8/2009 s. 18(3), 43/2011 s. 32, 58/2011 s. 104(Sch. item 4.189), 1/2013 s. 3(1), 37/2014 s. 10(Sch. item 96.14(a)).

liquor to be seized and tipped out or taken away, together with any vessel containing it.

S. 128(2)
inserted by
No. 92/2004
s. 8,
substituted by
No. 1/2013
s. 3(2),
amended by
No. 37/2014
s. 10(Sch.
item 96.14(b)).

- (2) A police officer, protective services officer on duty at a designated place or gambling and liquor inspector who seizes and tips out liquor under subsection (1) must do so as soon as is practicable after seizure.

S. 128(3)
inserted by
No. 1/2013
s. 3(3).

- (3) If liquor is seized and tipped out under subsection (1), it is taken to have been forfeited to the Crown immediately before it is tipped out.

S. 128(4)
inserted by
No. 1/2013
s. 3(3).

- (4) If liquor is seized and taken away under subsection (1) and the person from whom the liquor was seized is found guilty by a court of possessing the liquor in contravention of this Act, the court may order that the liquor be forfeited to the Crown or be destroyed or otherwise disposed of.

S. 128(5)
inserted by
No. 1/2013
s. 3(3).

- (5) No compensation is payable by the Crown in respect of any liquor tipped out, forfeited, destroyed or otherwise disposed of under this section.

S. 129
amended by
Nos 92/2004
s. 23(2)(e),
108/2004
s. 117(1)
(Sch. 3
item 115.1),
substituted by
No. 8/2009
s. 19.

129 Right of entry

- (1) An authorised person may enter and remain on licensed premises for the purposes of exercising his or her functions under this Act.
- (2) The power of entry may be exercised—
- (a) at any time when the premises are open to the public; or

- (b) at any time—
- (i) if the authorised person reasonably suspects that the business of supplying liquor to the public is being carried on on the premises; or
 - (ii) with the written consent of the occupier.
- (3) An authorised person who enters premises under this section is not authorised to remain on the premises if, on the request of the occupier of the premises, the authorised person does not show his or her identity card to the occupier.
- (4) Subsection (3) does not apply to a police officer if he or she is in uniform.
- (5) If an occupier consents to the entry of premises under this section, the authorised person must give the occupier a copy of the consent immediately.
- (6) A person may not, under this section, enter a room in licensed premises under a general licence or a late night (general) licence which is occupied by or reserved for the private use of the licensee or permittee unless the person—
- (a) has first given notice of his or her intention to the licensee or permittee or (in the absence of the licensee or permittee) to the person appearing to be in charge of the licensed premises and has given the licensee, permittee or person an opportunity to be present; or
 - (b) has obtained the consent of the licensee, permittee or person to enter the room.

S. 129(4)
amended by
Nos 58/2011
s. 104(Sch.
item 4.190),
37/2014
s. 10(Sch.
item 96.15).

S. 129(6)
amended by
No. 59/2009
s. 30(h).

s. 130

S. 129(7)
amended by
No. 59/2009
s. 30(h).

- (7) A person may not, under this section, enter a room in licensed premises under a general licence or a late night (general) licence which is occupied by or set apart for the private use of a resident unless the person has obtained the consent of the resident to enter the room.
- (8) If, in any proceeding, a written consent is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry.

S. 130
amended by
No. 92/2004
s. 32,
substituted by
No. 8/2009
s. 19.

130 Powers of authorised persons

- (1) An authorised person may do any one or more of the following—
- (a) require any person in possession of, or having control of, any document, equipment or other thing relating to an activity regulated by this Act to produce the document, equipment or other thing for inspection and to answer questions or provide information relating to the document, equipment or other thing;
 - (b) inspect any document, equipment or other thing referred to in paragraph (a);
 - (c) take copies of, extracts from, or notes relating to, any document inspected under paragraph (b);
 - (d) if the authorised person considers it necessary to do so for the purpose of obtaining evidence of the commission of an offence, seize any document, equipment or other thing;
 - (e) by written notice require—
 - (i) the holder of a licence or BYO permit or other authorisation under this Act; or

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- (ii) an employee of a person referred to in subparagraph (i); or
 - (iii) any other person associated with operations or their management in premises the authorised person is authorised to enter—

to attend before the authorised person at a specified time or place and answer questions, or to provide information within a reasonable period specified in the notice, with respect to any activity regulated by this Act;
 - (f) examine and test any equipment referred to in paragraph (a) and order the person in charge of the equipment to withdraw it from use if it is unsatisfactory for use;
 - (g) any other thing authorised by this Act to be done by an authorised person.
- (2) If an authorised person seizes any thing under this section, it may be retained by the authorised person until the completion of any proceedings (including proceedings on appeal) in which it may be evidence but only if, in the case of a document, the person from whom the document was seized is provided, within a reasonable time after the seizure, with a copy of the document certified by an authorised person as a true copy.
- (3) Subsection (2) ceases to have effect in relation to things seized if, on the application of a person aggrieved by the seizure, the court in which proceedings referred to in that subsection are instituted so orders.
- (4) A copy of a document provided under subsection (2) is, as evidence, of equal validity to the document of which it is certified to be a copy.

s. 130A

S. 130A
inserted by
No. 92/2004
s. 33,
substituted by
No. 8/2009
s. 19.

130A Power to require names and addresses

- (1) An authorised person who exercises a right of entry to premises under section 129 or under a search warrant may require a person on the premises to state the person's full name and residential address.
- (2) An authorised person is not authorised to require a person to state his or her name or address unless the authorised person—
 - (a) suspects on reasonable grounds that the person has committed an offence; and
 - (b) has informed the person, at the time of stating the requirement, that it is an offence to fail to comply with the requirement.
- (3) A person on being required under subsection (1) to state his or her full name and residential address must not—
 - (a) refuse or fail to give his or her full name and residential address; or
 - (b) give a false name or address.

Penalty: 20 penalty units.

S. 130B
inserted by
No. 8/2009
s. 19.

130B Search warrants

- (1) An authorised person may apply to a magistrate for the issue of a search warrant in relation to particular premises if the authorised person suspects on reasonable grounds that—
 - (a) liquor is supplied on the premises by a person—
 - (i) who does not hold a licence authorising the supply; and
 - (ii) who is required under this Act to hold such a licence to supply the liquor; or

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- (b) in the case of premises occupied by a club in respect of which a licence is not in force, liquor is supplied or kept for supply on the premises; or
- (c) there is on the premises any document, equipment or other thing—
- (i) in relation to which an offence against this Act or the regulations has been, is being, or is likely to be, committed; or
 - (ii) that may be evidence of the commission of an offence against this Act or the regulations.
- (2) If a magistrate is satisfied by the evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting any of the matters referred to in subsection (1), the magistrate may issue a search warrant authorising an authorised person named in the warrant and any assistants the authorised person considers necessary—
- (a) to enter the premises, or the part of premises, named or described in the warrant; and
 - (b) to search for and seize any document, equipment or other thing named or described in the warrant.
- (3) In addition to any other requirement, a search warrant issued under this section must state—
- (a) the offence suspected; and
 - (b) the premises to be searched; and
 - (c) a description of the thing for which the search is to be made; and
 - (d) any conditions to which the warrant is subject; and

s. 130C

- (e) whether entry is authorised to be made at any time or during stated hours; and
 - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
- (4) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the form prescribed under that Act.
- (5) The rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.
- (6) An authorised person who is a gambling and liquor inspector may apply for a search warrant under this section only with the prior written consent of the Commission.

S. 130B(6)
amended by
No. 58/2011
s. 104(Sch.
item 4.191).

S. 130C
inserted by
No. 8/2009
s. 19.

130C Announcement before entry

- (1) Before executing a search warrant, the person named in the warrant or a person assisting him or her must—
- (a) announce that he or she is authorised by the warrant to enter the premises; and
 - (b) give any person at the premises an opportunity to allow entry to the premises.
- (2) The person named in the warrant or a person assisting him or her need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure—
- (a) the safety of any person; or
 - (b) that the effective execution of the search warrant is not frustrated.

130D Copy of warrant to be given to occupier

If the occupier or another person who apparently represents the occupier is present at the premises when a search warrant is being executed, the authorised person must—

- (a) identify himself or herself to that occupier or other person by producing his or her identity card for inspection by that occupier or other person, unless the authorised person is a police officer who is in uniform; and
- (b) give to that occupier or other person a copy of the execution copy of the warrant.

S. 130D
inserted by
No. 8/2009
s. 19.

S. 130D(a)
amended by
No. 37/2014
s. 10(Sch.
item 96.15).

130E Offences relating to obstruction of authorised persons

A person must not—

- (a) obstruct, hinder, threaten, abuse or intimidate an authorised person when the authorised person is performing or attempting to perform functions under this Act or the regulations; or
- (b) fail, without reasonable excuse, to produce for inspection any document, equipment or other thing in the possession or under the control of the person when required to do so by an authorised person in the performance of his or her functions under this Act or the regulations; or
- (c) fail, without reasonable excuse, to attend before an authorised person and answer questions or supply information when required to do so by the authorised person in the performance of his or her functions under this Act or the regulations; or

S. 130E
inserted by
No. 8/2009
s. 19.

- (d) except with the permission of an authorised person, take any document, equipment or other thing seized, impounded or retained under the authority of this Act; or
- (e) fail to comply with a direction of an authorised person to cease to have available for use any equipment considered by the authorised person to be unsatisfactory for use; or
- (f) prevent, directly or indirectly, a person from attending before an authorised person, producing to an authorised person any document, equipment or other thing or answering any question of, or supplying any information to, an authorised person when that person is required to do so under this Act.

Penalty: 60 penalty units.

S. 130F
inserted by
No. 8/2009
s. 19.

130F Protection against self-incrimination

- (1) It is a reasonable excuse for a person to refuse or fail to answer questions or provide information that the person is required to answer or provide by or under this Act if the answering of the question or provision of the information would tend to incriminate the person.
- (2) It is not a reasonable excuse for a person to refuse or fail to produce any document, equipment or other thing that a person is required to produce by or under this Act on the ground that the production of the document, equipment or other thing would tend to incriminate the person.
- (3) If the person claims, before producing the document, equipment or other thing, that production of the document, equipment or other thing would tend to incriminate them, the document, equipment or other thing is not

admissible in evidence against the person in criminal proceedings.

131 Power to seize liquor in certain cases

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

(a) any liquor is served for supply on the licensed premises; or

(b) any liquor is being carried away from the licensed premises by a person other than, in the case of a general licence, a late night (general) licence, an on-premises licence or a late night (on-premises) licence relating to licensed premises where accommodation for residents is provided, a resident—

a police officer or a gambling and liquor inspector may seize or cause to be seized any such liquor together with the vessel containing it.

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

S. 131(1) amended by Nos 8/2009 s. 20(1)(a), 58/2011 s. 104(Sch. item 4.192), 37/2014 s. 10(Sch. item 96.16(a)).

S. 131(1)(b) amended by Nos 39/2002 s. 12(b), 59/2009 s. 30(j).

S. 131(2) amended by Nos 8/2009 s. 20(1)(b), 58/2011 s. 104(Sch. item 4.192), 37/2014 s. 10(Sch. item 96.16(b)).

132 Police to assist if person asked to leave premises

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

S. 132 amended by No. 37/2014 s. 10(Sch. item 96.17).

s. 133C

the licensee or permittee has asked to leave the licensed premises or authorised premises.

S. 133 amended by Nos 92/2004 s. 34, 108/2004 s. 117(1) (Sch. 3 item 115.1), repealed by No. 8/2009 s. 20(2).

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Ss 133A, 133B inserted by No. 92/2004 s. 35, repealed by No. 8/2009 s. 20(2).

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

133C Access to seized documents

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

S. 133C(2) substituted by No. 8/2009 s. 20(3).

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

133D Use of equipment to examine or process documents

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

(b) the occupier of the premises consents in writing—

the documents may be moved to another place so that the examination or processing can be carried out in order to determine whether they are documents that may be seized.

(3) The authorised person, or a person assisting the authorised person, may operate equipment already at the premises to carry out the examination or processing of a document found at the premises in order to determine whether it is a document that may be seized, if the authorised person or person assisting believes on reasonable grounds that—

(a) the equipment is suitable for the examination or processing; and

(b) the examination or processing can be carried out without damage to the equipment or the document.

133E Use or seizure of electronic equipment at premises

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

(1) If—

(a) a thing found at any premises is, or includes, a disk, tape or other device for the storage of information; and

(b) equipment at the premises may be used with the disk, tape or other storage device; and

(c) the authorised person believes on reasonable grounds that the information stored on the disk, tape or other storage device is relevant to furthering the purpose of the authorised person's inspection—

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

s. 133F

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

S. 133E(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.193).

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

Division 3A—Undertakings by licensees

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

133F Undertakings

- (1) The Commission may accept a written undertaking given by a licensee in connection with—

S. 133F(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.194).

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

S. 133F(1)(a) amended by No. 58/2011 s. 104(Sch. item 4.194).

S. 133F(2) amended by No. 58/2011 s. 104(Sch. item 4.194).

S. 133F(3) amended by No. 58/2011 s. 104(Sch. item 4.194).

133G Register of undertakings

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

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

S. 133G(1) amended by No. 58/2011 s. 104(Sch. item 4.195).

Pt 8 Div. 3B
(Heading and
ss 133H–
133L)
inserted by
No. 58/2011
s. 61.

Division 3B—Injunctive relief

S. 133H
inserted by
No. 58/2011
s. 61.

133H Injunctions to restrain conduct

- (1) The Commission may apply to the Supreme Court, County Court or Magistrates' Court for the grant of an injunction restraining a person from engaging in conduct that constitutes—
 - (a) a contravention of any provision of this Act; or
 - (b) attempting or conspiring to contravene such a provision; or
 - (c) aiding, abetting, counselling or procuring a person to contravene such a provision; or
 - (d) inducing or attempting to induce a person, whether by threats, promises or otherwise, to contravene such a provision; or
 - (e) being in any way directly or indirectly, knowingly concerned in, or party to, the contravention by a person of such a provision.
- (2) The Court may grant an injunction restraining a person from engaging in conduct of the kind referred to in paragraphs (a) to (e) of subsection (1)—
 - (a) if the Court is satisfied that the person is engaging in or has been engaging in conduct of that kind, whether or not it appears to the Court that the person intends to engage again or continue to engage in the conduct; or

- (b) if it appears to the Court that, in the event that the injunction is not granted, it is likely that the person will engage in conduct of that kind, whether or not that person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind; or
 - (c) if the Court determines it to be appropriate, by consent of all the parties to the proceedings, whether or not the person has engaged in, or is likely to engage in conduct of that kind.
- (3) An application for an injunction under this section may be made *ex parte*.

133I Injunctions to do an act or thing

- (1) The Supreme Court, County Court or Magistrates' Court, on the application of the Commission, may grant an injunction requiring a person to do any act or thing if the Court is satisfied that the person is engaging in or has been engaging in conduct that constitutes—
- (a) a contravention of any provision of this Act; or
 - (b) attempting or conspiring to contravene such a provision; or
 - (c) aiding, abetting, counselling or procuring a person to contravene such a provision; or
 - (d) inducing or attempting to induce a person, whether by threats, promises or otherwise, to contravene such a provision; or

S. 133I
inserted by
No. 58/2011
s. 61.

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- (e) being in any way directly or indirectly, knowingly concerned in, or party to, the contravention by a person of such a provision.
- (2) The power of the Court under this section to grant an injunction requiring a person to do an act or thing may be exercised—
- (a) whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; and
 - (b) whether or not the person has previously refused or failed to do that act or thing; and
 - (c) whether or not there is an imminent danger of substantial damage to any person if the first person refuses or fails to do that act or thing.
- (3) Without limiting subsection (1), an injunction under this section may require a person—
- (a) to institute a training program for the person's employees in relation to compliance with this Act;
 - (b) to disclose information about the person's business activities or associates;
 - (c) to destroy or dispose of goods used for the purpose of a contravention of this Act;
 - (d) to pay money into a fund established to minimise, or promote the minimisation of, harm arising from the misuse or abuse of alcohol;
 - (e) to publish, at the person's expense and in the way specified in the order, an advertisement in the terms specified in, or determined in accordance with, the injunction.

- (4) An application for an injunction under this section may be made *ex parte*.

133J Interim injunctions

S. 133J
inserted by
No. 58/2011
s. 61.

- (1) The Supreme Court, County Court or Magistrates' Court may grant an interim injunction pending determination of an application under section 133H, if, in the opinion of the Court it is desirable to do so—
- (a) whether or not it appears to the Court that the person intends to engage in or continue to engage in conduct of the kind referred to in paragraphs (a) to (e) of section 133H(1); or
 - (b) whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind.
- (2) The Court may grant an interim injunction pending determination of an application under section 133I in relation to an act or thing, if, in the opinion of the Court it is desirable to do so—
- (a) whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; and
 - (b) whether or not the person has previously refused or failed to do that act or thing; and
 - (c) whether or not there is an imminent danger of substantial damage to any person if the first person refuses or fails to do that act or thing.
- (3) An application for an injunction under this section may be made *ex parte*.

s. 133K

S. 133K
inserted by
No. 58/2011
s. 61.

133K Power to rescind or vary injunctions

The Supreme Court, County Court or Magistrates' Court may rescind or vary an injunction granted by it under section 133H or 133I or an interim injunction granted by it under section 133J.

S. 133L
inserted by
No. 58/2011
s. 61.

133L Undertakings as to damages and costs

In an application for an injunction under section 133H or 133I or if the application has been made by the Commission and if the Court has determined to grant an interim injunction, the Court must not, as a condition of granting the interim injunction, require the applicant or any other person to give any undertaking as to damages or costs.

Division 4—Legal proceedings

134 Presumption as to holder of licence or permit

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

135 Averments

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

- (a) that any liquid is or may be liquor; or
- (b) that a person present on licensed premises under a general licence, a late night (general) licence, an on-premises licence or a late night (on-premises) licence relating to licensed premises where accommodation for residents is provided is not a resident; or
- (c) that premises on which an alleged offence took place were licensed premises or authorised premises; or

S. 135(b)
amended by
Nos 39/2002
s. 12(b),
59/2009
s. 30(k).

- (d) that a person had not attained the age of 18 years—

the averment is evidence—

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

136 Sufficient evidence of certain matters

- (1) For the purposes of this Act—
- (a) proof of the delivery of liquor is evidence of the supply of liquor and of money or other consideration having been given for the liquor;
- (b) proof that a transaction in the nature of a sale or other supply of liquor took place is evidence of the sale or other supply of liquor;
- (c) proof that consumption of liquor was about to take place is evidence of the consumption of liquor;
- (d) proof that liquor was consumed or intended to be consumed by a person on licensed premises contrary to the provisions of the licence or BYO permit or this Act is evidence that the licensee or permittee supplied liquor to that person.
- (2) In any proceeding against a person under this Act, an allegation in a charge-sheet or an oral allegation by the informant or a licensing inspector that—

S. 136(2)
amended by
No. 68/2009
s. 97(Sch.
item 78.2).

s. 136

- (a) a person is a licensee or permittee in relation to any licensed premises; or
- (b) a person is not a licensee or permittee; or
- (c) a person is a person to whom a licence or permit has been transferred; or
- (d) a person is, or is not, a licensee or permittee; or
- (e) a person is a commissioner or a licensing inspector—

S. 136(2)(e)
amended by
No. 57/2010
s. 20, 58/2011
s. 104(Sch.
item 4.196).

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

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

- (a) a certificate purporting to be under the hand of a commissioner stating that on a day specified in the certificate a person named in the certificate was a delegate of the commissioner to whom the powers of the commissioner specified in the certificate were delegated on terms, if any, so specified;
- (b) a certificate purporting to be under the hand of a commissioner stating that on a day specified in the certificate the Commissioner of State Revenue had an authority referred to in section 129(6) or 133(6).

