

House of Assembly—No 96

As laid on the table and read a first time, 31 July 2019

South Australia

**Liquor Licensing (Miscellaneous) Amendment
Bill 2019**

A BILL FOR

An Act to amend the *Liquor Licensing Act 1997*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Liquor Licensing Act 1997*

- 4 Insertion of section 7A
 - 7A Exemptions
- 5 Amendment of section 11A—Codes of practice
- 6 Amendment of section 31—Authorised trading in liquor
- 7 Amendment of section 32—General and hotel licence
- 8 Amendment of section 33—On premises licence
- 9 Amendment of section 36—Club licence
- 10 Amendment of section 38—Packaged liquor sales licence
- 11 Amendment of section 39—Liquor production and sales licence
- 12 Amendment of section 40—Short term licence
- 13 Insertion of Part 2 Division 2 Subdivision 4
 - Subdivision 4—Interstate direct sales licence
 - 41 Interstate direct sales licence
- 14 Amendment of section 42—Mandatory conditions
- 15 Amendment of section 43—Power of licensing authority to impose conditions
- 16 Amendment of section 45—Compliance with licence conditions
- 17 Amendment of section 50A—Annual fees
- 18 Insertion of section 50B
 - 50B Notification of certain variations to licences
- 19 Amendment of section 52—Certain applications to be advertised
- 20 Amendment of section 52A—Confidentiality of certain documents and material relevant to application
- 21 Amendment of section 65A—Special provision relating to amalgamation of certain clubs
- 22 Amendment of section 107A—Sale of liquor through direct sales transaction
- 23 Amendment of section 109—Copy of licence etc on licenced premises
- 24 Amendment of section 109A—Records of liquor transactions
- 25 Amendment of section 115—Evidence of age may be required

Schedule 1—Transitional provision

- 1 Annual fees
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Liquor Licensing (Miscellaneous) Amendment Act 2019*.

2—Commencement

- (1) Subject to this section, this Act will come into operation—
- (a) immediately after section 22 of the *Liquor Licensing (Liquor Review) Amendment Act 2017* comes into operation; or
 - (b) on the day on which it is assented to by the Governor,
whichever is the later.
- (2) Sections 6, 13 and 14(2) will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Liquor Licensing Act 1997*

4—Insertion of section 7A

After section 7 insert:

7A—Exemptions

If a provision of this Act allows a licensing authority to grant an exemption from a provision or requirement under this Act (including a provision or requirement under a code of practice), the licensing authority may vary or revoke the exemption, and must give notice of the variation or revocation of the exemption in a manner and form determined by the licensing authority.

5—Amendment of section 11A—Codes of practice

Section 11A—after subsection (3) insert:

- (3a) The Commissioner may include provisions in a code of practice that—
- (a) declare whether contravention or failure to comply with a provision of the code is a category A, B, C or D offence for the purpose of section 45; and
 - (b) if the offence is to be expiable—declare whether the offence is a category A, B, C or D expiable offence for the purposes of that section.

6—Amendment of section 31—Authorised trading in liquor

Section 31—after subsection (3) insert:

- (4) There will be a class of licence granted to the holder of a corresponding authorisation in another State or Territory of the Commonwealth known as an interstate direct sales licence (see Subdivision 4).

7—Amendment of section 32—General and hotel licence

Section 32(d)—delete "despatched and delivered only between the hours of 8 am and 9 pm" and substitute:

delivered only between the hours of 8 am and 10 pm

5 **8—Amendment of section 33—On premises licence**

Section 33—delete "for consumption on the licensed premises" and substitute:

—

(a) to a person on licensed premises for consumption on the licensed premises; and

10 (b) to a resident on licensed premises for consumption on or off the licensed premises

9—Amendment of section 36—Club licence

Section 36(1)(c)—delete "despatched and delivered only between the hours of 8 am and 9 pm" and substitute:

15 delivered only between the hours of 8 am and 10 pm

10—Amendment of section 38—Packaged liquor sales licence

Section 38(1)(b)—delete "despatched and delivered only between the hours of 8 am and 9 pm" and substitute:

delivered only between the hours of 8 am and 10 pm

20 **11—Amendment of section 39—Liquor production and sales licence**

Section 39(1)(d)—delete "despatched and delivered only between the hours of 8 am and 9 pm" and substitute:

delivered only between the hours of 8 am and 10 pm

12—Amendment of section 40—Short term licence

25 Section 40(8)(c)—after "licence" insert:

, including, in the case of a short term licence for a term of more than 1 year, an ongoing or annual fee

13—Insertion of Part 2 Division 2 Subdivision 4

Part 2 Division 2—after Subdivision 3 insert:

30 **Subdivision 4—Interstate direct sales licence**

41—Interstate direct sales licence

(1) Subject to this Act and the conditions of the licence, an interstate direct sales licence authorises the licensee to sell liquor at any time through direct sales transactions (provided that, if the liquor is to be delivered to an address in this State, the liquor is delivered only between the hours of 8 am and 10 pm).

- (2) An interstate direct sales licence may be granted to a person who—
- (a) holds a corresponding authorisation; and
 - (b) provides evidence in such manner and form as determined by the Commissioner that the person holds a corresponding authorisation; and
 - (c) does not hold a licence of a class set out in section 31(2).
- (3) If a corresponding authorisation of an interstate direct sales licence is, under the relevant law of another State or Territory of the Commonwealth, suspended or revoked, the Commissioner may suspend or revoke (as the case requires) the relevant licensee's interstate direct sales licence.
- (4) The regulations may provide that specified provisions of this Act do not apply, or apply with prescribed variations, to or in relation to—
- (a) an application for an interstate direct sales licence; or
 - (b) the holder of an interstate direct sales licence.
- (5) In this section—

corresponding authorisation means an authorisation under a law of another State or Territory of the Commonwealth for the sale or supply of liquor of a kind that authorises the sale of liquor by direct sales transactions.

