

South Australia

# Liquor Licensing (Miscellaneous) Amendment Act 2011

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**

This Act may be cited as the *Liquor Licensing (Miscellaneous) Amendment Act 2011*.

#### **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.

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

#### **4—Amendment of section 4—Interpretation**

- (1) Section 4—after the definition of *close associate* insert:
  - code of practice*—see section 11A;
- (2) Section 4, definition of *extended trade*—delete the definition

- (3) Section 4, definition of *extended trading authorisation*—delete "means a condition of a licence specifically authorising extended trade in liquor" and substitute:

—see section 44

- (4) Section 4—after the definition of *meal* insert:

*offensive or disorderly*—without limiting the conduct that may constitute behaving in an offensive or disorderly manner, the conduct may be constituted of offensive language;

- (5) Section 4—after the definition of *public conveyance* insert:

*public order and safety* includes matters of—

- (a) personal safety and apprehension of danger to personal safety; and
- (b) safety of property and apprehension of danger to safety of property; and
- (c) public order unrelated to matters of public safety; and
- (d) public safety unrelated to matters of public order;

*public order and safety notice*—see section 128B;

## 5—Amendment of section 11A—Commissioner's codes of practice

- (1) Section 11A(2)—after paragraph (f) insert:

- (fa) to impose special requirements for the sale of liquor for consumption on licensed premises between 4 am and 7 am on any day for the purpose of reducing alcohol-related crime and anti-social behaviour;

### Examples—

- Measures prohibiting the supply of liquor for consumption on any part of the licensed premises comprised of a footpath or other outdoor area.
- Measures requiring security to be provided by means of closed circuit television or similar electronic surveillance and the retention of recorded images.
- Measures requiring the presence of an authorised person performing the duty of promoting responsible attitudes in relation to the sale, supply and consumption of liquor as his or her principal duty.
- Measures prohibiting the sale of liquor in a form that may encourage rapid or excessive consumption of liquor.
- Measures prohibiting the sale of liquor in glass containers in circumstances of high risk.
- Measures requiring incidents to be recorded in a register that will be made available for inspection by authorised persons.

- (2) Section 11A(3)—delete subsection (3) and substitute:

- (3) A code of practice may—

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

- (b) vary in operation according to factors stated in the code; and
- (c) provide for the granting by the Commissioner of exemptions (conditional or unconditional) from specified provisions of the code.

## **6—Insertion of section 13A**

After section 13 insert:

### **13A—Seal**

- (1) The Court will have such seals as are necessary for the transaction of its business.
- (2) A document apparently sealed with a seal of the Court will, in the absence of evidence to the contrary, be taken to have been duly issued under the authority of the Court.

## **7—Amendment of section 15—Judges**

Section 15—after subsection (2) insert:

- (3) The Licensing Court Judge is responsible for the administration of the Court.
- (4) If the Licensing Court Judge is absent or unable to act, another Judge of the Court nominated by the Governor will act in the office of the Licensing Court Judge.
- (5) The Licensing Court Judge may delegate any power or function under this Act to another Judge of the Court.
- (6) A delegation under subsection (5) is revocable at will and does not derogate from the power of the Licensing Court Judge to act himself or herself in any matter.
- (7) A Judge has the same privileges and immunities from civil liability as a Judge of the Supreme Court.

## **8—Insertion of section 16A**

After section 16 insert:

### **16A—Rules**

- (1) Rules of court may be made under this Act to regulate the practice and procedure of the Court and to provide for any other matter necessary or expedient for the effective and efficient operation of the Court.
- (2) The power to make rules under this section includes the power to make rules in respect of any jurisdiction conferred on the Court by another Act.
- (3) Rules of the Court may be made by the Licensing Court Judge.
- (4) Rules of the Court take effect as from the date of publication in the Gazette or a later date specified in the rules.

## 9—Insertion of sections 22A to 22C

Before section 23 insert:

### 22A—Time and place of sittings

- (1) The Court may sit at any time (including a Sunday).
- (2) The Court may sit at any place (either within or outside the State).
- (3) The Court will sit at such times and places as the Licensing Court Judge may direct.

### 22B—Adjournment from time to time and place to place

The Court may—

- (a) adjourn proceedings from time to time and from place to place; or
- (b) adjourn proceedings to a time, or a time and place, to be fixed; or
- (c) order the transfer of proceedings from place to place.

### 22C—Hearing in public

- (1) Subject to this and any other Act, proceedings before the Court must be heard in public.
- (2) The Court may, at any stage of the proceedings on its own initiative or on the application of a party, give directions—
  - (a) requiring particular persons to withdraw from a hearing before the Court, or excluding particular persons from a hearing before the Court, so that it may be conducted in private; or
  - (b) prohibiting or restricting the publication of evidence given before the Court or of the contents of any document produced to the Court.
- (3) A person must comply with a direction of the Court under subsection (2).