S. 136(3)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.197).

S. 136(3)(b)
amended by
No. 58/2011
s. 104(Sch.
item 4.198).

S. 136(3)(c)
repealed by
No. 58/2011
s. 104(Sch.
item 4.199).

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137 Copies of certain documents

- (1) The production of a document under the hand of a commissioner purporting to be a copy of a document issued by the commissioner is evidence that the document was so issued. **S. 137(1) amended by No. 58/2011 s. 104(Sch. item 4.200).**
- (2) The production of a document under the hand of a commissioner (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 commissioner) is for all purposes sufficient evidence of the matters set forth in it, without production of the original. **S. 137(2) amended by No. 58/2011 s. 104(Sch. item 4.201).**

138 Property forfeited

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

139 Concurrent proceedings

- If, in respect of anything done or omitted to be done under this Act—
- (a) proceedings are brought against a person; and
- S. 139 amended by No. 58/2011 s. 104(Sch. item 4.202).**

S. 139(b)
amended by
No. 58/2011
s. 104(Sch.
item 4.202).

(b) the Commission wishes to make a decision
under this Act—

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

140 Notice of conviction

S. 140(1)
amended by
Nos 88/2001
s. 9, 58/2011
s. 104(Sch.
item 4.203).

(1) If a licensee or permittee is convicted of an
offence against this Act or the regulations, the
principal registrar of the Magistrates' Court must
give written notice of the conviction to the
Commission as soon as practicable after the
conviction.

S. 140(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.203).

(2) If a notice under subsection (1) relates to a
licensee or permittee of licensed premises of
which the licensee or permittee is not the owner,
the Commission must send a copy of the notice to
the owner of the licensed premises.

Division 5—Infringement notices

141 Power to serve an infringement notice

S. 141(1)
amended by
No. 37/2014
s. 10(Sch.
item 96.18).

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

S. 141(1AA)
inserted by
No. 8/2009
s. 21(1),
amended by
Nos 88/2009
s. 8(2)(a),
12/2011
s. 8(1),
58/2011
s. 104(Sch.
item 4.204).

(1AA) If a gambling and liquor inspector has reason to
believe that a person has committed an offence
referred to in subsection (2) (other than
subsection (2)(dd), (de), (df), (dg), (dh), (fc), (gb),
(gc), (m) or (n)), he or she may serve an
infringement notice on that person.

- (1AB) If a protective services officer has reason to believe that a person has committed an offence against section 123(1)(b) at or in the vicinity of a designated place, he or she may serve an infringement notice on that person. **S. 141(1AB) inserted by No. 43/2011 s. 33(1).**
- (1A) An offence referred to in subsection (1), (1AA) or (1AB) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**. **S. 141(1A) inserted by No. 32/2006 s. 87(2), amended by Nos 8/2009 s. 21(2)(a), 43/2011 s. 33(2).**
- (1B) Despite subsection (1), an infringement notice must not be served under subsection (1) on a person who is under 18 years of age at the time of the alleged offence in respect of the following offences—
- (a) an offence against section 113(1), (1A), (1B) or (1C);
 - (b) an offence against section 114(1);
 - (c) an offence against section 114(2).
- (2) An infringement notice may be served in respect of an offence against—
- (aaa) section 54(11) (failure to notify Commission of person ceasing to be nominee); **S. 141(2)(aaa) inserted by No. 71/2011 s. 21(a).**
 - (a) section 98 (owners and mortgagees of licensed premises); **S. 141(2)(a) substituted by No. 92/2004 s. 36(a).**
 - (aa) section 99 (refreshments to be available); **S. 141(2)(aa) inserted by No. 92/2004 s. 36(a).**

Liquor Control Reform Act 1998
No. 94 of 1998
Part 8—Offences and Enforcement

s. 141

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- S. 141(2)(aab)**
inserted by
No. 57/2010
s. 21(1).
- (aab) section 99A (free drinking water to be provided);
- S. 141(2)(ab)**
inserted by
No. 92/2004
s. 36(a).
- (ab) section 100 (except paragraph (d)) (residents' register);
- (b) section 101 (failure to display licence or permit on licensed premises);
- S. 141(2)(ba)**
inserted by
No. 92/2004
s. 36(b),
amended by
No. 8/2009
s. 21(2)(b).
- (ba) section 101B(2) (failure to produce plan of premises on request);
- (c) section 102 (failure to display notice on licensed premises or to comply with requirements for display);
- (d) section 103 (failure to notify change of director or obtain approval for new director);
- S. 141(2)(daa)**
inserted by
No. 32/2006
s. 86(1)(a),
amended by
No. 58/2011
s. 104(Sch.
item 4.205(a)).
- (daa) section 103A(2) (failure to notify the Commission in writing within 14 days of a person ceasing to be an associate of a licensee or permittee or a person becoming an associate of a licensee or permittee);
- S. 141(2)(da)**
inserted by
No. 92/2004
s. 36(c).
- (da) section 105 (no letting or sub-letting without consent);
- S. 141(2)(db)**
inserted by
No. 32/2006
s. 86(1)(b),
amended by
No. 58/2011
s. 104(Sch.
item 4.205(b)).
- (db) section 106(1) (permit any other person to carry on a business of supplying liquor on the licensed premises of a licensee or permittee or permit any person who is not employed by the licensee or permittee to be engaged in the carrying on of such a business

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- other than in accordance with the written consent of the Commission);
- (dc) section 106B (failure to notify Commission that sexually explicit entertainment provided on licensed premises);
- (dd) section 106H(3)(a) (refusal to give name or address);
- (de) section 106H(3)(b) (giving a false name or address);
- (df) section 106H(7) (refusal to provide evidence of name or address);
- (dg) section 106J(1) (entering or remaining on licensed premises from which a person is barred);
- (dh) section 106J(2) (re-entering or remaining in the vicinity of licensed premises from which a person is barred);
- (di) section 106K(1) (failure to keep records of barring orders);
- (dj) section 106K(2) (failure to produce records of barring orders upon request);
- (dk) section 106K(4) (unauthorised disclosure of records);
- S. 141(2)(dc) inserted by No. 57/2010 s. 21(2), amended by No. 58/2011 s. 104(Sch. item 4.205(c)).
- S. 141(2)(dd) inserted by No. 12/2011 s. 8(2).
- S. 141(2)(de) inserted by No. 12/2011 s. 8(2).
- S. 141(2)(df) inserted by No. 12/2011 s. 8(2).
- S. 141(2)(dg) inserted by No. 12/2011 s. 8(2).
- S. 141(2)(dh) inserted by No. 12/2011 s. 8(2).
- S. 141(2)(di) inserted by No. 12/2011 s. 8(2).
- S. 141(2)(dj) inserted by No. 12/2011 s. 8(2).
- S. 141(2)(dk) inserted by No. 12/2011 s. 8(2).

Liquor Control Reform Act 1998
No. 94 of 1998
Part 8—Offences and Enforcement

s. 141

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- S. 141(2)(dl)
inserted by
No. 12/2011
s. 8(2).
- (dl) section 106K(5) (failure to destroy records of barring orders);
- (e) section 108 (certain offences by licensee or permittee);
- S. 141(2)(ea)
inserted by
No. 92/2004
s. 36(d),
repealed by
No. 12/2011
s. 12.
- * * * * *
- S. 141(2)(eab)
inserted by
No. 57/2010
s. 21(3),
amended by
No. 12/2011
s. 8(3).
- (eab) section 108AA (licensee, or the responsible person, must complete refresher approved responsible service of alcohol programs);
- S. 141(2)(eac)
inserted by
No. 57/2010
s. 21(3).
- (eac) section 108AB (licensee must ensure staff complete approved responsible service of alcohol programs);
- S. 141(2)(ead)
inserted by
No. 57/2010
s. 21(3).
- (ead) section 108AC (licensee must ensure staff complete refresher approved responsible service of alcohol programs);
- S. 141(2)(eae)
inserted by
No. 57/2010
s. 21(3).
- (eae) section 108AD (licensee must keep approved responsible service of alcohol register);
- S. 141(2)(eaf)
inserted by
No. 57/2010
s. 21(3).
- (eaf) section 108AE (licensee must produce approved responsible service of alcohol program register for inspection);
- S. 141(2)(eb)
inserted by
No. 92/2004
s. 36(d).
- (eb) section 108B (except subsection (3)) (corporate licensee must provide details of directors);
- (f) section 109 (taking orders at unlicensed premises);

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|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| (fa) section 111(a) (certain offences at licensed premises contrary to the licence or permit); | S. 141(2)(fa) inserted by No. 92/2004 s. 36(e). |
| (fb) section 113(1), (1A), (1B) or (1C) (consuming or having liquor on unlicensed premises); | S. 141(2)(fb) inserted by No. 9/2008 s. 7(a). |
| (fc) section 113A(1) (consumption of liquor on party buses); | S. 141(2)(fc) inserted by No. 88/2009 s. 8(2)(b). |
| (g) section 114(1) (certain offences by non-licensees); | S. 141(2)(g) amended by No. 9/2008 s. 7(b). |
| (ga) section 114(2) (refusal or failure by person who is drunk, violent or quarrelsome to leave licensed premises when requested to do so); | S. 141(2)(ga) inserted by No. 9/2008 s. 7(c). |
| (gb) section 114(3) (remaining in the vicinity of licensed premises after being refused entry or requested to leave); | S. 141(2)(gb) inserted by No. 12/2011 s. 8(4). |
| (gc) section 114(4) (entering licensed premises within 24 hours of being refused entry or being requested to leave); | S. 141(2)(gc) inserted by No. 12/2011 s. 8(4). |
| (h) section 115 (betting on licensed premises); | |
| (i) section 116 (falsely indicating premises as licensed); | |
| (ia) section 118A (supplying alcohol-based food essences); | S. 141(2)(ia) inserted by No. 88/2001 s. 10(1). |
| (ib) a regulation made under section 118B (prohibition of the supply of liquor); | S. 141(2)(ib) inserted by No. 88/2001 s. 10(1). |
| (j) Division 2 of Part 8 (offences in relation to underage drinking); | |

s. 144

- S. 141(2)(k)
amended by
No. 92/2004
s. 36(f).
- (k) section 126(4) (name and address of minor);
- S. 141(2)(l)
inserted by
No. 92/2004
s. 36(g),
amended by
No. 73/2007
s. 6(a),
substituted by
No. 8/2009
s. 21(2)(c).
- (l) section 130A(3) (refuse or fail to give name and residential address);
- S. 141(2)(m)
inserted by
No. 73/2007
s. 6(b).
- (m) section 148F(1) or (2) (contravening banning notice or failing to comply with police directions);
- S. 141(2)(n)
inserted by
No. 73/2007
s. 6(b),
amended by
No. 71/2011
s. 21(b).
- (n) section 148J(1) or (2) (contravening exclusion order or failing to comply with police directions);
- S. 141(2)(o)
inserted by
No. 71/2011
s. 21(c).
- (o) clause 25(2), (3), (4), (5), (6), (7) or (9) of Schedule 3 (transitional provisions—**Liquor Control Reform Amendment Act 2010**);
- S. 141(2)(p)
inserted by
No. 71/2011
s. 21(c).
- (p) clause 26 (transitional provision—**Liquor Control Reform Further Amendment Act 2011**).
- Ss 142, 143
repealed by
No. 32/2006
s. 87(3).
- * * * * *

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

144 Infringement penalties

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

- (2) Despite subsection (1), the infringement penalty for an offence against section 103A(2) is 1 penalty unit. S. 144(2) inserted by No. 32/2006 s. 86(2).
- (3) Despite subsection (1), the infringement penalty for an offence against section 113(1), (1A), (1B) or (1C) is 2 penalty units. S. 144(3) inserted by No. 9/2008 s. 8(2).
- (4) Despite subsection (1), the infringement penalty for an offence against section 113A(1) is 2 penalty units. S. 144(4) inserted by No. 88/2009 s. 8(1).
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- * * * * *
- S. 144(5) inserted by No. 18/2010 s. 48, repealed by No. 71/2011 s. 22.
- S. 145 repealed by No. 32/2006 s. 87(3).

146 Effect of expiation

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

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

Division 6—Liquor accords

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

146A Definitions

In this Division—

agreement includes a contract, arrangement or understanding;

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

s. 146B

S. 146A def. of
liquor accord
amended by
No. 58/2011
s. 104(Sch.
item 4.206).

liquor accord means a code of practice or an agreement—

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

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

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

146B Liquor accord terms

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

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

146C Competition and Consumer Act and Competition Code

For the purposes of the Competition and Consumer Act 2010 of the Commonwealth and the Competition Code, the following conduct is authorised by this Act—

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

S. 146C (Heading) amended by No. 21/2012 s. 239(Sch. 6 item 26.1).

S. 146C inserted by No. 73/2007 s. 24, amended by No. 21/2012 s. 239(Sch. 6 item 26.2).

146D Information disclosure in relation to liquor accord bans

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

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

S. 146D inserted by No. 73/2007 s. 24, amended by Nos 58/2011 s. 104(Sch. item 4.207), 37/2014 s. 10(Sch. item 96.19(a)).

S. 146D(d) amended by Nos 58/2011 s. 104(Sch. item 4.207), 37/2014 s. 10(Sch. item 96.19(b)).

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

Pt 8 Div. 7
(Heading and
ss 146E, 146F)
inserted by
No. 64/2014
s. 46.

Division 7—Advanced RSA programs

S. 146E
inserted by
No. 64/2014
s. 46.

146E Approval of advanced RSA programs

The Commission may, from time to time, approve training programs to be approved advanced RSA programs for the purposes of this Act.

S. 146F
inserted by
No. 64/2014
s. 46.

146F Direction to complete approved advanced RSA program

- (1) The Minister, by notice published in the Government Gazette, may direct that a person who is in a class of persons specified in the direction must complete an approved advanced RSA program within the period specified in the direction.
- (2) A direction under subsection (1) may be given only in relation to classes of persons who are licensees or persons who sell, offer for sale or serve liquor on licensed premises.
- (3) A person to whom a direction applies must comply with the direction.
- (4) If a direction applies to a person (other than the licensee) who sells, offers for sale or serves liquor on licensed premises, the licensee of the premises must ensure that the person complies with the direction.

PART 8A—BANNING NOTICES AND EXCLUSION ORDERS

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

Division 1—Designated areas

147 Order declaring designated area

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

(1) The Commission, by Order published in the Government Gazette, may declare an area to be a designated area for the purposes of this Part if the Commission believes that—

S. 147(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.208).

(a) alcohol-related violence or disorder has occurred in a public place that is in the immediate vicinity of licensed premises within the area; and

(b) the exercise of powers under Division 2 or 3 of this Part in relation to the area is reasonably likely to be an effective means of reducing or preventing the occurrence of alcohol-related violence or disorder in the area.

(2) Before making an Order, the Commission must consult the Chief Commissioner.

S. 147(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.208).

(3) A reference in this section to the immediate vicinity of licensed premises means a place that is within 100 metres of the licensed premises.

(4) In this section—

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

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

148 Court proceedings regarding Order

- (1) In any proceeding in which the validity of an Order made under section 147 is called into question, the court hearing the proceeding must not stay the operation of the Order pending the final determination of the proceeding, unless the court considers that there are exceptional circumstances.
- (2) If a court finds that an Order made under section 147 is invalid, that finding does not affect the validity, in relation to any period before that finding, of—
 - (a) any banning notice given or exclusion order made in relation to the designated area that is the subject of the Order; and
 - (b) anything done under this Part in reliance on that banning notice or exclusion order.

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

148A Variation and revocation of Order

S. 148A(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.209).

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

S. 148A(1)(b)
amended by
No. 58/2011
s. 104(Sch.
item 4.209).

Division 2—Banning notices

148B Issue of banning notice

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

(1) A police officer who suspects on reasonable grounds that a person is committing or has committed a specified offence wholly or partly in a designated area may give the person a notice banning the person, for the period specified in the notice, from—

S. 148B(1)
amended by
Nos 57/2010
s. 22, 37/2014
s. 10(Sch.
item 96.20(a)).

(a) the designated area; or

(b) all licensed premises in the designated area.

(2) The period specified in the banning notice must not exceed 72 hours starting from the time the notice is given to the person to whom it applies.

S. 148B(2)
amended by
No. 18/2010
s. 49.

(3) A police officer cannot give a banning notice to a person unless the police officer—

S. 148B(3)
amended by
Nos 57/2010
s. 22, 37/2014
s. 10(Sch.
item 96.20(b)).

(a) believes on reasonable grounds that the giving of the notice may be effective in preventing the person from—

(i) continuing to commit the specified offence; or

(ii) committing a further specified offence; and

(b) considers that the continuation of the commission of the specified offence or the commission of a further specified offence may involve or give rise to a risk of alcohol-related violence or disorder in the designated area.

Liquor Control Reform Act 1998
No. 94 of 1998
Part 8A—Banning Notices and Exclusion Orders

s. 148B

S. 148B(4)
amended by
Nos 57/2010
s. 22, 37/2014
s. 10(Sch.
item
96.20(c)(i)).

- (4) In determining whether there are reasonable grounds for his or her belief under subsection (3)(a), the police officer must consider—
- (a) the apparent state of health of the person to whom the notice is to apply; and
 - (b) whether the person is likely to—
 - (i) continue to commit the specified offence; or
 - (ii) commit a further specified offence; and
 - (c) whether the person should be arrested or held in custody pending the hearing of any charges against the person in respect of the specified offence; and
 - (d) whether that person is capable of comprehending the nature and effect of the notice; and
 - (e) any other matters the police officer considers relevant.

S. 148B(4)(e)
amended by
No. 37/2014
s. 10(Sch.
item
96.20(c)(ii)).

S. 148B(5)
amended by
Nos 57/2010
s. 22, 37/2014
s. 10(Sch.
item 96.20(d)).

- (5) A police officer must produce proof of his or her identity and official status before giving a banning notice to a person, unless the police officer is in uniform.

S. 148B(6)
amended by
Nos 57/2010
s. 22, 37/2014
s. 10(Sch.
item 96.20(e)).

- (6) A the police officer cannot give a banning notice referred to in subsection (1)(a) to a person if the police officer believes or has reasonable grounds for believing that the person lives or works in the designated area.
- (7) If a person to whom a banning notice applies lives or works in licensed premises in the designated area, the banning notice does not prevent him or

her from entering those licensed premises during the period for which the notice applies.

- (8) No more than one banning notice may be given to a person for a designated area, or licensed premises in the area, in respect of the same specified offence, but a banning notice may be given to a person who is already subject to a banning notice for the designated area, or licensed premises in the area, if the subsequent notice is given in respect of a separate specified offence.

148C Content of banning notice

A banning notice must state—

- (a) the name of the person to whom the notice applies; and
- (b) the specified offence that the police officer giving the notice suspects that person has committed and the grounds for the suspicion; and
- (c) the name, rank and place of duty of the police officer giving the notice; and
- (d) the designated area in which the notice applies; and
- (e) the specified period for which the notice applies; and
- (f) whether the notice bans the person from the designated area or from all licensed premises in the designated area; and

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

S. 148C(b)
amended by
Nos 57/2010
s. 23, 37/2014
s. 10(Sch.
item 96.21).

S. 148C(c)
amended by
Nos 57/2010
s. 23, 37/2014
s. 10(Sch.
item 96.21).

s. 148C

- (g) if the notice bans the person from the designated area—
- (i) that the person must not enter or re-enter the designated area during the specified period; and
 - (ii) that, if the person is in the designated area, the person must leave the designated area in accordance with a direction of a police officer to do so; and
 - (iii) that it is an offence not to comply with the notice or with a direction given by a police officer to leave the designated area; and
 - (iv) the maximum penalties for those offences; and
- (h) if the notice bans the person from licensed premises in the designated area—
- (i) that the person must not enter or re-enter any licensed premises in the designated area during the specified period; and
 - (ii) that, if the person is in any licensed premises in the designated area, the person must leave the licensed premises in accordance with a direction of a police officer to do so; and
 - (iii) that it is an offence not to comply with the notice or with a direction given by a police officer to leave the licensed premises; and
 - (iv) the maximum penalties for those offences; and

S. 148C(g)(ii) amended by No. 37/2014 s. 10(Sch. item 96.21).

S. 148C(g)(iii) amended by No. 37/2014 s. 10(Sch. item 96.21).

S. 148C(h)(ii) amended by No. 37/2014 s. 10(Sch. item 96.21).

S. 148C(h)(iii) amended by No. 37/2014 s. 10(Sch. item 96.21).

- (i) that a copy of the notice and, if available, a photograph of the person to whom the notice applies may be provided to licensees or permittees of licensed premises in the designated area and persons employed in those premises for the purpose of enforcement of the notice; and
- (j) that the notice may be varied or revoked under section 148E.