14—Amendment of section 42—Mandatory conditions

(1) Section 42—after subsection (1a) insert:

(1b) It is a condition of every licence that the licensee must not use a name for licensed premises if the Commissioner has issued a notice in writing to the licensee within 28 days of receiving notice of the name, or a change of name, of the licensed premises, prohibiting the licensee from using that name for the licensed premises.

(1c) It is a condition of every licence that the licensee must, within 14 days of any change of the name, address or contact details of the licensee, give the Commissioner notice of the details of the change in a form determined by the Commissioner.

(2) Section 42(2)(b)—after "direct sales transactions" insert:

, an interstate direct sales licence

15—Amendment of section 43—Power of licensing authority to impose conditions

(1) Section 43(1)(b)—delete "other than" and substitute:

including a condition imposed by this Act, but not including

(2) Section 43—after subsection (2) insert:

(3) A reference in this section to a condition of a licence includes a reference to a rule applying under section 39(2).

16—Amendment of section 45—Compliance with licence conditions

- (1) Section 45, penalty provision—after paragraph (a) insert:
- (ab) for an offence against a code of practice—
 - (i) for a category A offence—\$20 000;
 - (ii) for a category B offence—\$10 000;
 - (iii) for a category C offence—\$5 000;
 - (iv) for a category D offence—\$2 500;
- (2) Section 45, expiation fee provision—delete the expiation fee provision and substitute:
Expiation fee:
- (a) for an offence of a kind prescribed by the regulations—
 - (i) in the case of the licensee—\$1 200;
 - (ii) in any other case—\$210;
 - (b) for an offence against a code of practice—
 - (i) for a category A expiable offence—\$1 200;
 - (ii) for a category B expiable offence—\$315;
 - (iii) for a category C expiable offence—\$210;
 - (iv) for a category D expiable offence—\$160.
- (3) Section 45—after its present contents as amended by this section (now to be designated as subsection (1)) insert:
- (2) For the purposes of subsection (1), a contravention of, or failure to comply with, a provision of a code of practice is a category A, B, C or D offence, or a category A, B, C or D expiable offence, if it has been declared to be such an offence by the Commissioner in accordance with section 11A(3a).

17—Amendment of section 50A—Annual fees

- (1) Section 50A(5b)—delete "before the day on which the annual fee is due to be paid in respect of the next annual fee period for the licence" and substitute:
within 60 days after the service of the notice under subsection (5a)
- (2) Section 50A(6)—delete subsection (6)

18—Insertion of section 50B

After section 50A insert:

50B—Notification of certain variations to licences

If a licensee notifies the Commissioner, in a manner and form
determined by the Commissioner, that the licensee—

- (a) has reduced the number of hours during which the licensee trades in liquor (but not so as to allow trading in liquor at the licensed premises at later hours than those previously fixed in relation to the licence); or
- (b) has reduced the number of persons stated in the licence as the maximum capacity of the licensed premises; or
- (c) no longer sells or supplies liquor in accordance with a club event endorsement, a club transport endorsement or a production and sales event endorsement,

the Commissioner may vary the relevant licence and any terms and conditions under the licence accordingly.

19—Amendment of section 52—Certain applications to be advertised

(1) Section 52(1)(f)—after "condition" insert:

under section 36(2)

(2) Section 52(1)(h)—after "licence" insert:

, other than a variation to which section 50B(a) applies

20—Amendment of section 52A—Confidentiality of certain documents and material relevant to application

Section 52A(1)—delete "by any person with a genuine interest"

21—Amendment of section 65A—Special provision relating to amalgamation of certain clubs

(1) Section 65A(1)(c)—delete "licences" and substitute:

licence of 1 or more

(2) Section 65A(1)(d)—delete paragraph (d) and substitute:

- (d) issue a replacement copy of the licence in the name of the single incorporated association of the club at whose premises the single incorporated association is to carry on business.

22—Amendment of section 107A—Sale of liquor through direct sales transaction

(1) Section 107A(1)—at the foot of subsection (1) insert:

Maximum penalty: \$2 500.

Expiation fee: \$210.

(2) Section 107A(2)—at the foot of subsection (2) insert:

Maximum penalty: \$2 500.

Expiation fee: \$210.

23—Amendment of section 109—Copy of licence etc on licenced premises

5 Section 109(1)—delete subsection (1) and substitute:

- (1) A licensee must ensure that an up to date copy of the licence, showing all conditions of, and endorsements on, the licence, is displayed at all times, in accordance with the requirements (if any) prescribed by the regulations, at or near the front entrance to the licensed premises so that it is readily visible to members of the public.

24—Amendment of section 109A—Records of liquor transactions

Section 109A(3)—delete "in this State"

25—Amendment of section 115—Evidence of age may be required

15 Section 115(1)—before "to produce" insert:

and who the prescribed person reasonably suspects is under the age of 18 years,

Schedule 1—Transitional provision

1—Annual fees

20 Section 50A(5b) of the *Liquor Licensing Act 1997* as in force after the commencement of this clause applies only in relation to a licensee to whom a notice has been given under section 50A(4) after that commencement.