Maximum penalty: \$5 000.

## 10—Amendment of section 24—Powers with respect to witnesses and evidence

(1) Section 24—after subsection (1) insert:

- (1a) If the Court requires the attendance before it of any person who is held in custody in the State, the Court may—
  - (a) issue a summons requiring the custodian to produce that person before the Court at a nominated time and place; or
  - (b) issue a warrant authorising the sheriff, or a police officer, to take the person from the custodian and bring him or her before the Court.

(2) Section 24(2)—after paragraph (b) insert:

- (ba) misbehaves before the Court, wilfully insults the Court, or wilfully interrupts the proceedings of the Court; or

### **11—Insertion of section 24A**

After section 24 insert:

#### **24A—Entry and inspection of property**

- (1) The Court may enter any land or building and carry out any inspection that the Court considers relevant to a proceeding before the Court.
- (2) A person who obstructs the Court in the exercise of a power of entry or inspection under this section is guilty of an offence.  
Maximum penalty: \$5 000.

### **12—Amendment of section 28A—Criminal intelligence**

Section 28A—after subsection (2) insert:

- (2a) If the Commissioner proposes to impose a licence condition to improve public order and safety or to issue a public order and safety notice in respect of a licence and the decision to do so is made because of information that is classified by the Commissioner of Police as criminal intelligence, the Commissioner is not required to provide any grounds or reasons for the decision other than that it would be contrary to the public interest if the condition were not imposed or the notice were not issued.

### **13—Amendment of section 29—Requirement to hold licence**

Section 29, maximum penalty—delete the maximum penalty and substitute:

Maximum penalty:

- (a) for a first offence—\$20 000;
- (b) for a second or subsequent offence—\$40 000.

### **14—Amendment of section 31—Authorised trading in liquor**

Section 31(1)—after "the licence" insert:

(including the trading hours fixed by the licensing authority)

### **15—Amendment of section 32—Hotel licence**

Section 32(1)—delete subsection (1) and substitute:

- (1) A hotel licence authorises the licensee—
  - (a) to sell liquor on the licensed premises for consumption on or off the licensed premises—
    - (i) on any day (except a Sunday, Good Friday and Christmas Day) between 5 am and midnight; and

- (ii) on a Sunday (not being Christmas Day or New Year's Eve) between 11 am and 8 pm; and
  - (iii) if New Year's Eve is on a Sunday, on that Sunday between 11 am and midnight; and
  - (iv) on Christmas Day between 9 am and 11 am; and
  - (v) on New Year's Day between midnight and 2 am; and
- (b) if an extended trading authorisation is in force, 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 (except a Sunday, Good Friday, the day after Good Friday, Christmas Day and the day after Christmas Day) between midnight and 5 am;
  - (ii) on a Sunday (not being Christmas Day or the day after Christmas Day) between midnight and 5 am and between 8 am and 11 am and between 8 pm and midnight;
  - (iii) if the day after Christmas Day is a Sunday, on that Sunday between 8 am and 11 am and between 8 pm and midnight;
  - (iv) on Good Friday between midnight and 2 am;
  - (v) on Christmas Day between midnight and 2 am; and
- (c) if an extended trading authorisation is in force, to sell liquor on the licensed premises for consumption off the licensed premises during the whole or any part of the hours between 8 am and 11 am, and between 8 pm and 9 pm, on a Sunday (not being Christmas Day) as is specified in the authorisation; and
- (d) to sell liquor at any time on the licensed premises to a lodger for consumption on or off the licensed premises; and
- (e) to sell liquor at any time in a designated dining area to a diner for consumption in that area with or ancillary to a meal provided by the licensee in that area; and
- (f) to sell liquor at any time in a designated reception area to a person attending a reception for consumption in that area; and
- (g) 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 despatched and delivered only during the hours that the licensee is authorised to sell liquor on the licensed premises to a person other than a lodger for consumption off the licensed premises).

## **16—Amendment of section 33—Residential licence**

Section 33(1)(b)—delete paragraph (b) and substitute:

- (b) if the conditions of the licence so provide—authorises the licensee to sell liquor at any time for consumption on the licensed premises by persons attending a function at which food is provided or seated at a table, except—
  - (i) not—
    - (A) on Good Friday between 2 am and midnight; or
    - (B) on the day after Good Friday between midnight and 5 am; or
    - (C) on Christmas Day between 2 am and midnight; or
    - (D) on the day after Christmas Day between midnight and 5 am; and
  - (ii) only—
    - (A) between midnight and 5 am on any day (other than Good Friday, Christmas Day or a Sunday); and
    - (B) between midnight and 2 am on Good Friday; and
    - (C) between midnight and 2 am on Christmas Day; and
    - (D) on a Sunday (not being Christmas Day) between midnight and 5 am and between 8 am and 11 am and between 8 pm and midnight,

to the extent that those hours are specified in an extended trading authorisation that is in force.