148D Requirement to give name and address

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

- (1) A police officer who intends to give a banning notice to a person may request the person to state the person's name and address.
- (2) A police officer who makes a request under subsection (1) must inform the person of the police officer's intention to give the person a banning order.
- (3) A person must not, in response to a request made by a police officer in accordance with this section—
 - (a) refuse or fail to comply with the request without a reasonable excuse for not doing so; or
 - (b) state a name that is false in a material particular; or
 - (c) state an address other than the full and correct address of his or her ordinary place of residence or business.

S. 148D(1)
amended by
Nos 57/2010
s. 24, 37/2014
s. 10(Sch.
item 96.22(a)).

S. 148D(2)
amended by
Nos 57/2010
s. 24, 37/2014
s. 10(Sch.
item 96.22(b)).

S. 148D(3)
amended by
Nos 57/2010
s. 24, 37/2014
s. 10(Sch.
item 96.22(c)).

Penalty: 5 penalty units.

s. 148D

S. 148D(4)
amended by
No. 37/2014
s. 10(Sch.
item 96.22(d)).

(4) A person who is requested to state his or her name and address may request the police officer who made the request to state, orally or in writing, the police officer's name, rank and place of duty.

S. 148D(5)
amended by
Nos 57/2010
s. 24, 37/2014
s. 10(Sch.
item
96.22(e)(i)).

(5) A police officer must not, in response to a request under subsection (4)—

- (a) refuse or fail to comply with the request; or
- (b) state a name or rank that is false in a material particular; or
- (c) state as his or her place of duty an address other than the name of the police station which is the police officer's ordinary place of duty; or
- (d) refuse to comply with the request in writing if requested to do so.

Penalty: 5 penalty units.

S. 148D(6)
amended by
No. 37/2014
s. 10(Sch.
item 96.22(f)).

(6) If a person states a name and address in response to a request made under subsection (1) and the police officer who made the request suspects on reasonable grounds that the stated name or address may be false, the police officer may request the person to produce evidence of the correctness of the name and address.

(7) The person must comply with the request, unless he or she has a reasonable excuse for not doing so.

Penalty: 5 penalty units.

S. 148D(8)
amended by
No. 37/2014
s. 10(Sch.
item 96.22(f)).

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

148E Variation and revocation of banning notice

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

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

S. 148E(1)
amended by
Nos 57/2010
s. 25, 37/2014
s. 10(Sch.
item 96.23).

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

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

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

Penalty: 20 penalty units.

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

S. 148F(2)
amended by
No. 37/2014
s. 10(Sch.
item 96.23).

Penalty: 20 penalty units.

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

s. 148G

reasonable precautions to avoid committing an offence.

S. 148F(4) amended by No. 37/2014 s. 10(Sch. item 96.23).

- (4) Despite subsection (2), it is not an offence for a person to fail to comply with a direction given by a police officer under section 148G if the police officer did not comply with section 148G(3).

S. 148F(5) amended by No. 68/2009 s. 97(Sch. item 78.3).

- (5) Section 72 of the **Criminal Procedure Act 2009** applies in the circumstances referred to in subsection (4).

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

148G Direction to leave designated area or licensed premises

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

S. 148G(2) amended by No. 37/2014 s. 10(Sch. item 96.24(a)).

- (2) Subject to subsection (3), a police officer may direct the person to leave the designated area or the licensed premises (as the case requires) in the manner, if any, directed by the police officer.

S. 148G(3) amended by No. 37/2014 s. 10(Sch. item 96.24(b)(i)).

- (3) A police officer must—

S. 148G(3)(a) amended by No. 37/2014 s. 10(Sch. item 96.24(b)(ii)).

- (a) produce proof of his or her identity and official status before exercising a power under subsection (2) unless the police officer is in uniform; and

- (b) inform the person that—

S. 148G(3)(b)(i) amended by No. 37/2014 s. 10(Sch. item 96.24(b)(i)).

- (i) the police officer is empowered to direct the person to leave the designated area or licensed premises (as the case requires); and

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

148H Police may use reasonable force to remove person

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

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

S. 148H(1)
amended by
No. 37/2014
s. 10(Sch.
item 96.25).

S. 148H(2)
amended by
No. 37/2014
s. 10(Sch.
item 96.25).

Division 3—Exclusion orders

148I Exclusion orders

- (1) A court may make an exclusion order in respect of a person (the *offender*) if the court—

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

-
- (a) finds the offender guilty of a specified offence that was committed wholly or partly in a designated area; and
- (b) does not sentence the offender to serve a term of imprisonment of 12 months or more, or an indefinite term of imprisonment, in respect of the specified offence; and
- (c) is satisfied that the order may be an effective and reasonable means of preventing the commission by the offender of further specified offences in the designated area.
- (2) An **exclusion order** is an order excluding the offender, for the period specified in the order, from—
- (a) the designated area; or
- (b) all licensed premises in the designated area; or
- (c) specified licensed premises, or licensed premises of a specified class, in the designated area.
- (3) An exclusion order may be made on the application of a police officer or the Director of Public Prosecutions, or on the court's own initiative.
- (4) The period specified in the exclusion order must not exceed 12 months.
- (5) An exclusion order—
- (a) may exclude the offender from the designated area or licensed premises (as the case requires) at all times during the period of the order, or at the times specified in the order;

S. 148I(3)
amended by
No. 37/2014
s. 10(Sch.
item 96.25).

- (b) may allow the offender to enter the designated area or licensed premises (as the case requires) for specified purposes during the period of the order, subject to any conditions the court thinks fit;
 - (c) may be made subject to any other conditions the court thinks fit.
- (6) In determining whether it is satisfied under subsection (1)(c), the court must consider—
- (a) the nature and gravity of the specified offence; and
 - (b) whether the offender has previously been found guilty of a specified offence committed in the designated area (whether or not it was a designated area at the time the offence was committed); and
 - (c) whether the offender is or has been the subject of an exclusion order in relation to another specified offence committed in the designated area, or a specified offence committed in another designated area (whether or not they were designated areas at the time the offence was committed); and
 - (d) the likely impact of the exclusion order on—
 - (i) the offender; and
 - (ii) any victim of the specified offence; and
 - (iii) public safety and public order; and
 - (e) any other matters the court considers relevant.

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

- (1) A person to whom an exclusion order applies must not enter or re-enter, or attempt to enter or

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

s. 148J

re-enter, the designated area or licensed premises in contravention of the order.

Penalty: 60 penalty units.

S. 148J(2)
amended by
No. 37/2014
s. 10(Sch.
item 96.25).

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

Penalty: 60 penalty units.

- (3) It is a defence to a charge of an offence against subsection (1) or (2) for the defendant to prove that—

- (a) the defendant was under a mistaken but honest and reasonable belief about facts which, had they existed, would have meant that the conduct would not have constituted an offence; or
- (b) the conduct constituting the offence was caused by circumstances beyond the control of the defendant and the defendant had taken reasonable precautions to avoid committing an offence.

S. 148J(4)
amended by
No. 37/2014
s. 10(Sch.
item 96.25).

- (4) Despite subsection (2), it is not an offence for a person to fail to comply with a direction given by a police officer under section 148K if the police officer did not comply with section 148K(3).

S.148J(5)
amended by
No. 68/2009
s. 97(Sch.
item 78.4).

- (5) Section 72 of the **Criminal Procedure Act 2009** applies in the circumstances referred to in subsection (4).

- (6) Nothing in this section affects the powers of the court or of the Supreme Court in relation to contempt of court.

148K Direction to leave designated area or licensed premises

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

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

(2) Subject to subsection (3), a police officer may direct the person to leave the designated area or the licensed premises (as the case requires) in the manner, if any, directed by the police officer.

S. 148K(2)
amended by
No. 37/2014
s. 10(Sch.
item 96.26(a)).

(3) A police officer must—

S. 148K(3)
amended by
No. 37/2014
s. 10(Sch.
item
96.26(b)(i)).

(a) produce proof of his or her identity and official status before exercising a power under subsection (2) unless the police officer is in uniform; and

S. 148K(3)(a)
amended by
No. 37/2014
s. 10(Sch.
item
96.26(b)(ii)).

(b) inform the person that—

(i) the police officer is empowered to direct the person to leave the designated area or licensed premises (as the case requires); and

S. 148K(3)
(b)(i)
amended by
No. 37/2014
s. 10(Sch.
item
96.26(b)(i)).

(ii) it is an offence to fail to comply with the direction; and

(c) make all reasonable attempts to ensure that the person understands the direction.

(4) A direction under subsection (2)—

(a) may be given orally or in writing; and

(b) must be reasonable in all the circumstances.

s. 148L

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

148L Police may use reasonable force to remove person

S. 148L(1)
amended by
No. 37/2014
s. 10(Sch.
item 96.27).

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

S. 148L(2)
amended by
No. 37/2014
s. 10(Sch.
item 96.27).

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

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

148M Variation of exclusion order

- (1) Any of the following may apply to the court that made an exclusion order for variation of the order—
 - (a) the person to whom the order applies;
 - (b) the Director of Public Prosecutions;
 - (c) a police officer.

S. 148M(1)(c)
substituted by
No. 37/2014
s. 10(Sch.
item 96.28).

- (2) On application under subsection (1), the court may vary the exclusion order in any way the court considers appropriate, if the court is satisfied that facts or circumstances have arisen since the

making or last variation of the order that make it appropriate for the order to be varied.

Division 4—General

* * * * *

S. 148N
inserted by
No. 73/2007
s. 5,
repealed by
No. 57/2010
s. 26.

148O Licensed premises include authorised premises

In the case of premises in respect of which an on-premises licence, a late night (on-premises) licence or a restaurant and cafe licence is in force, a reference in this Part to licensed premises includes a reference to authorised premises.

S. 148O
inserted by
No. 73/2007
s. 5,
amended by
No. 59/2009
s. 30(l).

148P Disclosure of information for enforcement purposes

The Commission or a police officer may disclose the following information to a licensee or permittee, or an employee or agent of a licensee or permittee—

- (a) the fact that a banning notice or an exclusion order has been given or made that bans or excludes the person to whom it applies from the licensed premises; and
- (b) the name of the person to whom the notice or order applies and, if available, a photograph of that person; and
- (c) the period for which the notice or order applies; and
- (d) a copy of the notice or order and of any variation or revocation of the notice or order; and

S. 148P
inserted by
No. 73/2007
s. 5,
amended by
Nos 57/2010
s. 27, 58/2011
s. 104(Sch.
item 4.210),
37/2014
s. 10(Sch.
item 96.29(a)).

s. 148Q

S. 148P(e)
amended by
No. 58/2011
s. 104(Sch.
item 4.210).¹

- (e) any other information in relation to the notice or order that the Commission or member considers necessary for the purposes of the effective and efficient enforcement of the notice or order.

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

148Q Offence to permit contravention of banning notice or exclusion order

- (1) A licensee or permittee must not knowingly permit a person to whom a banning notice or an exclusion order applies to enter or re-enter the licensed premises in contravention of the notice or order.

Penalty: 60 penalty units.

Note to
s. 148Q(1)
inserted by
No. 13/2013
s. 29(1).

Note

Section 53A applies to an offence against this subsection.

- (2) An employee or agent of a licensee or permittee must not knowingly permit a person to whom a banning notice or an exclusion order applies to enter or re-enter the licensed premises in contravention of the notice or order.

Penalty: 60 penalty units.

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

148R Annual report by Chief Commissioner

- (1) The Chief Commissioner must submit a report to the Minister in respect of each financial year that includes the following information—
- (a) in relation to banning notices—
- (i) the number of banning notices given during that year;
- (ii) the number of persons to whom banning notices were given during that year;

- (iii) the number of banning notices given during that year to each person who was given more than one banning notice during that year;
 - (iv) the suspected specified offences in respect of which banning notices were given during that year;
 - (v) the designated areas in which those offences were suspected of being committed;
 - (vi) the ages of the persons to whom banning notices were given during that year;
 - (vii) whether any of the persons to whom banning notices were given during that year were of Koori origin;
 - (viii) the number of banning notices given during that year in relation to each designated area;
 - (ix) the number of persons charged with an offence against section 148F(1) or (2) during that year;
 - (x) the results of those charges;
 - (xi) the number of contraventions of section 148F(1) or (2) that were recorded by police officers during that year in respect of which no charges were laid;
- (b) in relation to exclusion orders—
- (i) the number of applications made by police officers for exclusion orders during that year;

S. 148R(1)
(a)(xi)
amended by
No. 37/2014
s. 10(Sch.
item 96.30(a)).

S. 148R(1)
(b)(i)
amended by
No. 37/2014
s. 10(Sch.
item 96.30(a)).

s. 148R

- (ii) the number of exclusion orders made during that year;
- (iii) the number of persons in respect of whom exclusion orders were made during that year;
- (iv) the number of exclusion orders made during that year in respect of each person in respect of whom more than one exclusion order was made during that year;
- (v) the specified offences in respect of which exclusion orders were made during that year;
- (vi) the designated areas in which those offences were committed;
- (vii) the ages of the persons in respect of whom exclusion orders were made during that year;
- (viii) whether any of the persons in respect of whom exclusion orders were made during that year were of Koori origin or were homeless persons;
- (ix) the number of exclusion orders that were made during that year in relation to each designated area;
- (x) the number of persons charged with an offence against section 148J(1) or (2) during that year;
- (xi) the results of those charges;
- (xii) the number of contraventions of section 148J(1) or (2) that were recorded by police officers during that year in respect of which no charges were laid.

S. 148R(1)
(b)(xii)
amended by
No. 37/2014
s. 10(Sch.
item 96.30(a)).

-
- (2) The Chief Commissioner must cause the information to be collected that is necessary to enable reports to be prepared under this section.
 - (3) The Chief Commissioner must submit a report under this section to the Minister within 2 months after the end of the financial year to which the report relates.
 - (4) The Minister must cause a report under this section to be presented to each House of Parliament within 7 sitting days of that House after the report is received by the Minister.
 - (5) In this section—

Minister means the Minister administering the
Victoria Police Act 2013.

S. 148R(5)
def. of
Minister
amended by
No. 37/2014
s. 10(Sch.
item 96.30(b)).

Pt 8B
(Heading and
ss 148S–
148ZZ)
inserted by
No. 64/2010
s. 7.

**PART 8B—CLOSURE AND EVACUATION OF LICENSED
PREMISES FOR FIRE AND EMERGENCY PURPOSES**

Division 1—Preliminary

S. 148S
inserted by
No. 64/2010
s. 7.

148S Definitions

In this Part—

S. 148S def. of
*authorised
person*
repealed by
No. 58/2011
s. 104(Sch.
item 4.211).

* * * * *

Chief Officer means—

- (a) in relation to licensed premises in the metropolitan district (within the meaning of the **Metropolitan Fire Brigades Act 1958**) the Chief Officer of the Metropolitan Fire and Emergency Services Board appointed under the **Metropolitan Fire Brigades Act 1958**; or
- (b) in relation to any other premises, the Chief Officer of the Country Fire Authority appointed under the **Country Fire Authority Act 1958**;

closure and evacuation notice means a notice issued under section 148ZD;

emergency has the same meaning as in the **Metropolitan Fire Brigades Act 1958**;

fire safety inspector means the Chief Officer or a person appointed under section 148T;

municipal building surveyor has the same meaning as in the **Building Act 1993**;

premises searched means that part of a premises that a fire safety inspector may enter and search under section 148W(1);

serious fire threat means, in relation to a licensed premises, a serious threat that exists or could arise to the health or safety of any person in, or in close proximity to the premises in relation to fire or an emergency.

Division 2—Power of Entry and Inspection

148T Appointment of fire safety inspector

The Chief Officer may, by instrument, appoint as a fire safety inspector any person—

(a) who is a person employed by the Board under section 25B of the **Metropolitan Fire Brigades Act 1958**; or

(b) who is an employee appointed under the **Country Fire Authority Act 1958**.

S. 148T
inserted by
No. 64/2010
s. 7.

S. 148T(a)
amended by
No. 43/2012
s. 3(Sch.
item 26).

148U Fire safety inspector's identity card

(1) The Chief Officer must issue an identity card to each fire safety inspector.

(2) An identity card must contain—

(a) the photograph and name of the fire safety inspector to whom it is issued; and

(b) a statement that the fire safety inspector is able to exercise the powers of entry and search under this Part.

S. 148U
inserted by
No. 64/2010
s. 7.

s. 148V

S. 148V
inserted by
No. 64/2010
s. 7.

148V Production of identity card

- (1) A fire safety inspector must produce his or her identity card for inspection—
 - (a) before exercising a power under this Part other than a requirement made by post; and
 - (b) at any time during the exercise of a power under this Part, if asked to do so.

Penalty: 1 penalty unit.

- (2) Any action or thing done by a fire safety inspector is not invalidated by his or her failure to produce his or her identity card.

S. 148W
inserted by
No. 64/2010
s. 7.

148W Entry and search of certain premises for serious fire threat

S. 148W(1)
amended by
No. 37/2014
s. 10(Sch.
item 96.31).

- (1) A fire safety inspector may enter, at any time without prior notice that part of any premises that is—
 - (a) licensed premises; or
 - (b) in close proximity to licensed premises—(with the assistance, if necessary, of a police officer) if he or she suspects on reasonable grounds that there is a serious fire threat to those premises.

Note

A part of the premises that is in close proximity to the licensed premises include an area used for the management or operation of the business such as a kitchen or storage area.

- (2) On entering the premises under subsection (1), the fire safety inspector may do all or any of the following—
 - (a) search, examine and make enquires at the premises;

- (b) search and examine any thing including a document, record, equipment or thing found during the search which the fire safety inspector reasonably believes may assist in determining if there is a serious fire threat;
 - (c) make copies of any document;
 - (d) make a sketch or any still or moving image or audio-visual recording of any equipment or thing found during the search.
- (3) If a fire safety inspector exercises a power of entry under this section, the fire safety inspector must, on leaving the premises, leave a notice setting out—
- (a) the time of entry; and
 - (b) the purpose of entry; and
 - (c) the time of departure; and
 - (d) the procedure for contacting the fire safety inspector for further details of the entry.
- (4) A fire safety inspector must not exercise a power under this section in any part of a premises that is used for residential purposes.

148X Search of premises after entry authorised by any other Act

S. 148X
inserted by
No. 64/2010
s. 7.

- (1) If a fire safety inspector, under any other Act, enters a premises on which a licensed premises is situated, and the fire safety inspector believes on reasonable grounds that there is a serious fire threat in relation to the licensed premises or premises in close proximity to the licensed premises, he or she may carry out a search of the premises under section 148W.

s. 148Y

S. 148X(2)
amended by
No. 71/2011
s. 23.

- (2) Before conducting a search in circumstances where subsection (1) applies, the fire safety inspector must advise the licensee or permittee or person who appears to be a responsible person that he or she is going to conduct the search.

S. 148Y
inserted by
No. 64/2010
s. 7,
amended by
No. 71/2011
s. 24.

148Y Requirement to assist the fire safety inspector during search of certain premises

A fire safety inspector in the course of carrying out a search under this Part may to the extent that it is reasonably necessary to determine a serious fire threat in relation to the licensed premises require the licensee or permittee or person who appears to be a responsible person—

- (a) to give information to the fire safety inspector orally or in writing; or
- (b) to produce documents to the fire safety inspector; or
- (c) to give reasonable assistance to the fire safety inspector in the exercise of the power.

S. 148Z
inserted by
No. 64/2010
s. 7.

148Z Refusal or failure to comply with requirement

A person must not, without reasonable excuse, refuse or fail to comply with a requirement of a fire safety inspector under section 148Y.

Penalty: 60 penalty units.

