

House of Assembly—No 105

As laid on the table and read a first time, 28 November 2012

South Australia

**Liquor Licensing (Small Venue Licence)
Amendment Bill 2012**

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 Amendment of section 17—Division of responsibilities between Commissioner and the Court
 - 5 Amendment of section 21—Power of Commissioner to refer questions to the Court
 - 6 Amendment of section 22—Application for review of Commissioner's decision
 - 7 Amendment of section 31—Authorised trading in liquor
 - 8 Insertion of section 40A
40A Small venue licence
 - 9 Amendment of section 53—Discretionary powers of licensing authority
 - 10 Amendment to section 76—Other rights of intervention
 - 11 Amendment of section 77—General right of objection
 - 12 Insertion of section 77A
77A Right to make submissions in relation to application for small venue licence
 - 13 Amendment of section 105—Entertainment on licensed premises
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Liquor Licensing (Small Venue Licence) Amendment Act 2012*.

5 2—Commencement

This Act 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.

10 Part 2—Amendment of *Liquor Licensing Act 1997*

4—Amendment of section 17—Division of responsibilities between Commissioner and the Court

(1) Section 17(1)(a)—after subparagraph (ii) insert:

and

15 (iii) all applications to which section 52 applies that relate to a small venue licence;

(2) Section 17—after subsection (1) insert:

- (1a) Subsection (1)(b) does not apply to an application for, or in relation to, a small venue licence.

5—Amendment of section 21—Power of Commissioner to refer questions to the Court

Section 21—after its present contents (now to be designated as subsection (1)) insert:

- (2) Subsection (1)(a) and (c) does not apply to an application to which section 52 applies that relates to a small venue licence.

6—Amendment of section 22—Application for review of Commissioner's decision

Section 22—after subsection (2) insert:

- (2a) Despite subsection (2), an applicant for, or in relation to, a small venue licence who is dissatisfied with a decision of the Commissioner in relation to his or her application may apply to the Court for a review of the decision.

- (2b) Despite subsection (2), the Commissioner of Police may apply to the Court for a review of the Commissioner's decision to grant an application for, or in relation to, a small venue licence (however a review contemplated by this subsection is limited to whether a particular person is a fit and proper person, or whether the Commissioner's decision is contrary to the public interest).

7—Amendment of section 31—Authorised trading in liquor

Section 31(2)—after paragraph (j) insert:

- (k) small venue licence.

8—Insertion of section 40A

After section 40 insert:

40A—Small venue licence

- (1) A small venue licence—

- (a) authorises the licensee to sell liquor on the licensed premises for consumption on the licensed premises between 11 am and midnight on any day (other than Good Friday or Christmas Day); and

- (b) if an extended trading authorisation is in force—authorises the licensee to sell liquor on the licensed premises for consumption on the licensed premises during the whole or any part of the following hours as is specified in the authorisation:

- (i) on any day (other than Good Friday or Christmas Day) between 8 am and 11 am;

(ii) on any day (other than the day after Good Friday or the day after Christmas Day) between midnight and 2 am; and

(c) authorises the consumption of liquor on the licensed premises with or ancillary to a meal provided by the licensee at any time the licensee is authorised to sell liquor pursuant to a preceding paragraph.

(2) Without limiting any other provision of this Act, a small venue licence can only be granted in respect of premises located, or to be located, in a prescribed area.

(3) A small venue licence must be subject to the following conditions:

(a) a condition limiting the number of patrons that can be on the licensed premises at any one time to not more than 120 (or a lesser number determined by the licensing authority);

(b) a condition prohibiting entertainment of a prescribed kind from being provided on the licensed premises.

(4) In this section—

Adelaide central business district means the area of the City of Adelaide bounded—

(a) on the north by the northern bank of the River Torrens; and

(b) on the south by the northern alignment of South Terrace; and

(c) on the east by the western alignment of East Terrace and its prolongation north to the northern bank of the River Torrens; and

(d) on the west by the eastern alignment of West Terrace and its prolongation north to the northern bank of the River Torrens;

prescribed area means—

(a) the Adelaide central business district; and

(b) any other area declared by the regulations to be a prescribed area for the purposes of this section;

prescribed bodies means—

(a) if a proposed prescribed area falls wholly or partly within the area of a council—the council; and

(b) any other body prescribed by the regulations for the purposes of this definition.

(5) The Minister must consult in such manner as he or she thinks fit with the prescribed bodies in relation to any proposed regulations declaring an area to be a prescribed area.

9—Amendment of section 53—Discretionary powers of licensing authority

Section 53—after subsection (1) insert:

- 5 (1aa) Subject to this Act, the Commissioner has an absolute discretion to grant or refuse an application for a small venue licence on any ground, or for any reason, the Commissioner considers sufficient (but is not to take into account an economic effect on other licensees in the locality affected by the application).

10—Amendment to section 76—Other rights of intervention

Section 76—after subsection (4) insert:

- 10 (5) This section does not apply to proceedings relating to an application for, or in relation to, a small venue licence.

Note—

There is, however, a right to make submissions in relation to such applications—see section 77A.

11—Amendment of section 77—General right of objection

Section 77—after subsection (1) insert:

- 15 (1a) Subsection (1) does not apply to an application for, or in relation to, a small venue licence.

Note—

20 There is, however, a right to make submissions in relation to such applications—see section 77A.

12—Insertion of section 77A

After section 77 insert:

77A—Right to make submissions in relation to application for small venue licence

- 25 (1) If an application for, or in relation to, a small venue licence has been advertised under this Part, any person may, by notice in the prescribed form lodged with the Commissioner at least 7 days before the day appointed for the hearing of the application, make
30 submissions to the Commissioner in respect of the application.
- (2) The Commissioner must have regard to any submissions made pursuant to subsection (1).
- (3) The Commissioner may, in his or her absolute discretion—
- 35 (a) call for further submissions to be made in relation to a particular application; or
- (b) call a hearing to allow the applicant to introduce evidence or make representations.

13—Amendment of section 105—Entertainment on licensed premises

- (1) Section 105(1)—Delete "A licensee" and substitute:

Subject to this section, a licensee

- (2) Section 105—after subsection (1) insert:

5 (1a) Subsection (1) does not apply to a licensee of licensed premises in
respect of which a small venue licence is in force between 11 am and
midnight on any day that the licensed premises are open to the public
for the sale of liquor if—

10 (a) the conditions of the licence authorise the licensee to
provide entertainment; and

 (b) the licensee complies with any conditions of the licence
relating to the provision of such entertainment,

15 (however nothing in this subsection authorises a licensee to provide
entertainment at the licensed premises at any other time without the
consent of the licensing authority).