

**House of Assembly—No 104**

As laid on the table and read a first time, 25 November 2020

South Australia

**Liquor Licensing (COVID-19 and Other Measures) Amendment Bill 2020**

A BILL FOR

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

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

- 5 This Act may be cited as the *Liquor Licensing (COVID-19 and Other Measures) Amendment Act 2020*.

#### 2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

#### 3—Amendment provisions

- 10 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—Amendment of section 6—Persons with authority in a trust or corporate entity

Section 6(1)(a)(iv)—delete subparagraph (iv)

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

Section 33—after its present contents (now to be designated as subsection (1)) insert:

(2) In addition, the licensing authority may include either (or both) of the following conditions on an on premises licence:

- 5
- (a) a condition authorising the licensee to sell liquor between the hours of 8 am and 10 pm for consumption off the licensed premises provided that—
- 10
- (i) the liquor is provided with a meal provided by the licensee for consumption off the licensed premises; and
- (ii) the liquor provided is of the prescribed kind and does not exceed the prescribed quantities;
- (b) a condition authorising the licensee to sell liquor at any time through direct sales transactions provided that—
- 15
- (i) the liquor is delivered with a meal provided by the licensee; and
- (ii) the liquor is delivered only between the hours of 8 am and 10 pm; and
- 20
- (iii) the liquor provided is of the prescribed kind and does not exceed the prescribed quantities.

## **6—Amendment of section 34—Residential licence**

Section 34—after subsection (2) insert:

(3) In addition, the licensing authority may include either (or both) of the following conditions on a residential licence:

- 25
- (a) a condition authorising the licensee to sell liquor between the hours of 8 am and 10 pm for consumption off the licensed premises provided that—
- 30
- (i) the liquor is provided with a meal provided by the licensee for consumption off the licensed premises; and
- (ii) the liquor provided is of the prescribed kind and does not exceed the prescribed quantities;
- (b) a condition authorising the licensee to sell liquor at any time through direct sales transactions provided that—
- 35
- (i) the liquor is delivered with a meal provided by the licensee; and
- (ii) the liquor is delivered only between the hours of 8 am and 10 pm; and
- 40
- (iii) the liquor provided is of the prescribed kind and does not exceed the prescribed quantities.

## 7—Amendment of section 35—Restaurant and catering licence

Section 35—after subsection (3) insert:

(4) In addition, the licensing authority may include either (or both) of the following conditions on a restaurant and catering licence:

- 5
- (a) a condition authorising the licensee to sell liquor between the hours of 8 am and 10 pm for consumption off the licensed premises provided that—
- 10
- (i) the liquor is provided with a meal provided by the licensee for consumption off the licensed premises; and
- (ii) the liquor provided is of the prescribed kind and does not exceed the prescribed quantities;
- (b) a condition authorising the licensee to sell liquor at any time through direct sales transactions provided that—
- 15
- (i) the liquor is delivered with a meal provided by the licensee; and
- (ii) the liquor is delivered only between the hours of 8 am and 10 pm; and
- 20
- (iii) the liquor provided is of the prescribed kind and does not exceed the prescribed quantities.

## 8—Amendment of section 36—Club licence

Section 36—after subsection (2) insert:

(2a) In addition, the licensing authority may include either (or both) of the following conditions on a club licence:

- 25
- (a) a condition authorising the licensee to sell liquor between the hours of 8 am and 10 pm for consumption off the licensed premises provided that—
- 30
- (i) the liquor is provided with a meal provided by the licensee for consumption off the licensed premises; and
- (ii) the liquor provided is of the prescribed kind and does not exceed the prescribed quantities;
- (b) a condition authorising the licensee to sell liquor at any time through direct sales transactions provided that—
- 35
- (i) the liquor is delivered with a meal provided by the licensee; and
- (ii) the liquor is delivered only between the hours of 8 am and 10 pm; and
- 40
- (iii) the liquor provided is of the prescribed kind and does not exceed the prescribed quantities.

## 9—Amendment of section 37—Small venue licence

Section 37—after subsection (3) insert:

(3a) In addition, the licensing authority may include either (or both) of the following conditions on a small venue licence:

- 5
- (a) a condition authorising the licensee to sell liquor between the hours of 8 am and 10 pm for consumption off the licensed premises provided that—
- 10
- (i) the liquor is provided with a meal provided by the licensee for consumption off the licensed premises; and
- (ii) the liquor provided is of the prescribed kind and does not exceed the prescribed quantities;
- (b) a condition authorising the licensee to sell liquor at any time through direct sales transactions provided that—
- 15
- (i) the liquor is delivered with a meal provided by the licensee; and
- (ii) the liquor is delivered only between the hours of 8 am and 10 pm; and
- 20
- (iii) the liquor provided is of the prescribed kind and does not exceed the prescribed quantities.

## 10—Amendment of section 42—Mandatory conditions

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

- 25
- (1d) It is a condition of every licence that the licensee must not use a facial recognition system at the licensed premises for or in connection with any of the following:
- (a) encouraging or providing incentives to a person to gamble;
- (b) customer loyalty programs relating to gambling;
- (c) a lottery within the meaning of the *Lottery and Gaming Act 1936* or the *Lotteries Act 2019*;
- 30
- (d) any other purpose notified by the Commissioner to the system provider or licensee.

(2) Section 42—after subsection (2) insert:

(3) In this section—

35

***facial recognition system*** means a system that enables the facial image of a person to be recognised, identified and recorded.

**11—Amendment of section 52—Certain applications to be advertised**

- (1) Section 52(2)—delete ", in accordance with the regulations, to members of the public by notice placed on the licensed premises or, in the case of proposed licensed premises, on the relevant land, so as to be clearly visible to, and legible by, persons passing the premises or land" and substitute:

to members of the public in a manner and form approved by the Commissioner

- (2) Section 52(2a)—delete subsection (2a)

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

Section 52A—after subsection (2) insert:

- (2a) The Commissioner may exclude information from inspection in accordance with subsection (2) by redacting the relevant information from the material that is made available for inspection, or in any other manner the Commissioner thinks fit.
- (2b) If, on the written application of a person, the Commissioner is satisfied that it is not reasonably practicable for the person to inspect any application, document or material that has been made available for inspection under this section, the Commissioner may provide the person (in a manner determined by the Commissioner and subject to any conditions determined by the Commissioner) with a copy of the application, document or material, or of any parts of the application, document or material that the Commissioner thinks fit.
- (2c) If an application, document or material (or any part thereof) is provided to a person in accordance with subsection (2b), subsections (3) and (4) will apply to the person as if the person had inspected the application, document or material so provided and had gained access to the information contained in the application, document or material so provided as a result of that inspection.

**13—Insertion of section 52B**

After section 52A insert:

**52B—Information relating to applications may be published on a website**

- (1) The Commissioner may, in the Commissioner's absolute discretion, publish the whole or any parts of an application that is required to be advertised under this Act, or of other relevant documents and material produced to the licensing authority under this Act, on a website maintained by the Commissioner.
- (2) The material published by the Commissioner under this section may be different to the material that is made available for inspection under section 52A.

**14—Amendment of section 99—Prohibition of profit sharing**

(1) Section 99(1)(b)—delete "(but this paragraph does not prevent the members of a licensed club from benefiting as members of the club from the proceeds of the business conducted under the licence)"

5 (2) Section 99—after subsection (1) insert:

(1a) Subsection (1)(b) does not however prevent—

(a) the members of a licensed club; or

(b) the shareholders in a body corporate,

10 from benefiting as such members or shareholders from the proceeds of the business conducted under the licence.