S. 148ZA
inserted by
No. 64/2010
s. 7,
amended by
No. 71/2011
s. 25.

148ZA Offence to refuse entry to a fire safety inspector

A licensee, permittee or person who appears to be a responsible person must not refuse to allow a fire safety inspector to enter the premises.

Penalty: 60 penalty units.

Note to
s. 148ZA
inserted by
No. 13/2013
s. 29(2).

Note

Section 53A applies to an offence against this section.

148ZB Offence to give false or misleading information

S. 148ZB
inserted by
No. 64/2010
s. 7.

A person must not—

- (a) give information to a fire safety inspector under this Part that the person believes to be false or misleading in any material particular; or
- (b) produce a document to a fire safety inspector under this Part that the person knows to be false or misleading in a material particular without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: 60 penalty units.

Division 3—Closure and Evacuation Notices

148ZC Advice of fire safety inspector as to serious fire threat

S. 148ZC
inserted by
No. 64/2010
s. 7.

- (1) A fire safety inspector who reasonably believes that a serious fire threat to a premises searched exists must advise the Commission of his or her belief.
- (2) In forming a reasonable belief under subsection (1) a fire safety inspector may have regard to—
 - (a) any inadequacy of existing fire safety equipment or features on the premises; or
 - (b) any failure to maintain existing fire safety equipment or features to a standard of safety and reliability in the event of a fire; or
 - (c) any inadequacy of exit signage, emergency lighting or access to the means of egress from the premises; or

S. 148ZC(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.212).

s. 148ZD

- (d) any inadequacy, isolation or disconnection of a fire or smoke detection system, sprinkler system, alarm or alarm monitoring system, or other warning system; or
- (e) any activity that is undertaken on the premises; or
- (f) any such condition or combination of conditions on the premises.

S. 148ZC(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.212).

- (3) Before advising the Commission under subsection (1) a fire safety inspector may if he or she believes it is appropriate to do so, having regard to the serious fire threat and the time required to rectify a matter on which the fire safety inspector has formed the reasonable belief—
 - (a) offer a licensee or permittee an opportunity to carry out immediate rectification work within the period of the search; and
 - (b) may require an additional temporary measure be taken while the immediate rectification work is carried out under paragraph (a).

Note

An additional temporary measure that may be required could include that alcohol is not served, the lights are turned on or music is not played or patrons not admitted to the premises during a period of time offered under section 148ZC(3).

S. 148ZD
inserted by
No. 64/2010
s. 7.

148ZD Issue of closure and evacuation notice

S. 148ZD(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.213).

- (1) The Commission on receipt of the advice of a fire safety inspector under section 148ZC(1) must, if satisfied that the requirements of this Part have been met, issue a notice—

- (a) requiring the licensed premises to be closed;
and
 - (b) requiring the licensed premises to be
evacuated.
- (2) If the Commission on receipt of the advice of a
fire safety inspector under section 148ZC(1) is not
satisfied that the requirements of this Part have
been met, the Commission may—
- (a) instruct the fire safety inspector to satisfy
any requirement of this Part; or
 - (b) instruct the fire safety inspector to leave the
premises searched without taking further
action.
- (3) The Commission must record in writing any
instruction given to a fire safety inspector under
subsection (2) and the issuing of a notice under
subsection (1).

S. 148ZD(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.214).

S. 148ZD(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.215).

148ZE Service of closure and evacuation notice

S. 148ZE
inserted by
No. 64/2010
s. 7.

- (1) On the Commission issuing a closure and
evacuation notice, the fire safety inspector on
whose advice the notice was issued must sign a
copy of the notice that complies with
section 148ZG and serve the copy of the notice on
the licensee, permittee or person who appears to
be a responsible person.
- (2) A closure and evacuation notice comes into effect
when the copy of the notice is served under
subsection (1).

S. 148ZE(1)
amended by
Nos 58/2011
s. 104(Sch.
item 4.216),
71/2011 s. 26.

s. 148ZF

S. 148ZF
inserted by
No. 64/2010
s. 7.

148ZF Issue and service of subsequent notice

S. 148ZF(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.217).

- (1) The Commission on receipt of the advice of a fire safety inspector may issue a subsequent notice in relation to work that must be completed to rectify the fire safety threat contained in a notice issued under section 148ZD.

S. 148ZF(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.217).

- (2) The Commission must record in writing the issuing of a subsequent notice under subsection (1).

S. 148ZF(3)
amended by
Nos 58/2011
s. 104(Sch.
item 4.217),
71/2011 s. 27.

- (3) On the Commission issuing a subsequent notice, the fire safety inspector on whose advice the notice was issued must sign a copy of the subsequent notice and serve a copy of the notice on the licensee, permittee or person who appears to be a responsible person within 48 hours after the service of the initial closure and evacuation notice.

S. 148ZG
inserted by
No. 64/2010
s. 7.

148ZG Content of closure and evacuation notice

A closure and evacuation notice must be in the prescribed form and must contain the following information—

- (a) the name and address of the licensed premises to which the notice applies; and
- (b) the name and position of the fire safety inspector that served the notice; and
- (c) the time and date that the notice was given and takes effect; and
- (d) the work that must be completed to the satisfaction of the fire safety inspector to rectify the serious fire threat; and

- (e) the fact that the licensee or permittee may request the fire safety inspector conduct an inspection of work completed to rectify a serious fire threat; and
- (f) the fact that the licensee or permittee must notify the Commission in writing that the work to rectify a serious fire threat has been completed; and
- (g) the fact that the notice may be revoked by the Commission under section 148ZP; and
- (h) the fact that it is an offence not to comply with the notice; and
- (i) the fact that it is an offence to allow a person to enter the licensed premises until the notice is revoked except to a person engaged in carrying out the rectification work specified in this notice; and
- (j) the fact that it is an offence not to display the sign at all entrances and exits of the licensed premises; and
- (k) the maximum penalties for those offences; and
- (l) the fact that the fire safety inspector may within 48 hours after the service of an initial closure and evacuation notice provide a subsequent notice containing additional information about the work that must be completed to rectify the serious fire threat.

S. 148ZG(f)
amended by
No. 58/2011
s. 104(Sch.
item 4.218).

S. 148ZG(g)
amended by
No. 58/2011
s. 104(Sch.
item 4.218).

148ZH Direction to leave licensed premises

- (1) Subject to subsection (2), a fire safety inspector or an authorised person while a closure and evacuation notice is in force may direct any person in the licensed premises to which the

S. 148ZH
inserted by
No. 64/2010
s. 7.

notice applies to leave the licensed premises in the manner directed.

- (2) The fire safety inspector or an authorised person must—
 - (a) produce his or her identity card before exercising a power under subsection (1); and
 - (b) inform the person that—
 - (i) the fire safety inspector or authorised person is empowered to direct the person to leave the licensed premises; and
 - (ii) it is an offence to fail to comply with the direction.
- (3) A direction under subsection (1)—
 - (a) may be given orally or in writing; and
 - (b) must be reasonable in all the circumstances.
- (4) A police officer may exercise a power under this section if a request for assistance has been made under section 148ZI by the fire safety inspector.

S. 148ZH(4)
amended by
No. 37/2014
s. 10(Sch.
item 96.31).

S. 148ZI
inserted by
No. 64/2010
s. 7,
amended by
No. 37/2014
s. 10(Sch.
item 96.31).

148ZI Fire safety inspector may request assistance of police

The fire safety inspector may request the assistance of a police officer to effect the immediate closure and evacuation of a licensed premises under a closure and evacuation notice.

**148ZJ Offence to fail or refuse to comply with a closure
and evacuation notice or direction**

S. 148ZJ
inserted by
No. 64/2010
s. 7.

- (1) A licensee or permittee to whom a closure and evacuation notice applies must not contravene the notice.

Penalty: 240 penalty units.

Note

Section 53C applies to an offence against this subsection.

Note to
s. 148ZJ(1)
inserted by
No. 13/2013
s. 29(4).

- (2) A person must comply with any direction given by a fire safety inspector or an authorised person under section 148ZH.

Penalty: 20 penalty units.

148ZK Offence to allow entry

S. 148ZK
inserted by
No. 64/2010
s. 7.

After the service of a closure and evacuation notice a licensee or permittee must not allow a person to enter the licensed premises until the notice is revoked under section 148ZP, except to allow entry to a person engaged in carrying out the rectification work specified in the notice.

Penalty: 120 penalty units.

Note

Section 53B applies to an offence against this section.

Note to
s. 148ZK
inserted by
No. 13/2013
s. 29(8).

s. 148ZL

S. 148ZL
inserted by
No. 64/2010
s. 7.

148ZL Sign must be displayed

- (1) A licensee or permittee must cause a sign to be displayed at all entrances and exits of the licensed premises when a closure and evacuation notice is in force in respect of the premises.

Penalty: 10 penalty units.

Note to
s. 148ZL(1)
inserted by
No. 13/2013
s. 29(1).

Note

Section 53A applies to an offence against this subsection.

S. 148ZL(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.219).

- (2) A sign displayed under subsection (1), must be in a form approved by the Commission and include the prescribed particulars.

S. 148ZM
inserted by
No. 64/2010
s. 7,
amended by
No. 58/2011
s. 104(Sch.
item 4.220).

148ZM Injunction to prevent or restrain a contravention

The Commission may apply to the Supreme Court for an injunction to prevent or restrain the licensee or permittee from contravening a closure and evacuation notice.

S. 148ZN
inserted by
No. 64/2010
s. 7.

148ZN Notification of completion of rectification work

S. 148ZN(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.221).

- (1) The licensee or permittee must give notice to the Commission in writing on completion of the rectification work required by a closure and evacuation notice and a subsequent notice issued under section 148ZF if any.

S. 148ZN(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.221).

- (2) The Commission on receiving notice under subsection (1) must request that a fire safety inspector inspect the licensed premises.

- (3) The fire safety inspector must inspect the premises within 48 hours of being requested to do so by the Commission under subsection (2).

S. 148ZN(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.221).

148ZO Inspection by fire safety inspector of rectification work

On inspecting the licensed premises under section 148ZN(3) or on request of the licensee or permittee, the fire safety inspector must advise the Commission if the work required to rectify the serious fire threat has or has not been satisfactorily completed.

S. 148ZO
inserted by
No. 64/2010
s. 7,
amended by
No. 58/2011
s. 104(Sch.
item 4.222).

148ZP Revocation of closure and evacuation notice and subsequent notice

S. 148ZP
inserted by
No. 64/2010
s. 7.

- (1) If the fire safety inspector advises the Commission that the work required to rectify the serious fire threat has been satisfactorily completed, the Commission must revoke the closure and evacuation notice and any subsequent notice.
- (2) If the Commission revokes the closure and evacuation notice and any subsequent notice under subsection (1) the fire safety inspector must sign a document that records the revocation of the notice and any subsequent notice and serve the document on the licensee, permittee or a person who appears to be a responsible person.
- (3) The revocation of the closure and evacuation notice and any subsequent notice comes into effect on the service of the document under subsection (2).
- (4) A document under subsection (2) must be in the prescribed form.

S. 148ZP(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.223).

S. 148ZP(2)
amended by
Nos 58/2011
s. 104(Sch.
item 4.223),
71/2011 s. 28.

s. 148ZQ

S. 148ZP(5)
amended by
No. 58/2011
s. 104(Sch.
item 4.223).

- (5) The Commission must record in writing a decision to revoke a closure and evacuation notice and any subsequent notice.

S. 148ZQ
inserted by
No. 64/2010
s. 7.

148ZQ Giving advice or a decision in writing or orally

S. 148ZQ(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.224).

- (1) A fire safety inspector may give advice under section 148ZC, 148ZF or 148ZO to the Commission in writing or orally.

S. 148ZQ(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.224).

- (2) The Commission may advise a fire safety inspector of an instruction or decision under section 148ZD, 148ZF or 148ZP in writing or orally.

S. 148ZQ(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.224).

- (3) If a fire safety inspector signs and serves a document under this Part after receiving oral advice as to an instruction or direction of the Commission, a copy of the document must be provided to the Commission within 48 hours.

S. 148ZQ(4)
amended by
No. 58/2011
s. 104(Sch.
item 4.224).

- (4) If the Commission has advised the fire safety inspector orally as to an instruction or direction under this Part, the Commission must provide a copy of the record of decision or instruction to the fire safety inspector within 5 working days of giving advice of the instruction or decision orally.

Division 4—Delegation

148ZR Delegation by the Commission

S. 148ZR
(Heading)
amended by
No. 58/2011
s. 104(Sch.
item 4.225).
S. 148ZR
inserted by
No. 64/2010
s. 7.

- (1) The Commission by instrument may delegate to a commissioner or an employee employed under Part 3 of the **Public Administration Act 2004** any power, duty or function of the Commission under this Part, other than this power of delegation.
- (2) A delegation under subsection (1) may be made—
 - (a) in relation to a person specified in the instrument of delegation; or
 - (b) in relation to the holder, or the holder from time to time, of an office specified, in the instrument of delegation.

S. 148ZR(1)
amended by
Nos 58/2011
s. 104(Sch.
item 4.226),
1/2013 s. 4.

Division 5—General

148ZS Disclosure of information for enforcement purposes

S. 148ZS
inserted by
No. 64/2010
s. 7.

- (1) If the Commission obtains information in the course of administering or carrying out functions, powers or duties under this Part, the Commission may disclose that information to—
 - (a) the Chief Officer, and
 - (b) subject to section 148ZT a municipal building surveyor of a Council; and

S. 148ZS(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.227).

Liquor Control Reform Act 1998
No. 94 of 1998

Part 8B—Closure and Evacuation of Licensed Premises for Fire and
Emergency Purposes

s. 148ZS

S. 148ZS(1)(c)
amended by
No. 37/2014
s. 10(Sch.
item 96.31).

(c) a police officer.

S. 148ZS(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.227).

- (2) The information that may be disclosed by the Commission to a person under subsection (1) includes—
- (a) the fact that a closure and evacuation notice has been issued; and
 - (b) the name of the licensee or permittee to whom the closure and evacuation notice has been issued; and
 - (c) the time and date that the closure and evacuation notice took effect; and
 - (d) a copy of the closure and evacuation notice; and
 - (e) any subsequent notice; and
 - (f) any information related to a search conducted under section 148W that the Commission considers necessary for the purpose of the effective and efficient enforcement of a relevant provision of the **Building Act 1993**; and
 - (g) the fact that the closure and evacuation notice has been revoked.

S. 148ZS(2)(f)
amended by
No. 58/2011
s. 104(Sch.
item 4.227).

S. 148ZS(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.227).

- (3) Any information disclosed by the Commission under subsection (2) must not be used by—
- (a) the Chief Officer, except for the enforcement of this Part or a relevant provision of the **Metropolitan Fire Brigades Act 1958** or the **Country Fire Authority Act 1958**; and

- (b) a municipal building surveyor of a Council, except for the enforcement of this part or a relevant provision of the **Building Act 1993** or the **Local Government Act 1989**; and
- (c) a police officer, except for the enforcement of this Part.

S. 148ZS(3)(c) amended by No. 37/2014 s. 10(Sch. item 96.31).

148ZT Disclosure of information by the Commission

S. 148ZT (Heading) amended by No. 58/2011 s. 104(Sch. item 4.228).

S. 148ZT inserted by No. 64/2010 s. 7.

- (1) If the Commission issues a closure and evacuation notice for a licensed premises the Commission must disclose the following information to the municipal building surveyor of the Council within the municipal district of which the premises is situated within 5 working days of the issue of the notice—
 - (a) the fact that a notice has been issued; and
 - (b) the name of the licensee or permittee to whom notice has been issued; and
 - (c) the time and date that the notice took effect; and
 - (d) a copy of the notice; and
 - (e) any subsequent notice; and
 - (f) any other information related to the notice that the Commission considers necessary for the purpose of the effective and efficient enforcement of a relevant provision of the **Building Act 1993**.

S. 148ZT(1) amended by No. 58/2011 s. 104(Sch. item 4.229).

S. 148ZT(1)(f) amended by No. 23/2012 s. 6(2).

Liquor Control Reform Act 1998
No. 94 of 1998

Part 8B—Closure and Evacuation of Licensed Premises for Fire and
Emergency Purposes

s. 148ZX

S. 148ZT(2)
amended by
No. 58/2011
s. 104(Sch.
item 4.230(a)).

(2) If the licence of the licensed premises to which a closure and evacuation notice applies has been surrendered or suspended or cancelled the Commission must disclose that fact to the municipal building surveyor of the Council within the municipal district of which the premises is situated within 5 working days of the surrender, suspension or cancellation.

S. 148ZT(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.230(b)).

(3) If the Commission revokes a closure and evacuation notice and any subsequent notice for a licensed premises the Commission must disclose that fact to the municipal building surveyor of the Council within the municipal district of which the premises is situated within 5 working days.

S. 148ZT(4)
amended by
No. 58/2011
s. 104(Sch.
item 4.230(c)).

(4) Any information disclosed by the Commission under subsections (1) or (2) must not be used by a municipal building surveyor, except for the enforcement of a relevant provision of the **Building Act 1993** or **Local Government Act 1989**.

Ss 148ZU–
148ZW
inserted by
No. 64/2010
s. 7,
repealed by
No. 58/2011
s. 68.

* * * * *

S. 148ZX
inserted by
No. 64/2010
s. 7.

148ZX Power to serve an infringement notice

- (1) If an authorised person has reason to believe that a person has committed an offence referred to in subsection (2), he or she may serve an infringement notice on that person.
- (2) An infringement notice may be served in respect of an offence against section 148ZJ(2) (refusal or failure to comply with a direction).

148ZY Infringement penalties

The infringement penalty for an offence against
section 148ZJ(2) is 2 penalty units.

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S. 148ZY
inserted by
No. 64/2010
s. 7.

S. 148ZZ
inserted by
No. 64/2010
s. 7,
repealed by
No. 1/2013
s. 5.

PART 9—ADMINISTRATION

Division 1—Statements of reasons

Pt 9 Div. 1
(Heading and
ss 149–156)
amended by
Nos 108/2004
s. 117(1)
(Sch. 3
items 115.1,
115.2),
80/2006
s. 26(Sch.
item 61.1),
8/2009
ss 22–24,
substituted as
Pt 9 Div. 1
(Heading and
ss 149, 150)
by
No. 58/2011
s. 62.

S. 149
substituted by
No. 58/2011
s. 62.

149 Request for statement of reasons for decision

- (1) An eligible person in relation to a reviewable decision under Division 2 whose interests are affected by a decision of the Commission under this Act may request the Commission to give the person a written statement of reasons for the decision if—
 - (a) the Commission has not been required to give reasons to that person under this Act; and
 - (b) the Commission has not done so.
- (2) A request under subsection (1) must be made in writing within 28 days after the day on which the decision first came to the person's notice.

S. 150
substituted by
No. 58/2011
s. 62.

150 Content of statement of reasons and by when they must be given

- (1) The Commission must give a written statement of reasons within 28 days after receiving a request under section 149.

- (2) The statement of reasons must set out—
- (a) the reasons for the decision; and
 - (b) the findings on material questions of fact that led to the decision, referring to the evidence or other information or material on which those findings were based.
- (3) A statement of reasons need not be given under this section if the Commission has already given a written statement containing the matters referred to in subsection (2) (whether as part of the decision or separately).
- (4) The Commission may, in its discretion, exclude personal and confidential information from the statement of reasons if the Commission considers it appropriate in the circumstances.

Division 2—Internal review

Pt 9 Div. 2
(Heading and
ss 157–161)
amended by
Nos 108/2004
s. 117(1)
(Sch. 3
item 115.3),
80/2006
s. 26(Sch.
item 61.2),
substituted as
Pt 9 Div. 2
(Heading and
ss 151–160)
by
No. 58/2011
s. 62.

151 Definitions

In this Division—

applicable decision maker means—

- (a) a single commissioner performing a function or duty or exercising a power under this Act; or

S. 151
substituted by
No. 58/2011
s. 62.

- (b) a single commissioner performing a function or duty or exercising a power of the Commission under this Act under delegation from the Commission; or
- (c) an employee of the Commission performing a function or duty or exercising a power of the Commission under this Act under delegation from the Commission;

Commission on review means the Commission constituted by 3 or more commissioners for the purposes of this Division.

S. 152
substituted by
No. 58/2011
s. 62.

152 Reviewable decisions

The following table sets out—

- (a) decisions (however described) made under this Act by an applicable decision maker that are reviewable in accordance with this Division (**reviewable decisions**); and
- (b) who is eligible to apply for a review of a reviewable decision (the **eligible person** in relation to the reviewable decision).

<i>Item</i>	<i>Provision under which reviewable decision is made</i>	<i>Eligible person in relation to reviewable decision</i>
1	Division 6 of Part 2	An applicant under section 27 for the grant of a licence or BYO permit or an entity that objects under Division 5 of Part 2 to the grant of the licence or BYO permit

Liquor Control Reform Act 1998
No. 94 of 1998
Part 9—Administration

s. 152

<i>Item</i>	<i>Provision under which reviewable decision is made</i>	<i>Eligible person in relation to reviewable decision</i>
2	Division 6 of Part 2	An applicant under section 29 for the variation of a licence or BYO permit or an entity that objects under Division 5 of Part 2 to the variation of the licence or BYO permit
3	Division 6 of Part 2	An applicant under section 31 for the relocation of a licence or BYO permit or an entity that objects under Division 5 of Part 2 to the relocation of the licence or BYO permit
4	Division 6 of Part 2	An applicant under section 32 for the transfer of a licence or BYO permit or a licensing inspector who objects under section 41 to the transfer of the licence or BYO permit
5	Section 49	<p>An applicant under section 27 granted a licence or BYO permit subject to conditions</p> <p>An applicant under section 29 granted a variation of a licence or BYO permit subject to conditions</p> <p>An applicant under section 31 granted a relocation of a licence or BYO permit subject to conditions</p>

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 No. 94 of 1998
 Part 9—Administration

s. 152

<i>Item</i>	<i>Provision under which reviewable decision is made</i>	<i>Eligible person in relation to reviewable decision</i>
		An applicant under section 32 granted a transfer of a licence or BYO permit subject to conditions
6	Section 54(6)	A licensee or permittee that applies for the approval of a person as a nominee of the licensee or permittee or the Chief Commissioner if the Commissioner objects under section 54(4) to the approval of the person as nominee of the licensee or permittee
7	Section 58	A licensee or permittee
8	Section 58B	The licensee of the licensed premises to which the late hour entry declaration applies
9	Section 58D	The licensee of the licensed premises to which the late hour entry declaration applies
10	Section 62(6)	An owner of licensed premises A mortgagee of licensed premises A person prejudicially affected by the failure of a licensee or permittee to renew the licence or BYO permit as provided under section 62(1)

Liquor Control Reform Act 1998
 No. 94 of 1998
 Part 9—Administration

s. 152

<i>Item</i>	<i>Provision under which reviewable decision is made</i>	<i>Eligible person in relation to reviewable decision</i>
		The Chief Commissioner if the Commissioner objects under section 62(4) to an application under section 62(1)
11	Section 63(4)	A licensee or permittee who applies for the surrender of a licence or BYO permit or a person who objects under section 63(3)
12	Section 64(2)	A licensee or permittee
13	Section 84	A person referred to in section 80(1)(a) to (d) who has applied to have their name or address endorsed on a licence or BYO permit or the Chief Commissioner if the Chief Commissioner objects, under section 83(1) to the grant of the application
14	Section 84	An owner or mortgagee of licensed premises referred to in section 81
15	Section 97B(1)	A licensee whose licence has been varied or suspended
16	Section 99C(2) or (4)	A licensee who has applied for an exemption A licensee to whom an exemption has been granted subject to conditions

Liquor Control Reform Act 1998
No. 94 of 1998
Part 9—Administration

s. 152

<i>Item</i>	<i>Provision under which reviewable decision is made</i>	<i>Eligible person in relation to reviewable decision</i>
17	Section 104(5)	A licensee or permittee that applies for approval of a person to be a director of the licensee or permittee or the Chief Commissioner if the Commissioner objects under section 104(3) to the approval of the person as a director of the licensee or permittee
18	Section 105(3)	A licensee or permittee who has requested the consent of the Commission to sub-let any part of licensed premises or assign the right to supply liquor
19	Section 106(3)	A licensee or permittee whose request for consent has been refused or who has been given consent subject to conditions
20	Section 108AG(2) or (4)	A licensee who has applied for an exemption A licensee to whom an exemption has been granted subject to conditions
21	Section 115A(1)	A licensee to whom a notice is given
22	Section 120(2)(a)(i) or (e)	A licensee
23	Section 148ZD	A licensee

<i>Item</i>	<i>Provision under which reviewable decision is made</i>	<i>Eligible person in relation to reviewable decision</i>
24	Section 174	A person who requests the Commission to extend the time for making an objection under the Act or to accept an objection made after the time under the Act for making that objection has expired

153 Applications for internal review

**S. 153
substituted by
No. 58/2011
s. 62.**

- (1) An eligible person in relation to a reviewable decision may apply to the Commission for review of the decision.
- (2) An application must—
 - (a) be made within the later of—
 - (i) 28 days after the day on which the decision first came to the eligible person's notice; or
 - (ii) 28 days after the eligible person received a statement of reasons for the decision; or
 - (iii) such longer period as the Commission allows; and
 - (b) be in the form approved (in writing) by the Commission.
- (3) The Commission must not allow a longer period under subsection (2)(a)(iii) unless the Commission is satisfied that exceptional circumstances exist for that longer period.

s. 154

S. 154
substituted by
No. 58/2011
s. 62.

154 Notification of certain persons of application for internal review

- (1) Following receipt of an application under section 153, the Commission must notify every person who provided the original decision maker information or material, or gave evidence, to the original decision maker for the purposes of the eligible decision of that receipt.
- (2) A notification under subsection (1) must be in writing and specify that—
 - (a) an application for internal review of the eligible decision has been made; and
 - (b) the Commission on review, in making its fresh decision under this Division—
 - (i) will not be limited to the information or material provided or evidence given to the original decision maker; and
 - (ii) may request further information or material from the person or may require the person to give evidence before the Commission.

S. 155
substituted by
No. 58/2011
s. 62.

155 Commission on review must not include commissioner who made the reviewable decision

The Commission on review must not include a commissioner who made the reviewable decision that is the subject of the application under section 153.

S. 156
substituted by
No. 58/2011
s. 62.

156 Commission on review must include Chairperson or a Deputy Chairperson

The Commission on review must include at least the Chairperson or a Deputy Chairperson.

157 Decisions on internal review

**S. 157
substituted by
No. 58/2011
s. 62.**

- (1) Following receipt of an application under section 153, the Commission on review must make a fresh decision—
 - (a) that affirms or varies the reviewable decision;
or
 - (b) that sets aside the reviewable decision and substitutes another decision that the Commission on review considers appropriate.

Note

See section 25(3) of the **Victorian Commission for Gambling and Liquor Regulation Act 2011** as to how the Commission may go about making a fresh decision.

- (2) Without limiting subsection (1), the Commission on review must consider all the information, material and evidence before the original decision maker.
- (3) In addition, without limiting subsection (1), the Commission on review—
 - (a) may request persons it has notified under section 154 to provide it with further information and material or require them to give further evidence for the purpose of making its decision; and
 - (b) may, consider that information, material or evidence as part of making its decision.
- (4) The Commission must, as soon as practicable after a decision is made under subsection (1), give a written notice to the applicant setting out—
 - (a) the reasons for the decision of the Commission on review under subsection (1);
and

(b) the findings on material questions of fact that led to the decision, referring to the evidence or other information or material on which those findings were based.

(5) The Commission on review may, in its discretion, exclude personal and confidential information from the reasons for the decision if the Commission considers it appropriate in the circumstances.

S. 158
substituted by
No. 58/2011
s. 62.

158 Review of reviewable decisions relating to refusals to grant licence or BYO permit

(1) This section applies if the reviewable decision that is the subject of an application under section 153 is a decision that refuses the grant of a liquor licence or BYO permit.

(2) Without limiting section 157, the Commission on review, as part of making its decision on the application, may—

(a) grant the licence or BYO permit subject to conditions;

(b) in the case of a refusal for the grant of a liquor licence, grant another licence instead.

S. 159
substituted by
No. 58/2011
s. 62.

159 Review of reviewable decisions relating to late hour entry declarations

(1) This section applies if the reviewable decision that is the subject of an application under section 153 is a decision making or varying a late hour entry declaration.

(2) Without limiting section 157, the Commission on review may—

(a) in relation to an application for review of the reviewable decision to make a late hour entry declaration, decide that, in relation to the applicant's licensed premises, the declaration—

- (i) continues to apply; or
 - (ii) continues to apply subject to any variation (including any conditions) that the Commission on review thinks fit; or
 - (iii) does not continue to apply;
- (b) in relation to an application for review of the decision to vary a late hour entry declaration, decide that the declaration continues to apply to the applicant's licensed premises—
- (i) as varied; or
 - (ii) as in force before the variation; or
 - (iii) subject to any other variation (including any conditions) that the Commission on review thinks fit.

160 Applications for internal review do not affect operation of reviewable decisions

S. 160
substituted by
No. 58/2011
s. 62.

- (1) An application under section 153 does not affect the operation of the reviewable decision or prevent the taking of any action to implement it unless the Commission stays the operation of the decision pending the determination of the review—
 - (a) on its own initiative; or
 - (b) on the application of the applicant for internal review.
- (2) An application for a stay of the operation of the decision must set out reasons for the application.
- (3) The Commission must make a decision on an application for a stay within 10 days after the application is made.

- (4) If the Commission has not made a decision in accordance with subsection (3), the Commission is taken to have made a decision to grant a stay of the operation of the reviewable decision until the Commission on review makes its decision under section 157.
- (5) The Commission may attach any conditions to a stay of the operation of a reviewable decision that it considers appropriate.
- (6) This section does not apply in relation to a reviewable decision made under section 148ZD.

Pt 9 Div. 3
(Heading and
ss 162–171)
repealed by
No. 58/2011
s. 62.

* * * * *

Division 4—Licensing inspectors

172 Licensing inspectors

S. 172(1)
amended by
No. 37/2014
s. 10(Sch.
item 96.31).

- (1) The Chief Commissioner may appoint a police officer of or above the rank of inspector to be a licensing inspector for the purposes of this Act.

- (2) A licensing inspector has the functions and powers conferred on him or her by this Act.

- (3) In addition to his or her other functions and powers, a licensing inspector—

S. 172(3)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.231).

- (a) may report to the Commission any matter that may affect the attainment of the objects of this Act; and

S. 172(3)(b)
amended by
Nos 18/2005
s. 18(Sch. 1
item 60),
8/2009 s. 25.

- (b) may appear personally or by an Australian lawyer or a person approved by the Chief Commissioner in proceedings under this Act.

Division 5—Appeals on questions of law

Pt 9 Div. 5
(Heading and
ss 172A–
172D)
inserted by
No. 8/2009
s. 26,
substituted as
Pt 9 Div. 5
(Heading and
s. 172A) by
No. 58/2011
s. 63.

172A Appeal to Supreme Court

S. 172A
substituted by
No. 58/2011
s. 63.

- (1) A person whose interests are affected by a decision of the Commission under this Act may appeal to the Supreme Court, on a question of law, from a decision of the Commission.
- (2) An appeal must be instituted—
 - (a) within 28 days after the decision of the Commission; and
 - (b) in accordance with the rules of the Supreme Court.
- (3) The institution of an appeal under this section does not stay the operation of the decision of the Commission that is the subject of the appeal unless the Supreme Court otherwise orders.

PART 10—GENERAL

173 Service of notices and other documents

- (1) A notice or other document required or permitted to be given to or served on a person under this Act may be given or served—
- (a) if the person is a natural person, by giving it to, or serving it personally on, the person or by sending it by post to the person at his or her usual or last known place of residence or business; or
 - (b) if the person is a body corporate, by leaving it at or sending it by post to the registered office of the body corporate; or
 - (c) if the person is the owner or mortgagee of licensed premises, by leaving it at or sending it by post to the address registered with the Commission under section 98.
- (2) In subsection (1), **registered office** means—
- (a) the office of the body corporate that is the registered office or principal office in accordance with the law of the State or Territory by or under which the body corporate is incorporated; or
 - (b) if the body corporate is not incorporated in Australia, an office registered under the law of a State or Territory as a registered office of the body corporate; or
 - (c) in the case of a body corporate that has no such registered office or principal office, the principal place of business of the body corporate in Victoria, or, if it has no place of business in Victoria, its principal place of business in Australia.

S. 173(1)(c)
amended by
Nos 74/2000
s. 3(Sch. 1
item 72.2),
58/2011
s. 104(Sch.
item 4.232).

174 Extension of time for objections

At the request of any person, the Commission may—

- (a) extend the time for making an objection under this Act in respect of any particular application; or
- (b) accept an objection made after the time under this Act for making that objection has expired.

S. 174
amended by
No. 58/2011
s. 104(Sch.
item 4.233).

175 Application of Gambling Regulation Act 2003

(1) Sections 2.5.24 to 2.5.38 of the **Gambling Regulation Act 2003** with respect to, and so far as they relate to, a house or place which is, or is used as, a common gaming house or place or to any house or place which is suspected, upon reasonable grounds, by the owner to be used as a common gaming house or place, with such adaptations as are necessary—

- (a) extend and apply also to any house or place which is, or is used as, a house or place for the supply of liquor without a licence authorising the supply or is suspected upon reasonable grounds by the owner to be used as such a house or place;
- (b) extend and apply to any unlicensed club which is used for the supply of liquor without a licence authorising the supply or is suspected upon reasonable grounds by the owner to be used for such supply; and
- (c) have effect accordingly as if enacted in this Act and as if, in those sections—
 - (i) a reference to a senior police officer or a police officer were a reference to a licensing inspector;

S. 175(1)
amended by
No. 114/2003
s. 12.1.3
(Sch. 6
item 9.4).

S. 175(1)(c)(i)
amended by
No. 37/2014
s. 10(Sch.
item 96.32).

- (ii) a reference to any instruments of gaming and any instruments of betting and documents relating to betting and any money and securities for money were a reference to all liquor and vessels used for containing, measuring or drinking liquor.
- (2) A person guilty of an offence under any of the sections referred to in subsection (1) as so extended and applied for which no penalty is expressly provided under this Act, is liable—
- (a) for a first offence to a penalty of not more than 15 penalty units or to imprisonment for not more than 3 months;
 - (b) for a second offence to a penalty of not more than 30 penalty units or for a term of imprisonment of not more than 6 months;
 - (c) for any subsequent offence to 50 penalty units or imprisonment for a term of not more than 12 months.

176 Issue of proof of age cards

S. 176(1)
amended by
No. 58/2011
s. 104(Sch.
item 4.234).

- (1) A person may apply to the Commission for the issue of a document indicating that the person is of or over the age of 18 years.

- (2) An application must be—

S. 176(2)(a)
amended by
No. 58/2011
s. 104(Sch.
item 4.234).

- (a) in a form approved by the Commission; and

S. 176(2)(b)
amended by
Nos 92/2004
s. 18(1)(9)(a),
58/2011
s. 104(Sch.
item 4.234).

- (b) accompanied by the information and material, if any, required by the Commission; and

(c) accompanied by the fee specified in the regulations for the purposes of this section.

S. 176(2)(c)
inserted by
No. 92/2004
s. 18(1)(9)(b).

(3) On receiving an application, the Commission may issue a document indicating that the person is of or over the age of 18 years if the Commission is satisfied that the person is of or over that age.

S. 176(3)
amended by
No. 58/2011
s. 104(Sch.
item 4.234).

177 Treasurer may make payments

(1) The Treasurer may, from time to time, pay amounts determined by the Treasurer to persons who hold, or have held, licences (whether granted under the law of Victoria or of another State or of a Territory) relating to the sale of liquor in respect of which taxes have been paid to the Commonwealth.

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

(2) The Consolidated Fund is appropriated to the necessary extent for the purposes of subsection (1).

178 Treasurer may require information

(1) For the purpose of determining whether to make a payment under section 177, or the amount of a payment, the Treasurer may require a person referred to in section 177(1)—

(a) to give the Treasurer any information required by the Treasurer; or

(b) to produce to the Treasurer any document required by the Treasurer.

(2) A person must not give any information or produce any document under subsection (1) that is false or misleading in a material particular.

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

100 penalty units in any other case.

S. 178A
inserted by
No. 41/2013
s. 43.

178A Delegation

- (1) The Treasurer may delegate, by instrument, to the Commissioner of State Revenue—
 - (a) a power of the Treasurer under section 177(1) or 178(1);
 - (b) the power to delegate a power delegated under paragraph (a).
- (2) If power has been delegated under subsection (1)(b), the Commissioner of State Revenue may, subject to the terms of the instrument of delegation, sub-delegate, by instrument, to a member of staff of the State Revenue Office a power that is the subject of the delegation, other than the power of sub-delegation.
- (3) Sections 42 and 42A of the **Interpretation of Legislation Act 1984** apply in relation to a sub-delegation in the same manner as they apply in relation to a delegation.
- (4) In this section—

member of staff of the State Revenue Office
means—

 - (a) an employee referred to in section 67 of the **Taxation Administration Act 1997**; or
 - (b) a consultant or contractor engaged under section 68 of that Act.

179 Records to be made and kept by certain licensees

- (1) A person who is in a class of persons determined by the Commissioner of State Revenue who hold, or have held, licences must make a record of sales and purchases of liquor and keep each record for a period of 5 years after it was made.

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

- (1A) A determination of the Commissioner of State Revenue for the purposes of subsection (1)—
- (a) must be published in the Government Gazette and in a newspaper generally circulating in Victoria;
 - (b) takes effect on the date it is published or on the later date specified in it.
- (2) A record under this section must be in the form, and contain the particulars, required by the Commissioner of State Revenue.
- (3) A person must not—
- (a) fail to make or keep a record as required by this section; or
 - (b) include in a record under this section any information that is false or misleading in a material particular.
- Penalty: 500 penalty units in the case of a body corporate;
100 penalty units in any other case.
- (4) A record under this section need not be kept for 5 years if the Commissioner of State Revenue authorises its earlier destruction.

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

* * * * *

S. 179A
inserted by
No. 21/2001
s. 11,
amended by
No. 39/2002
s. 13,
repealed by
No. 39/2002
s. 16(b).

180 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The Governor in Council may make regulations for or with respect to encouraging responsible practices in the service, supply and promotion of liquor.
- (3) The regulations—
 - (a) may impose a penalty not exceeding 5 penalty units for a breach of the regulations;
 - (b) may be of general or of specially limited application;
 - (c) may differ according to differences in time, place or circumstances;
- (ca) may be made so as to incorporate, adopt or apply wholly or partially or as amended by the regulations, the provisions of any document, standard, guideline, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—
 - (i) as formulated, issued, prescribed or published at the time the regulation is made or at any time before the regulation is made; or
 - (ii) as amended from time to time;
- (cb) may exempt a business or a class or classes of business from the requirement to hold a licence subject to specified conditions;

S. 180(3)(ca)
inserted by
No. 2/2009
s. 29(2).

S. 180(3)(cb)
inserted by
No. 57/2010
s. 28.

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- (cc) may prescribe a type or types of liquor for the purposes of section 6D;
- (d) may exempt persons or things, or classes of persons or things, from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.
- (4) Regulations with respect to fees—
- (a) may provide for different fees for different classes of application;
- (ab) may provide for different fees or discounts on fees depending on whether the licence or permit has incurred demerit points under Part 4A or is the subject of non-compliance incidents;
- (ac) may provide for different fees for licences that have different conditions;
- (b) may provide for fees that vary according to time, including but not limited to—
- (i) fees that vary according to the trading hours for which a licensee is authorised to supply liquor; and
- (ii) fees that vary according to the period of time for which a licence is granted or renewed;
- (c) may provide for the means of payment of fees;
- (d) may provide for the Commission to waive or reduce fees in specified circumstances.
- S. 180(3)(cc) inserted by No. 57/2010 s. 28.**
- S. 180(4)(ab) inserted by No. 71/2011 s. 29.**
- S. 180(4)(ac) inserted by No. 71/2011 s. 29.**
- S. 180(4)(b) substituted by No. 59/2009 s. 29(1).**
- S. 180(4)(d) amended by No. 58/2011 s. 104(Sch. item 4.235).**

Liquor Control Reform Act 1998
No. 94 of 1998
Part 10—General

s. 180

S. 180(5)
inserted by
No. 59/2009
s. 29(2).

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- (5) Without limiting subsection (4), the regulations may provide for the calculation of fees based on all or any of the following factors—
- (a) the nature and scale of the activities being carried out at the licensed premises;
 - (b) the type of venue;
 - (c) the number of patrons;
 - (d) any activities carried out by a licensee or permittee that reduce the risk of alcohol-related harm arising from the operation of a licence or permit;
 - (e) the previous conduct of a licensee or permittee in carrying out activities under a licence or permit;
 - (f) the previous history of a licensee or permittee in complying with this Act and the regulations;
 - (g) any other factors consistent with the objects of this Act.
- (6) A fee provided for by the regulations is not limited to an amount that is related to the cost of providing a service.

S. 180(6)
inserted by
No. 59/2009
s. 29(2).

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

* * * * *

S. 181
repealed by
No. 21/2001
s. 13.

182 Savings and transitional provisions

S. 182
amended by
No. 58/2011
s. 64(1) (ILA
s. 39B(1)).

(1) Schedule 3 has effect.

(2) Schedule 4 has effect.

S. 182(2)
inserted by
No. 58/2011
s. 64(1).

**183 Transitional provision—Statute Law Amendment
(Directors' Liability) Act 2013**

S. 183
repealed by
No. 21/2001
s. 13,
new s. 183
inserted by
No. 13/2013
s. 30.

(1) For the avoidance of doubt, section 53A applies with respect to an offence against a provision specified in subsection (2) of that section that is alleged to have been committed by a body corporate on or after the commencement of section 27 of the **Statute Law Amendment (Directors' Liability) Act 2013**.

(2) For the avoidance of doubt, section 53B applies with respect to an offence against a provision specified in subsection (2) of that section that is alleged to have been committed by a body corporate on or after the commencement of section 27 of the **Statute Law Amendment (Directors' Liability) Act 2013**.

(3) For the avoidance of doubt, section 53C applies with respect to an offence against a provision specified in subsection (2) of that section that is alleged to have been committed by a body corporate on or after the commencement of

section 27 of the **Statute Law Amendment (Directors' Liability) Act 2013**.

- (4) This section does not limit section 14 of the **Interpretation of Legislation Act 1984**.

S. 184
inserted by
No. 21/2014
s. 17.

184 Transitional provision—Gambling and Liquor Legislation Amendment (Reduction of Red Tape) Act 2014

- (1) On and after the commencement of section 13 of the **Gambling and Liquor Legislation Amendment (Reduction of Red Tape) Act 2014**, any condition on a limited licence for the purpose of a club that was imposed by the Commission in relation to section 14(3) (as in force immediately before the commencement of section 13 of the **Gambling and Liquor Legislation Amendment (Reduction of Red Tape) Act 2014**) is removed.
- (2) On and after the commencement of section 14 of the **Gambling and Liquor Legislation Amendment (Reduction of Red Tape) Act 2014**, any condition on a club licence that was imposed by the Commission in relation to section 25(1)(b) (as in force immediately before the commencement of section 14 of the **Gambling and Liquor Legislation Amendment (Reduction of Red Tape) Act 2014**) is removed.

SCHEDULES

SCHEDULE 1

Section 10(4)(a)

CLUB LICENCES

The rules of a club—

- (a) must preclude the payment of any amount to an officer or servant of the club by way of commission or allowance from the receipts of the club for the supply of liquor;
- (b) must provide that a visitor to the club must not be supplied with liquor in the club premises unless the visitor is—
 - (i) a guest in the company of a member of the club; or
 - (ii) if the club admits authorised gaming visitors, an authorised gaming visitor admitted in accordance with the rules of the club;
- (c) must provide that a person cannot—
 - (i) be admitted as an honorary or temporary member of the club (if the club has these types of membership); or
 - (ii) be exempted from the obligation to pay the ordinary subscription for membership of the club—
unless the person is of a class specified in the rules and the admission or exemption is in accordance with the rules;
- (d) except in the case of a club primarily for sporting purposes, must provide that a person under the age of 18 years cannot be admitted to membership of the club;
- (e) must provide for a management committee of the club with responsibility for the affairs of the club;
- (f) must provide that the members of the management committee of the club be elected for a term of not less than 12 months by members of a class of members that constitutes not less than 60% of the total membership of

Sch. 1

the club, excluding temporary or honorary members and persons who are members by reason only of reciprocal arrangements with another club and persons whose rights as members are limited to rights as social, gaming or neighbourhood members;

- (g) unless the club is a body corporate—
- (i) must provide that the facilities of the club are provided and maintained from the joint funds of the club;
 - (ii) except as otherwise permitted under the **Liquor Control Reform Act 1998**, must not enable any person to receive a greater profit, benefit or advantage from the club than that to which any member is entitled;
 - (iii) must provide for periodic meetings of the management committee and the recording of minutes of the meetings;
 - (iv) must provide—
 - (A) that not less than two weeks may elapse between the date of nomination and the date of election of ordinary members; and
 - (B) that the names and addresses of persons proposed for election as members of the management committee of the club shall be displayed in a conspicuous place in the club premises for not less than one week before the date of the election; and
 - (C) for the election of members of the management committee by the general body of members; and
 - (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.
-

Sch. 2

SCHEDULE 2

**SPECIFIED OFFENCES FOR THE PURPOSES OF BANNING
NOTICES AND EXCLUSION ORDERS**

The following offences are specified offences for the purposes of Part 8A—

1 Offences against the person

An offence against section 16, 17, 18, 19, 20, 21, 22, 23, 24, 30, 31 or 31B of the **Crimes Act 1958**.

2 Sexual offences

An offence against section 38, 38A, 39 or 40 of the **Crimes Act 1958**.

3 Destroying or damaging property and trespass

An offence against section 197 or 206 of the **Crimes Act 1958** or section 9 of the **Summary Offences Act 1966**.

4 Offences relating to drunkenness

An offence against section 14 or 16 of the **Summary Offences Act 1966**.

5 Offensive and obscene behaviour

An offence against section 17 or 19 of the **Summary Offences Act 1966**.

5A Disorderly conduct

An offence against section 17A of the **Summary Offences Act 1966**.

6 Assaults—summary offences

An offence against section 23 or 24 of the **Summary Offences Act 1966**.

7 Prohibited weapons offences

An offence against section 5(1A) of the **Control of Weapons Act 1990**.

Sch. 2
repealed by
No. 21/2001
s. 13,
new Sch. 2
inserted by
No. 39/2002
s. 14,
repealed by
No. 39/2002
s. 16(b), new
Sch. 2
inserted by
No. 73/2007
s. 7.

Sch. 2 item 5A
inserted by
No. 52/2010
s. 35.

Liquor Control Reform Act 1998
No. 94 of 1998

Sch. 2

8 Failure to leave licensed premises
An offence against section 114(2) of this Act.

Sch. 2 item 8
amended by
No. 71/2011
s. 30.

SCHEDULE 3

Section 182

SAVINGS AND TRANSITIONAL PROVISIONS

PART 1—GENERAL PROVISIONS

Sch. 3 Pt 1
(Heading)
inserted by
No. 71/2011
s. 31(1).

1 Definitions

In this Schedule—

commencement day means the day on which
Part 11 of this Act comes into operation;

Commission means the Liquor Licensing
Commission established under the repealed
Act;

licence includes a licence within the meaning of
the repealed Act;

licensed premises includes licensed premises
within the meaning of the repealed Act;

licensee includes a licensee within the meaning of
the repealed Act;

permit includes a permit granted under the
repealed Act;

repealed Act means the **Liquor Control Act
1987**;

Sch. 3 cl. 1
def. of
repealed Act
amended by
No. 23/2002
s. 197(1)(a).

Victorian Electoral Commission means the
Victorian Electoral Commission established
under section 6 of the **Electoral Act 2002**.

Sch. 3 cl. 1
def. of
*Victorian
Electoral
Commission*
inserted by
No. 23/2002
s. 197(1)(b).

2 Liquor Licensing Commission

- (1) On the commencement day—
 - (a) the Commission is abolished and its members go out of office;
 - (b) the office of Chief Executive Officer of the Commission is abolished and the person who held that office immediately before the commencement day goes out of office.
- (2) Despite subclause (1)(a), the Commission, as constituted immediately before the commencement day, may hear and determine any application or matter under the repealed Act that was made or had arisen before that commencement.
- (3) Subject to this clause, the repealed Act applies to the hearing and determination of an application or matter under subclause (2) as if this Act had not been enacted.
- (4) Subject to this clause a determination under the repealed Act made by reason of subclause (2) has effect—
 - (a) in the case of a determination relating to the grant, variation, transfer or removal of a licence or permit—as if it had been made under the repealed Act immediately before the commencement day; and
 - (b) in any other case—as if it had been made under this Act.
- (5) A person who would be entitled to apply for review of a determination of the Commission under subclause (2) by virtue of section 105 of the repealed Act may apply to the Tribunal for review of the determination and the repealed Act applies to that review as if a reference in the repealed Act

to the Full Commission were a reference to the Tribunal.

3 Licences and permits under repealed Act

A licence or permit of a kind, or having effect as if it were a licence or permit of a kind, specified in column 1 of an item in the Table that is in force immediately before the commencement day is deemed to be, on and after the commencement day, a licence or permit of the kind specified in column 2 of that item granted and in force under this Act.

TABLE

<i>Item</i>	<i>Column 1 Licence or permit under repealed Act</i>	<i>Column 2 Licence or permit under this Act</i>
1.	General (class 1) licence	General licence
2.	Residential licence	General licence
3.	On-premises licence	On-premises licence
4.	General (class 2) licence	On-premises licence
5.	Limited licence	Limited licence
6.	Full club licence	Full club licence
7.	Restricted club licence	Restricted club licence
8.	Producer's or distributor's licence—	
8.1	- granted to a producer	Pre-retail licence
8.2	- granted to a distributor	Pre-retail licence
8.3	- granted to a vigneron	Vigneron's licence
9.	Packaged liquor licence	Packaged liquor licence
10.	BYO permit	BYO permit

4 Conditions of licences and permits under the repealed Act

- (1) A licence or permit referred to in clause 3 is subject to the conditions to which it was subject immediately before the commencement day.
- (2) The Director may remove a condition from a licence or permit referred to in clause 3 (other than a condition referred to in clause 6(3)) on application by a licensee or permittee or on the Director's own initiative.

5 Extended hours permits

If, immediately before the commencement day, a licensee of a licence referred to in column 1 of the Table in clause 3 held an extended hours permit under the repealed Act in respect of the licensed premises, the licence held by the licensee under this Act as a result of the operation of clause 3 authorises the licensee to supply liquor, in accordance with the licence, at the times specified in that permit.

6 Additional authority and conditions for pre-retail licence for producers and distributors

- (1) A pre-retail licence held by a person as a result of the operation of item 8.1 of the Table in clause 3 (producer) authorises the licensee to do the things referred to in section 49(1)(a) of the repealed Act in addition to anything it authorises the person to do under this Act.
- (2) A pre-retail licence held by a person as a result of the operation of item 8.2 of the Table in clause 3 (distributor) authorises the licensee to do the things referred to in section 49(1)(c) of the repealed Act in addition to anything it authorises the person to do under this Act.

- (3) The Director cannot remove a condition of a licence referred to in subclause (2) requiring the business carried on by the licensee under the licence to be not less than 90% the business of supplying liquor to licensees.

7 Restriction on general licence that was previously a residential licence

If a residential licence granted under the repealed Act or a licence having effect as a residential licence under the repealed Act did not authorise the licensee to sell or dispose of liquor for consumption off the licensed premises, the general licence held by the licensee as a result of the operation of clause 3 does not authorise the licensee to sell or dispose of liquor for consumption off the licensed premises, unless the licence is varied under this Act.

8 Restriction of on-premises licence granted to restaurant under repealed Act

An on-premises licence held by a licensee as a result of the operation of clause 3 in respect of an on-premises licence granted under section 50(2)(d) of the repealed Act or having effect as such a licence is subject to the condition that—

- (a) the predominant activity carried on on the licensed premises must be the preparation and serving of meals for consumption on the licensed premises; and
- (b) tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time.

9 Premises under old general (class 2) licence that are approved for gaming

Sch. 3 cl. 9
amended by
No. 114/2003
s. 12.1.3
(Sch. 6
item 9.5).

If, immediately before the commencement day—

- (a) a licensee held a general (class 2) licence under the repealed Act in respect of licensed premises; and
- (b) an approval was in force under Part 2A of the **Gaming Machine Control Act 1991** in respect of those premises—

the on-premises licence held by the licensee on and after the commencement day as a result of the operation of clause 3, and that licence as renewed from time to time under this Act, is deemed for the purposes of the **Gambling Regulation Act 2003** to be a general licence.

10 Consents and approvals under repealed Act continue

- (1) A consent of the Commission under section 120 of the repealed Act that was in force immediately before the commencement day continues in accordance with its terms and conditions on and after the commencement day for the purposes of section 105 of this Act as if it were a consent of the Director under that section.
- (2) A consent of the Commission under section 121 of the repealed Act that was in force immediately before the commencement day continues in accordance with its terms and conditions on and after the commencement day for the purposes of section 106 of this Act as if it were a consent of the Director under that section.

- (3) An approval of the Commission under section 128(2)(a)(i) or 128(2)(d) of the repealed Act that was in force immediately before the commencement day continues in accordance with its terms and conditions (if any) on and after the commencement day for the purposes of section 120(2)(a)(i) or 120(2)(e) of this Act as if it were an approval of the Director under that section.

11 Nominees continue

A person who, immediately before the commencement day, was a nominee of a licensee or permittee under section 86 of the repealed Act continues to be a nominee of that licensee or permittee on and after the commencement day for the purposes of this Act as if he or she had been approved by the Director under section 54 of this Act.

12 Endorsements continue

Any endorsements on a licence or BYO permit under the repealed Act that were in force immediately before the commencement day continue in force on and after the commencement day in respect of the equivalent licence or permit under this Act as if they had been made under this Act.

13 Authorisation of person under section 102 of repealed Act

A person who, immediately before the commencement day, carried on business as a result of an authorisation under section 102 of the repealed Act in respect of a licence or BYO permit continues to be authorised to carry on business in respect of the equivalent licence or permit on and after the commencement day as if their name had been endorsed on the licence or permit under section 93 of this Act.

14 People disqualified under repealed Act

(1) A reference in section 27 to a person who is disqualified from holding a licence or permit under this Act includes a reference to a person who was disqualified from holding a licence or permit under the repealed Act.

Sch. 3 cl. 14
amended by
No. 8/2006
s. 12 (ILA
s. 39B(3)).

(2) On or after the commencement of this subclause, a decision made under section 103 of the repealed Act that was in force immediately before the commencement day takes effect according to its terms as if it were an order made under section 92 of this Act.

Sch. 3 cl. 14(2)
inserted by
No. 8/2006
s. 12.

15 Notices required to be displayed under section 110A of the repealed Act

A requirement of the Commission under section 110A of the repealed Act that a notice be displayed on licensed premises that was in force immediately before the commencement day continues in force on and after the commencement day for the purposes of section 102 of this Act as if it were a requirement of the Director under that section.

16 Members of former Co-ordinating Council

(1) The members of the Co-ordinating Council under section 6 of the repealed Act who were in office immediately before the commencement day become members of the Co-ordinating Council under section 5 of this Act on the commencement day on the terms and conditions on which they were appointed under the repealed Act.

(2) The members referred to in subsection (1) hold office for the remainder of the terms for which they were appointed under the repealed Act, unless removed sooner.

17 Transitional provision—dry areas

(1) If, before the commencement of the Licensing Act 1928, a local opinion poll had been taken in an electoral district as constituted on 21 October 1920 and a resolution that no licence be granted in that district had been carried, a licence under this Act must not be granted in respect of, or relocated to, any premises in that district except in accordance with subclause (2).

(2) The following provisions have effect for the purposes of the grant or relocation of a licence in respect of premises in a district referred to in subclause (1)—

Sch. 3
cl. 17(2)(a)
amended by
No. 23/2012
s. 6(3)(4).

(a) before a new licence is granted in or an existing licence is relocated to any part of that district, the VCGLR must in the case of a general licence, an on-premises licence or a club licence and may if the VCGLR thinks proper in the case of any other licence order a vote of electors to be taken in the neighbourhood surrounding the proposed site of the premises in respect of which a licence has been applied for or to which a licence is sought to be relocated (as the case may be);

Sch. 3
cl. 17(2)(b)
amended by
Nos 24/1999
s. 48, 23/2002
s. 197(2),
23/2012
s. 6(3).

(b) the neighbourhood is to be delineated by the VCGLR after consultation with the Victorian Electoral Commission;

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

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

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- (d) if a majority of the electors voting formally vote against the resolution, the VCGLR must not grant the application for the licence or for the relocation of the licence (as the case may be) nor may the VCGLR grant any application for a licence in or the relocation of a licence to that neighbourhood within 3 years after the taking of such vote;
- (e) when the VCGLR orders a vote to be taken under this clause, the Victorian Electoral Commission must take a vote of electors accordingly and for that purpose—
- (i) the Victorian Electoral Commission may make all proper arrangements for the taking of the vote;
- (ii) every elector within the neighbourhood delineated who is entitled to be enrolled on the register of electors within the meaning of the **Electoral Act 2002** on the 60th day before the taking of the vote is qualified to vote but may vote once only;
- (iii) the voting may be conducted by means of postal voting;
- * * * * *
- Sch. 3
cl. 17(2)(d)
amended by
No. 23/2012
s. 6(3)(4).
- Sch. 3
cl. 17(2)(e)
amended by
Nos 24/1999
s. 48, 23/2002
s. 197(3)(a),
23/2012
s. 6(3).
- Sch. 3
cl. 17(2)(e)(i)
amended by
No. 23/2002
s. 197(3)(b).
- Sch. 3
cl. 17(2)(e)(ii)
amended by
No. 23/2002
s. 197(3)(c).
- Sch. 3
cl. 17(2)(e)(iii)
repealed by
No. 23/2002
s. 197(3)(d),
new Sch. 3
cl. 17(2)(e)(iii)
inserted by
92/2004
s. 37(a).
- Sch. 3
cl. 17(2)(e)(iv)
repealed by
No. 23/2002
s. 197(3)(d).

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Sch. 3
cl. 17(2)(e)(v)
amended by
No. 23/2002
s. 197(3)(a).

(v) the Victorian Electoral Commission must cause notice of the result of the voting to be published in the Government Gazette;

Sch. 3
cl. 17(2)(e)(vi)
substituted by
No. 23/2002
s. 197(3)(e).

(vi) the Governor in Council may make regulations for or with respect to any matter or thing necessary to be prescribed for the carrying out and giving effect to the provisions of this clause;

Sch. 3
cl. 17(2)(e)(vii)
inserted by
No. 23/2002
s. 197(3)(e).

(vii) the regulations may include regulations based on the **Electoral Act 2002** and on regulations made under that Act with any alterations and adaptations that, in the opinion of the Governor in Council, are necessary.

(3) A reference in subclause (1) to a licence does not include a reference to a licence of a kind mentioned in Column 2 of item 5 in the Table in clause 3 granted to a person for a purpose similar to the purpose for which a licence of a kind mentioned in Column 1 of that item was or could have been granted to that person under the repealed Act.

Sch. 3 cl. 17(4)
inserted by
No. 23/2012
s. 6(5).

(4) In this clause, *VCGLR* has the same meaning as *Commission* has in section 3(1).

18 Councils may take poll of voters

(1) A Council in whose municipal district an electoral district or part of an electoral district referred to in clause 17 is situated may cause a poll of voters in that electoral district or part to be held to obtain the opinion of the voters on whether the provisions of clause 17 should be retained, altered or repealed in respect of that electoral district or part.

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- (2) A poll under this clause is to be held in accordance with the provisions of the **Local Government Act 1989**, except that clause 16 of Schedule 3 to that Act does not apply.
- (3) If a poll is held under this clause—
- (a) the relevant Council must give written notice of the result of the poll to the Minister; and
 - (b) if the result of the poll is that the provisions of clause 17 should be repealed in respect of an electoral district or part, that clause ceases to apply in respect of that district or part on and from the day on which the result of the poll is announced; and
 - (c) if the result of the poll is that the provisions of clause 17 should be altered in respect of an electoral district or part, that clause is altered in respect of that district or part in accordance with the result of the poll on and from the day on which the result of the poll is announced.

19 Transitional provisions—Liquor Control Reform (Amendment) Act 2001

Sch. 3 cl. 19
inserted by
No. 21/2001
s. 12.

- (1) Section 11(3)(aa), as inserted by section 5 of the **Liquor Control Reform (Amendment) Act 2001**, extends to packaged liquor licences in force at the commencement of that section 5.
- (2) Section 18A, as inserted by section 6 of the **Liquor Control Reform (Amendment) Act 2001**, applies to a general licence granted or transferred to a person on an application made on or after 23 January 2001.

-
- (3) Section 22(3), as inserted by section 7 of the **Liquor Control Reform (Amendment) Act 2001**, applies to the grant of a licence or BYO permit on or after the commencement of that section 7 whether the application for the grant was made before, on or after that commencement.
- (4) Section 23, as amended by section 8 of the **Liquor Control Reform (Amendment) Act 2001**, applies to the grant or transfer of a licence to a person on an application made on or after 23 January 2001.
- (5) However, section 23(3), as inserted by section 8(3) of the **Liquor Control Reform (Amendment) Act 2001**, does not apply to a general licence that was in force on 23 January 2001.
- (6) If—
- (a) an application was made on or after 23 January 2001 for the grant or transfer of a licence to a person; and
 - (b) the licence was granted or transferred to the person before the commencement of the **Liquor Control Reform (Amendment) Act 2001**; and
 - (c) the grant or transfer of the licence would have been prohibited by section 23 had the amendments to that section by section 8 of the **Liquor Control Reform (Amendment) Act 2001** been in operation at the time of the grant or transfer—

the licence ceases to be in force, by virtue of this subclause, on the commencement of that Act.

**20 Transitional provision—Liquor Control Reform
(Packaged Liquor Licences) Act 2002**

Sch. 3 cl. 20
inserted by
No. 39/2002
s. 15.

- (1) Section 11(3)(aac) and (aad), as inserted by section 6(1) of the **Liquor Control Reform (Packaged Liquor Licences) Act 2002**, extends to packaged liquor licences in force at the commencement of that section 6(1).
- (2) However, the licence condition referred to in section 11(3)(aac) does not apply to a packaged liquor licence until the financial year commencing on 1 July 2003.
- (3) Section 35, as substituted by section 10 of the **Liquor Control Reform (Packaged Liquor Licences) Act 2002**, applies to an application made on or after the commencement of that section 10.
- (4) If—
 - (a) on or after 14 May 2002 but before the day on which the **Liquor Control Reform (Packaged Liquor Licences) Act 2002** receives the Royal Assent, the Director grants or transfers to a person a packaged liquor licence; and
 - (b) the grant or transfer would have been prohibited by section 23 had the **Liquor Control Reform (Packaged Liquor Licences) Act 2002** received the Royal Assent—

the grant or transfer (as the case requires) is, and must be taken always to have been, void.

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Sch. 3 cl. 21
inserted by
No. 73/2007
s. 25.

21 Transitional provisions—Liquor Control Reform Amendment Act 2007

- (1) The condition referred to in section 9(3)(c), as inserted by section 13(1)(b) of the Amending Act, applies on and after the commencement of that section 13(1)(b) to an on-premises licence whether the licence was granted before, on or after that commencement.
- (2) Section 90(1)(fa) and (fb), as inserted by section 17(2)(a) of the Amending Act, apply only in the case of a director or member of a committee of management who is convicted of an offence on or after the commencement of that section 17(2)(a).
- (3) In this clause—

Amending Act means the **Liquor Control Reform Amendment Act 2007**.

Sch. 3 cl. 23
inserted by
No. 59/2009
s. 31 (as
amended by
No. 1/2010
s. 106).

23 Transitional provision—on-premises licences

- (1) The holder of an on-premises licence that is subject to the conditions set out in section 9(3) may apply to the Director before the commencement of section 32 of the **Liquor Control Reform Amendment (Licensing) Act 2009** for the continuation after that commencement of the on-premises licence subject to those conditions.
- (2) If the Director grants the application, the licence continues in force (subject to the conditions on which it was granted, including the conditions set out in section 9(3)) on or after the commencement of section 32 of the **Liquor Control Reform Amendment (Licensing) Act 2009**—
 - (a) if the licence authorises the supply of liquor for a continuous period from 1 a.m. on a particular day and also authorises the supply

of liquor up to 1 a.m. on that day, as a late night (on-premises) licence; and

(b) in any other case, as an on-premises licence.

(3) An application may be made at any time after the commencement of section 31 of the **Liquor Control Reform Amendment (Licensing) Act 2009** and before the commencement of section 32 of the 2009 Act for a licence under this Act as proposed to be amended by the 2009 Act but the licence does not take effect before the commencement of section 32 of the 2009 Act.

(4) Nothing in this clause limits the operation of the **Interpretation of Legislation Act 1984**.

24 Transitional provisions—Liquor Control Reform Amendment (Licensing) Act 2009

Sch. 3 cl. 24
inserted by
No. 59/2009
s. 32.

(1) A general licence that authorises the supply of liquor during late night trading hours that was in force immediately before the commencement of section 11 of the **Liquor Control Reform Amendment (Licensing) Act 2009** is, after the commencement of that section, taken to continue in force (subject to any conditions on which it was granted) as a late night (general) licence.

(2) An application for a general licence authorising trading during late night trading hours that was made but not finally determined before the commencement of section 11 of the **Liquor Control Reform Amendment (Licensing) Act 2009** is taken to be an application for a late night (general) licence.

(3) Except as provided in subclause (5) or clause 23(2), an on-premises licence that authorises the supply of liquor during late night trading hours that was in force immediately before the commencement of section 11 of the **Liquor Control Reform Amendment (Licensing) Act**

- 2009 is, after the commencement of that section, taken to continue in force (subject to any conditions on which it was granted) as a late night (on-premises) licence.
- (4) Except as provided in subclause (6), an application for an on-premises licence authorising trading during late night trading hours that was made but not finally determined before the commencement of section 8 of the **Liquor Control Reform Amendment (Licensing) Act 2009** is taken to be an application for a late night (on-premises) licence.
- (5) Except in relation to an on-premises licence that is continued under clause 23, an on-premises licence that is subject to the conditions referred to in section 9(3) that was in force immediately before the commencement of section 9 of the **Liquor Control Reform Amendment (Licensing) Act 2009** is, after the commencement of that section, taken to continue in force (subject to any conditions on which it was granted) as a restaurant and cafe licence.
- (6) An application for an on-premises licence that would if granted before the commencement of section 9 of the **Liquor Control Reform Amendment (Licensing) Act 2009** have been subject to the conditions referred to in section 9(3) and that was made but not finally determined immediately before that commencement is taken to be an application for a restaurant and cafe licence.
- (7) A packaged liquor licence that authorises the supply of liquor during late night trading hours that was in force immediately before the commencement of section 11 of the **Liquor Control Reform Amendment (Licensing) Act 2009** is, after the commencement of that section,

taken to continue in force (subject to any conditions on which it was granted) as a late night (packaged liquor) licence.

- (8) An application for a packaged liquor licence authorising trading during late night trading hours that was made but not finally determined before the commencement of section 11 of the **Liquor Control Reform Amendment (Licensing) Act 2009** is taken to be an application for a late night (packaged liquor) licence.
- (9) A limited licence that was granted as a renewable limited licence and that was in force immediately before the commencement of section 12 of the **Liquor Control Reform Amendment (Licensing) Act 2009** is, after the commencement of that section, taken to continue in force (subject to any conditions on which it was granted) as a renewable limited licence.
- (10) Subject to subclause (12), an application for a limited licence for an event that was made but not finally determined before the commencement of section 12 of the **Liquor Control Reform Amendment (Licensing) Act 2009** is taken to be an application for a temporary limited licence.
- (11) An application for a limited licence (other than for an event) that was made but not finally determined before the commencement of section 12 of the **Liquor Control Reform Amendment (Licensing) Act 2009** is taken to be an application for a renewable limited licence.
- (12) The Director may treat an application for a limited licence that is made after the **Liquor Control Reform Amendment (Licensing) Act 2009** receives the Royal Assent as an application for a major event licence, if the event for which the licence is sought is an event that is capable of being determined as a major event by the Director

Sch. 3

in accordance with section 14B and is proposed to be held after the commencement of section 13 of that Act.

Sch. 3 cl. 25
inserted by
No. 57/2010
s. 29.

25 Transitional provisions—Liquor Control Reform Amendment Act 2010

Sch. 3 cl. 25(1)
amended by
No. 29/2011
s. 3(Sch. 1
item 52).

- (1) A condition in relation to responsible service of alcohol programs that was imposed on a general licence, on-premises licence, packaged liquor licence or late night licence that was existing immediately before the commencement of section 19 of the **Liquor Control Reform Amendment Act 2010** ceases to have effect on that commencement.
- (2) A licensee (except a body corporate) of a general licence, on-premises licence, packaged liquor licence or late night licence that was existing immediately before the commencement of section 19 of the **Liquor Control Reform Amendment Act 2010** who has not completed a responsible service of alcohol program in the 3 years before that commencement, must complete an approved responsible service of alcohol program within 12 months of that commencement.
Penalty: 60 penalty units.
- (3) If a licensee of a general licence, on-premises licence, packaged liquor licence or late night licence that was existing immediately before the commencement of section 19 of the **Liquor Control Reform Amendment Act 2010** is a body corporate and the person responsible for the management or control of the licensed premises has not completed a responsible service of alcohol program in the 3 years before that commencement, the licensee must ensure the

person completes an approved responsible service of alcohol program within 12 months of that commencement.

Penalty: 60 penalty units.

- (4) A licensee (except a body corporate) of a general licence, on-premises licence, packaged liquor licence or late night licence that was existing immediately before the commencement of section 19 of the **Liquor Control Reform Amendment Act 2010** who has completed a responsible service of alcohol program in the 3 years before that commencement, must complete an approved responsible service of alcohol program within the later of the following periods—

- (a) the period commencing on that commencement and the period ending 3 years from the date on which the licensee completed the responsible service of alcohol program;
- (b) the period ending 12 months from that commencement.

Penalty: 60 penalty units.

- (5) If a licensee of a general licence, on-premises licence, packaged liquor licence or late night licence that was existing immediately before the commencement of section 19 of the **Liquor Control Reform Amendment Act 2010** is a body corporate and the person responsible for the management or control of the licensed premises has completed a responsible service of alcohol program in the 3 years before that commencement, the licensee must ensure the person completes an approved responsible service of alcohol program within the later of the following periods—

-
- (a) the period commencing on that commencement and ending 3 years from the date on which the person completed the responsible service of alcohol program;
 - (b) the period ending 12 months from that commencement.

Penalty: 60 penalty units.

- (6) A licensee of a general licence, on-premises licence, packaged liquor licence or late night licence that was existing immediately before the commencement of section 19 of the **Liquor Control Reform Amendment Act 2010** must ensure that any person who on that commencement is engaged or employed by the licensee to sell, offer for sale or serve liquor on the licensed premises and has not completed a responsible service of alcohol program in the 3 years before that commencement completes an approved responsible service of alcohol program within 12 months of that commencement.

Penalty: 60 penalty units.

- (7) A licensee of a general licence, on-premises licence, packaged liquor licence or late night licence that was existing immediately before the commencement of section 19 of the **Liquor Control Reform Amendment Act 2010** must ensure that any person who on that commencement is engaged or employed by the licensee to sell, offer for sale or serve liquor on the licensed premises and has completed a responsible service of alcohol program in the 3 years before that commencement completes an approved responsible service of alcohol program within the later of the following periods—

- (a) the period commencing on that commencement and ending 3 years from the date on which the person completed the responsible service of alcohol program;
- (b) the period ending 12 months from that commencement.

Penalty: 60 penalty units.

- (8) Section 99A does not apply to a licensee in respect of a licence that was existing immediately before the commencement of section 15 of the **Liquor Control Reform Amendment Act 2010** until one month after that commencement.
- (9) A licensee who provides sexually explicit entertainment on licensed premises at the commencement of section 17 of the **Liquor Control Reform Amendment Act 2010** must notify the Director in writing of this within 3 months after that commencement.

Penalty: 10 penalty units.

Note

Section 53B applies to an offence against subclause (5) or (7).

Note to
Sch. 3 cl. 25
inserted by
No. 13/2013
s. 29(9).

**PART 2—LIQUOR CONTROL REFORM FURTHER
AMENDMENT ACT 2011**

Sch. 3 Pt 2
(Heading and
cls 26–30)
inserted by
No. 71/2011
s. 31(2).

26 Transitional provision—general licence

- (1) In this section a *pre-2011 general licence* means a general licence as in force before the commencement of section 7 of the **Liquor Control Reform Further Amendment Act 2011** under which a licensee supplies packaged liquor only for consumption off the licensed premises as

Sch. 3 cl. 26
inserted by
No. 71/2011
s. 31(2).

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the whole of the licensee's ordinary business of supplying liquor.

- (2) The Commission may—
- (a) impose a condition that the licensee of a pre-2011 general licence comply with the code of conduct (if any) determined by the Minister under section 11(5) as in force from time to time; and
 - (b) charge the prescribed renewal fee for a licence that is subject to the condition set out in paragraph (a).
- (3) On and from the commencement of section 7 of the **Liquor Control Reform Further Amendment Act 2011**, a licensee of a pre-2011 general licence must notify the Commission in writing within 3 months after commencing supply of packaged liquor only for consumption off the licensed premises as the whole of the licensee's ordinary business supplying liquor.

Penalty: 10 penalty units.

Sch. 3 cl. 27
inserted by
No. 71/2011
s. 31(2).

27 Savings provision—packaged liquor licences

Section 11(1) as amended by the **Liquor Control Reform Further Amendment Act 2011** is taken to have applied in respect of any packaged liquor licence in force on or after 1 January 2010.

Sch. 3 cl. 28
inserted by
No. 71/2011
s. 31(2).

28 Savings provision—late night (packaged liquor) licences

Section 11A(4) as amended by the **Liquor Control Reform Further Amendment Act 2011** is taken to have applied in respect of any late night (packaged liquor) licence granted on or after 1 January 2010.

29 Transitional provision—vigneron's licences

On and from the commencement of section 10 of the **Liquor Control Reform Further Amendment Act 2011**, any vigneron's licence that was in force immediately before that commencement is taken to continue in force (subject to any conditions on which it was granted) as if it were a wine and beer producer's licence.

Sch. 3 cl. 29
inserted by
No. 71/2011
s. 31(2).

30 Transitional provision—other licences

- (1) A licensee of a licence that is not a late night licence that was in force immediately before the commencement of section 10 of the **Liquor Control Reform Further Amendment Act 2011** may, within 1 year of that commencement, apply to the Commission for a variation of the licence to a wine and beer producer's licence.
- (2) If the Commission is satisfied that the conditions for a wine and beer producer's licence have been met, the Commission may authorise the variation.
- (3) Section 29 does not apply to an application under this section.
- (4) An application under this section is not subject to any fee.

Sch. 3 cl. 30
inserted by
No. 71/2011
s. 31(2).

Sch. 4
repealed by
No. 21/2001
s. 13,
new Sch. 4
inserted by
No. 58/2011
s. 64.

SCHEDULE 4

TRANSITIONAL PROVISIONS—VICTORIAN COMMISSION
FOR GAMBLING AND LIQUOR REGULATION ACT 2011

1 Definitions

In this Schedule—

commencement day means the day on which section 64 of the **Victorian Commission for Gambling and Liquor Regulation Act 2011** comes into operation;

Director means the Director of Liquor Licensing appointed under section 149 as in force immediately before the commencement day;

LCRA licence or permit means—

- (a) a general licence;
- (b) an on-premises licence;
- (c) a restaurant and cafe licence;
- (d) a club licence;
- (e) a packaged liquor licence;
- (f) a late night licence;
- (g) a pre-retail licence;
- (h) a vigneron's licence;
- (i) a limited licence;
- (j) a major event licence;
- (k) a BYO permit;

liabilities means all liabilities, duties and obligations, whether actual, contingent or prospective;

new Commission means Victorian Commission for Gambling and Liquor Regulation established under Part 2 of the **Victorian Commission for Gambling and Liquor Regulation Act 2011**;

Panel means a Liquor Licensing Panel established under section 157 as in force immediately before the commencement day and in existence before that day;

pending contested application means an application made before the commencement day for a LCRA licence or permit in respect of which the Director has not made a decision to grant or refuse to grant the licence or permit before that day;

property means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description;

rights means all rights, powers, privileges and immunities, whether actual, contingent or prospective;

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

2 General savings provisions

- (1) This Schedule does not affect or take away from the **Interpretation of Legislation Act 1984**.
- (2) This Schedule applies despite anything to the contrary in any other provision in this Act.

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Sch. 4 cl. 3
repealed by
No. 94/1998
s. 182(2)
(Sch. 4
cl. 3(4)).

4 Office of Director abolished

On the commencement day—

- (a) the office of Director is abolished and the person holding the office goes out of office;
- (b) the Panel is abolished and its members go out of office;
- (c) all rights, property and assets that, immediately before that day, were vested in the office of Director are, by force of this subclause, vested in the new Commission;
- (d) all debts, liabilities and obligations of the Director existing immediately before that day become, by force of this subclause, debts, liabilities and obligations of the new Commission;
- (e) the new Commission is, by force of this subclause, substituted as a party to any proceeding pending in any court or tribunal to which the Director was a party immediately before that day;
- (f) the new Commission is, by force of this subclause, substituted as a party to any arrangement or contract entered into by or on behalf of the Director as a party and in force immediately before that day.

5 References

On the commencement day any reference to the Director in any Act (other than this Act or the **Victorian Commission for Gambling and Liquor Regulation Act 2011**) or in any rule, regulation, order, agreement, instrument, deed or other document whatever must, so far as it relates to any period on or after that day and if not inconsistent with the context or subject-matter, be construed as a reference to the new Commission.

6 Pending uncontested applications

- (1) This clause applies to an application for, or variation of, a LCRA licence or permit made before the commencement day—
 - (a) that is not a contested application; and
 - (b) in respect of which the Director has not made a decision before that day.
- (2) On and after the commencement day, the new Commission may make the decision, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the new Commission.
- (3) For the purposes of this clause, this Act as in force immediately before the commencement day applies as if a reference to the Director were a reference to the new Commission.

7 Own motion variations of Director

- (1) This clause applies if, before the commencement day—
 - (a) the Director proposes to vary a LCRA licence or permit on his or her own initiative; and
 - (b) written notice of the proposed variation has been given to the licensee or permittee.
- (2) On and after the commencement day, the new Commission—
 - (a) must, if the licensee or permittee gives any notice of objection to the proposed variation before or after the commencement day, consider any written or oral submissions made in respect of that objection; and

(b) may vary the LCRA licence or permit, and for that purpose, anything done before that day by the Director for the purpose of making the variation is taken to have been done by the new Commission.

(3) For the purposes of this clause, this Act as in force immediately before the commencement day applies as if a reference to the Director were a reference to the new Commission.

8 Pending contested applications referred to Panel in respect of which consideration has not been given

(1) This clause applies if—

(a) before the commencement day, a contested application has been referred by the Director to the Panel; and

(b) the Panel has not yet considered the application or given the applicant and each objector an opportunity to be heard.

(2) On and after the commencement day the new Commission must determine the contested application.

(3) For the purposes of this clause, this Act as in force immediately before the commencement day applies as if a reference to the Director were a reference to the new Commission.

(4) Despite anything to the contrary in any Act or law (other than the **Charter of Human Rights and Responsibilities Act 2006**), every document or other information held by the Director or the Panel immediately before the commencement day that is relevant to a pending contested application to which this clause applies is on that day taken to be a document or information of the new Commission.

9 Pending contested application referred to Panel in respect of which there is no Panel report

- (1) This clause applies if—
 - (a) before the commencement day, a contested application has been considered by the Panel; and
 - (b) the applicant and each objector has been given an opportunity to be heard; and
 - (c) the Panel has not given the Director its report in respect of the application under section 46(3).
- (2) On and after the commencement day, the new Commission—
 - (a) may have regard to any record of the hearings conducted by the Panel; and
 - (b) must determine the contested application.
- (3) For the purposes of this clause, this Act as in force immediately before the commencement day applies as if a reference to the Director were a reference to the new Commission.
- (4) Despite anything to the contrary in any Act or law (other than the **Charter of Human Rights and Responsibilities Act 2006**), every document or other information held by the Panel immediately before the commencement day that is relevant to a pending contested application to which this clause applies is on that day taken to be a document or information of the new Commission.

10 Contested applications in respect of which Panel has given Panel report

- (1) This clause applies if before the commencement day, the Panel has given the Director its report in respect of a contested application under section 46(3).

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- (2) On and after the commencement day the new Commission must have regard to that report but otherwise determine the contested application.
 - (3) For the purposes of this clause, this Act as in force immediately before the commencement day applies as if a reference to the Director were a reference to the new Commission.
 - (4) Despite anything to the contrary in any Act or law (other than the **Charter of Human Rights and Responsibilities Act 2006**), every document or other information held by the Panel immediately before the commencement day that is relevant to a pending contested application to which this clause applies is on that day taken to be a document or information of the new Commission.

11 Tribunal inquiries

- (1) This clause applies if an application has been made to the Tribunal to conduct an inquiry into a licensee or permittee under section 90 before the commencement day in respect of which the Tribunal has not made an order under that section.
- (2) On and after the commencement day, the Tribunal must conduct an inquiry in respect of an application to which this section applies under sections 90 to 93 as in force immediately before that day.
- (3) If, after conducting an inquiry specified under subsection (2), the Tribunal orders the suspension of a LCRA licence or permit under section 91 as in force immediately before the commencement day, that suspension (including the period specified for that suspension by the Tribunal) is, on and after the date of the order, taken to be a suspension imposed by the new Commission under Division 1 of Part 6.

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- (4) If, after conducting an inquiry specified under subsection (2), the Tribunal orders the imposition of a fine under this Act as in force immediately before the commencement day, that fine is taken, on and after the date of the order, to be a fine imposed by the new Commission under Division 1 of Part 6.
 - (5) If, after conducting an inquiry specified under subsection (2), the Tribunal orders the variation of a LCRA licence or permit under section 91(2) as in force immediately before the commencement day, that variation is taken, on and after the date of the order, to be a variation imposed by the new Commission under Division 1 of Part 6.
 - (6) If, after conducting an inquiry specified under subsection (2), the Tribunal orders that the licensee or permittee or any director or nominee of the licensee or permittee (if it is a body corporate) or any member of the committee of management or nominee of the licensee or permittee (if it is a club) or any person who, whether directly or indirectly, is concerned or takes part in the management of a licensed premises be disqualified from holding a permission specified in section 92(1)(a), (b), (c), (d), (e) or (f) as in force immediately before the commencement day, that disqualification is taken, on and after the date of the order, to be a disqualification imposed by the new Commission under section 93D.
 - (7) If, during or after an inquiry specified under subsection (2), the Tribunal orders the endorsement of the name of the owner or a mortgagee of a licensed premises or their agent on a LCRA licence or permit under section 93 as in force immediately before the commencement day, that endorsement is taken, on and after the date of

the order, to be an endorsement of the new Commission under section 93E.

12 Documents or information of Director

Despite anything to the contrary in any Act or law (other than the **Charter of Human Rights and Responsibilities Act 2006**), every document or other information held by the Director or the Panel immediately before the commencement day that is relevant to the functions of the new Commission is, on that day, taken to be a document or information of the new Commission.

13 Notices

A notice given, issued or served by the Director under this Act that is in force immediately before the commencement day is, on that day, taken to be a notice given, issued or served by the new Commission.

14 Applications, approvals, decisions or other actions of Director

- (1) Subject to this Schedule, this section applies if immediately before the commencement day—
 - (a) the Director has commenced to do something required or permitted to be done under this Act; and
 - (b) the Director has not completed that thing before that day.
- (2) On and after the commencement day, the new Commission may continue to do and complete that thing as if the Act had not been amended by the **Victorian Commission for Gambling and Liquor Regulation Act 2011**.
- (3) Anything done by the Director before the commencement day in respect of that thing is, on and after that day, taken to have been done by the new Commission.

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- (4) For the purposes of this clause, this Act as in force immediately before the commencement day applies as if a reference to the Director were a reference to the new Commission.

15 Taxes

No duty or other tax is chargeable under any Act in respect of anything done under this Schedule or in respect of any act or transaction connected with or necessary to be done by reason of this Schedule, including a transaction entered into or an instrument made, executed, lodged or given, for the purpose of, or connected with the transfer of property, rights or liabilities of the Director.

16 Validity of things done under this Schedule

Nothing effected or to be effected by this Schedule or done or suffered under this Schedule—

- (a) is to be regarded as placing any person in breach of contract or confidence or as otherwise making any person guilty of a civil wrong; or
- (b) is to be regarded as placing any person in breach of, or as constituting a default under, any Act (other than the **Charter of Human Rights and Responsibilities Act 2006**) or other law or obligation or any provision in any agreement, arrangement or understanding including, but not limited to, any provision or obligation prohibiting, restricting or regulating the assignment, transfer, sale or disposal of any property or the disclosure of any information; or
- (c) is to be regarded as fulfilling any condition that allows a person to exercise a power, right or remedy in respect of or to terminate any agreement or obligation; or

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- (d) is to be regarded as giving rise to any remedy for a party to a contract or an instrument or as causing or permitting the termination of any contract or instrument because of a change in the beneficial or legal ownership of any relevant property; or
 - (e) is to be regarded as causing any contract or instrument to be void or otherwise unenforceable; or
 - (f) is to be regarded as frustrating any contract; or
 - (g) releases any surety or other obligor wholly or in part from any obligation.
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ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 8 October 1998

Legislative Council: 10 November 1998

The long title for the Bill for this Act was "A Bill to reform the law relating to the supply and consumption of liquor, to repeal the **Liquor Control Act 1987**, to make consequential amendments to other Acts and for other purposes."

The **Liquor Control Reform Act 1998** was assented to on 24 November 1998 and came into operation as follows:

Part 1 (sections 1–6) on 24 November 1998: section 2(1); rest of Act on 17 February 1999: Special Gazette (No. 22) 16 February 1999 page 3.

Liquor Control Reform Act 1998
No. 94 of 1998

Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Liquor Control Reform Act 1998** by Acts and subordinate instruments.

Liquor Control Reform Act 1998, No. 94/1998

Assent Date: 24.11.98
Commencement Date: S. 182(2)(Sch. 4 cl. 3(4)) on 31.1.13: S. 182(2)(Sch. 4 cl. 3(4))
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

The Constitution Act Amendment (Amendment) Act 1999, No. 24/1999

Assent Date: 25.5.99
Commencement Date: 8.6.99: s. 2
Current State: All of Act in operation

National Taxation Reform (Consequential Provisions) Act 2000, No. 6/2000

Assent Date: 11.4.00
Commencement Date: S. 34 on 1.7.00: s. 2(3)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 72) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Liquor Control Reform (Amendment) Act 2001, No. 21/2001

Assent Date: 29.5.01
Commencement Date: 30.5.01: s. 2
Current State: All of Act in operation

Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 73) on 15.7.01: s. 2
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Liquor Control Reform (Prohibited Products) Act 2001, No. 88/2001

Assent Date: 11.12.01
Commencement Date: 21.12.01: s. 2
Current State: All of Act in operation

Electoral Act 2002, No. 23/2002

Assent Date: 12.6.02
Commencement Date: S. 197 on 1.9.02: Government Gazette 29.8.02 p. 2333
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Liquor Control Reform Act 1998
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Liquor Control Reform (Packaged Liquor Licences) Act 2002, No. 39/2002

Assent Date: 18.6.02
Commencement Date: S. 4(2) on 14.5.02: s. 2(2); ss 4(1), 5–15 on 18.6.02:
s. 2(1); s. 16 on 1.1.06: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Small Business Commissioner Act 2003, No. 6/2003

Assent Date: 15.4.03
Commencement Date: S. 15 on 1.5.03: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

ANZAC Day (Amendment) Act 2003, No. 96/2003

Assent Date: 2.12.03
Commencement Date: S. 14 on 3.12.03: s. 2
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Gambling Regulation Act 2003, No. 114/2003

Assent Date: 16.12.03
Commencement Date: S. 12.1.3(Sch. 6 item 9) on 1.7.04: Government
Gazette 1.7.04 p. 1843
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

**Liquor Control Reform (Underage Drinking and Enhanced Enforcement) Act
2004, No. 92/2004**

Assent Date: 7.12.04
Commencement Date: Ss 3–36 on 8.12.04: s. 2(1); s. 37(a) on 1.3.06:
Government Gazette 23.2.06 p. 366
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 115) on 5.4.05: Government
Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Legal Profession (Consequential Amendments) Act 2005, No. 18/2005

Assent Date: 24.5.05
Commencement Date: S. 18(Sch. 1 item 60) on 12.12.05: Government
Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Health Professions Registration Act 2005, No. 97/2005

Assent Date: 7.12.05
Commencement Date: S. 182(Sch. 4 item 33) on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

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Liquor Control Reform (Amendment) Act 2006, No. 8/2006

Assent Date: 4.4.06
Commencement Date: Ss 4(1), 6–12 on 5.4.06: s. 2(1); ss 4(2), 5 on 1.12.06:
s. 2(3)
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Education and Training Reform Act 2006, No. 24/2006

Assent Date: 16.5.06
Commencement Date: S. 6.1.2(Sch. 7 item 26) on 1.7.07: Government
Gazette 28.6.07 p. 1304
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: Ss 86, 87 on 1.7.06: Government Gazette 29.6.06
p. 1315
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

**Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006,
No. 80/2006**

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 61) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

**Gambling Legislation Amendment (Problem Gambling and Other Measures)
Act 2007, No. 72/2007**

Assent Date: 18.12.07
Commencement Date: S. 62 on 1.12.08: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Liquor Control Reform Amendment Act 2007, No. 73/2007

Assent Date: 18.12.07
Commencement Date: Ss 4–10, 12, 14, 15, 17(2), 18, 24–26 on 19.12.07:
Special Gazette (No. 342) 18.12.07 p. 1; s. 13 on
7.2.08: Government Gazette 7.2.08 p. 236; ss 11, 16,
17(1), 19–23 on 22.5.08: Special Gazette (No. 134)
21.5.08 p. 1
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Motor Car Traders Amendment Act 2008, No. 4/2008

Assent Date: 4.3.08
Commencement Date: S. 32(Sch. item 18) on 1.12.08: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

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Infringements and Other Acts Amendment Act 2008, No. 9/2008

Assent Date: 18.3.08
Commencement Date: Ss 4–8 on 1.7.08: Special Gazette (No. 172) 27.6.08
p. 1
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Relationships Act 2008, No. 12/2008

Assent Date: 15.4.08
Commencement Date: S. 73(1)(Sch. 1 item 37) on 1.12.08: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Justice Legislation Amendment Act 2008, No. 21/2008

Assent Date: 2.6.08
Commencement Date: S. 27 on 3.6.08: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Fundraising Appeals and Consumer Acts Amendment Act 2009, No. 2/2009

Assent Date: 10.2.09
Commencement Date: S. 29 on 11.2.09: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Liquor Control Reform Amendment (Enforcement) Act 2009, No. 8/2009

(as amended by No. 55/2009)

Assent Date: 18.3.09
Commencement Date: Ss 4–7, 9–26 on 2.6.09: Special Gazette (No. 163)
2.6.09 p. 1; s. 8 on 1.1.10: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Liquor Control Reform Amendment (Licensing) Act 2009, No. 59/2009

(as amended by No. 1/2010)

Assent Date: 21.10.09
Commencement Date: S. 31 on 21.10.09: s. 2(1); ss 27, 29 on 29.10.09:
Government Gazette 29.10.09 p. 2729; ss 4–26, 28,
30, 32 on 1.1.10: Government Gazette 29.10.09
p. 2729
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

**Criminal Procedure Amendment (Consequential and Transitional Provisions)
Act 2009, No. 68/2009**

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 78) on 1.1.10: Government Gazette
10.12.09: p. 3215
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

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Liquor Control Reform Amendment (Party Buses) Act 2009, No. 88/2009

Assent Date: 15.12.09
Commencement Date: S. 5 on 16.12.09: s. 2(1); ss 4, 6–8 on 1.4.10:
Government Gazette 1.4.10 p. 626
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Liquor Control Reform Amendment (ANZAC Day) Act 2010, No. 8/2010

Assent Date: 16.3.10
Commencement Date: Ss 4–13 on 25.3.10: Government Gazette 25.3.10
p. 583
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

**Statute Law Amendment (National Health Practitioner Regulation) Act 2010,
No. 13/2010**

Assent Date: 30.3.10
Commencement Date: S. 51(Sch. item 34) on 1.7.10: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

**Justice Legislation Amendment (Victims of Crime Assistance and Other
Matters) Act 2010, No. 18/2010**

Assent Date: 18.5.10
Commencement Date: Ss 48, 49 on 1.7.10: Government Gazette 1.7.10
p. 1359
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Firearms and Other Acts Amendment Act 2010, No. 52/2010

Assent Date: 7.9.10
Commencement Date: S. 35 on 1.11.10: Government Gazette 28.10.10
p. 2583
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Liquor Control Reform Amendment Act 2010, No. 57/2010

Assent Date: 14.9.10
Commencement Date: Ss 4(3), 7, 8, 12–16, 20, 21(1), 22–27, 29 on 1.11.10:
Government Gazette 7.10.10 p. 2342; ss 4(1)(2)(4), 5,
6, 9–11, 17–19, 21(2)(3), 28, 30 on 1.1.11:
Government Gazette 7.10.10 p. 2342
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Justice Legislation Further Amendment Act 2010, No. 64/2010

Assent Date: 28.9.10
Commencement Date: Ss 7–10 on 22.3.11: Special Gazette (No. 95) 22.3.11
p. 1
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

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Endnotes

Justice Legislation Amendment Act 2011, No. 12/2011

Assent Date: 10.5.11
Commencement Date: Ss 3–8, 12 on 1.8.11: Special Gazette (No. 245)
26.7.11 p. 1
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Liquor Control Reform Amendment Act 2011, No. 13/2011

Assent Date: 10.5.11
Commencement Date: S. 3 on 1.11.11: Special Gazette (No. 331) 18.10.11
p. 1
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Statute Law Revision Act 2011, No. 29/2011

Assent Date: 21.6.11
Commencement Date: S. 3(Sch. 1 item 52) on 22.6.11: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

**Justice Legislation Amendment (Protective Services Officers) Act 2011,
No. 43/2011**

Assent Date: 6.9.11
Commencement Date: Ss 29–33 on 28.11.11: Special Gazette (No. 379)
22.11.11 p. 1
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

**Victorian Commission for Gambling and Liquor Regulation Act 2011,
No. 58/2011** (as amended by No. 70/2013)

Assent Date: 2.11.11
Commencement Date: Ss 51–68, 104(Sch. item 4) on 6.2.12: Special Gazette
(No. 423) 21.12.11 p. 4
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Gambling Regulation Amendment (Licensing) Act 2011, No. 60/2011

Assent Date: 8.11.11
Commencement Date: S. 74 on 22.12.11: Special Gazette (No. 423) 21.12.11
p. 2
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

Liquor Control Reform Further Amendment Act 2011, No. 71/2011²

(as amended by No. 43/2012)

Assent Date: 6.12.11
Commencement Date: Ss 8, 9(1)(2), 31 on 13.12.11: Special Gazette
(No. 407) 13.12.11 p. 1; ss 4–7, 9(3)–(5), 10–30, 34 on
20.2.12: Special Gazette (No. 26) 7.2.12 p. 1
Current State: This information relates only to the provision/s
amending the **Liquor Control Reform Act 1998**

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Associations Incorporation Reform Act 2012, No. 20/2012

Assent Date: 1.5.12
Commencement Date: S. 226(Sch. 5 item 18) on 26.11.12: Special Gazette (No. 384) 20.11.12 p. 1
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Australian Consumer Law and Fair Trading Act 2012, No. 21/2012

Assent Date: 8.5.12
Commencement Date: S. 239(Sch. 6 item 26) on 1.7.12: Special Gazette (No. 214) 28.6.12 p. 1
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Justice Legislation Amendment Act 2012, No. 23/2012

Assent Date: 8.5.12
Commencement Date: S. 6 on 6.2.12: s. 2(2)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Statute Law Revision Act 2012, No. 43/2012

Assent Date: 27.6.12
Commencement Date: S. 3(Sch. item 26) on 28.6.12: s. 2(1)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Liquor Control Reform Amendment Act 2013, No. 1/2013

Assent Date: 12.2.13
Commencement Date: 13.2.13: s. 2
Current State: All of Act in operation

Co-operatives National Law Application Act 2013, No. 9/2013

Assent Date: 13.3.13
Commencement Date: S. 42(Sch. 2 item 12) on 3.3.14: Special Gazette (No. 46) 18.2.14 p. 1
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Statute Law Amendment (Directors' Liability) Act 2013, No. 13/2013

Assent Date: 13.3.13
Commencement Date: Ss 26–30 on 14.3.13: s. 2
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

State Tax Laws Amendment (Budget and Other Measures) Act 2013, No. 41/2013

Assent Date: 28.6.13
Commencement Date: S. 43 on 29.6.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

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Statute Law Revision Act 2013, No. 70/2013

Assent Date: 19.11.13
Commencement Date: S. 3(Sch. 1 item 26) on 1.12.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Gambling and Liquor Legislation Amendment (Reduction of Red Tape) Act 2014, No. 21/2014

Assent Date: 1.4.14
Commencement Date: Ss 4–15, 17 on 14.5.14: Special Gazette (No. 148) 13.5.14 p. 1; s. 16 on 1.7.14: Special Gazette (No. 188) 17.6.14 p. 1
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 96) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Gambling and Liquor Legislation Amendment (Modernisation) Act 2014, No. 56/2014

Assent Date: 26.8.14
Commencement Date: Ss 56–60 on 15.10.14: Special Gazette (No. 364) 14.10.14 p. 2
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

Gambling and Liquor Legislation Further Amendment Act 2014, No. 64/2014

Assent Date: 9.9.14
Commencement Date: Ss 40, 43–46 on 15.10.14: Special Gazette (No. 364) 14.10.14 p. 1
Current State: This information relates only to the provision/s amending the **Liquor Control Reform Act 1998**

3. Explanatory Details

¹ S. 148P(e): The amendment proposed by section 10(Schedule item 96.29(b)) of the **Victoria Police Amendment (Consequential and Other Matters) Act 2014**, No. 37/2014 is not included in this publication because the words "the member" do not appear in section 148P(e). Schedule item 96.29(b) reads as follows:

96 Liquor Control Reform Act 1998

96.29 In section 148P—

(b) in paragraph (e), for "the member"
substitute "the police officer".

² Table of Amendments: The amendment to section 11(1)(d) by section 33 of the **Liquor Control Reform Further Amendment Act 2011**, No. 71/2011 is not included in this publication as "Director" does not appear in that paragraph.

Section 33 reads:

33 Packaged liquor licence

In section 11(1)(d) of the Principal Act, for
"Director" **substitute** "Commission".