## **17—Amendment of section 34—Restaurant licence**

Section 34(1)(c)—delete paragraph (c) and substitute:

- (c) if the conditions of the licence so provide—authorises the licensee to sell liquor at any time for consumption on the licensed premises by persons attending a function at which food is provided or seated at a table except—
  - (i) not—
    - (A) on Good Friday between 2 am and midnight; or
    - (B) on the day after Good Friday between midnight and 5 am; or
    - (C) on Christmas Day between 2 am and midnight; or
    - (D) on the day after Christmas Day between midnight and 5 am; and
  - (ii) only—
    - (A) between midnight and 5 am on any day (other than Good Friday, Christmas Day or a Sunday); and

- (B) between midnight and 2 am on Good Friday; and
- (C) between midnight and 2 am on Christmas Day; and
- (D) on a Sunday (not being Christmas Day) between midnight and 5 am and between 8 am and 11 am and between 8 pm and midnight,

to the extent that those hours are specified in an extended trading authorisation that is in force.

## **18—Amendment of section 35—Entertainment venue licence**

Section 35(1)—delete subsection (1) and substitute:

- (1) An entertainment venue licence authorises the licensee—
  - (a) to sell liquor at any time for consumption on the licensed premises, in a designated dining area, with or ancillary to a meal provided by the licensee; and
  - (b) to sell liquor on the licensed premises for consumption on the licensed premises at a time when live entertainment is provided on the licensed premises between 9 pm on one day and 5 am on the next except—
    - (i) not—
      - (A) on Good Friday between 2 am and 5 am; or
      - (B) between 9 pm on Good Friday and 5 am on the day after Good Friday; or
      - (C) between 9 pm on Christmas Day and 5 am on the day after Christmas Day; and
    - (ii) only between midnight and 2 am on Good Friday to the extent that those hours are specified in an extended trading authorisation that is in force; and
  - (c) if the conditions of the licence so provide—authorises the licensee to sell liquor at any time for consumption on the licensed premises by persons attending a function at which food is provided or seated at a table except—
    - (i) not—
      - (A) on Good Friday between 2 am and midnight; or
      - (B) on the day after Good Friday between midnight and 5 am; or
      - (C) on Christmas Day between 2 am and midnight; or
      - (D) on the day after Christmas Day between midnight and 5 am; and
    - (ii) only—

- (A) between midnight and 5 am on any day (other than Good Friday, Christmas Day or a Sunday); and
- (B) between midnight and 2 am on Good Friday; and
- (C) between midnight and 2 am on Christmas Day; and
- (D) on a Sunday (not being Christmas Day) between midnight and 11 am and between 8 pm and midnight,

to the extent that those hours are specified in an extended trading authorisation that is in force.

### **19—Amendment of section 36—Club licence**

(1) Section 36(1)—delete subsection (1) and substitute:

(1) A club licence authorises the licensee—

- (a) to sell liquor on the licensed premises for consumption on the licensed premises—
  - (i) on any day (except a Sunday, Good Friday and Christmas Day) between 5 am and midnight; and
  - (ii) on a Sunday (not being Christmas Day or New Year's Eve) between 11 am and 8 pm; and
  - (iii) if New Year's Eve is on a Sunday, on that Sunday between 11 am and midnight; and
  - (iv) on Christmas Day between 9 am and 11 am; and
  - (v) on New Year's Day between midnight and 2 am; and
- (b) if an extended trading authorisation is in force, 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 (except a Sunday, Good Friday, the day after Good Friday, Christmas Day and the day after Christmas Day) between midnight and 5 am;
  - (ii) on a Sunday (not being Christmas Day or the day after Christmas Day) between midnight and 5 am and between 8 am and 11 am and between 8 pm and midnight;
  - (iii) if the day after Christmas Day is a Sunday, on that Sunday between 8 am and 11 am and between 8 pm and midnight;
  - (iv) on Good Friday between midnight and 2 am;

- (v) on Christmas Day between midnight and 2 am; and
  - (c) to sell liquor at any time on the licensed premises to a lodger for consumption on or off the licensed premises; and
  - (d) to sell liquor at any time in a designated dining area to a diner for consumption in that area with or ancillary to a meal provided by the licensee in that area; and
  - (e) to sell liquor at any time in a designated reception area to a person attending a reception for consumption in that area; and
  - (f) if the licensing authority is satisfied that members of the club cannot, without great inconvenience, obtain supplies of packaged liquor from a source other than the club and includes in the licence a condition authorising the sale of liquor under this paragraph—
    - (i) to sell liquor on the licensed premises to a member of the club for consumption off the licensed premises on any day (except Good Friday and Christmas Day) during the hours that the licensee is authorised to sell liquor on the licensed premises to a person other than a lodger for consumption on the licensed premises; and
    - (ii) to sell liquor at any time through direct sales transactions to members of the club (provided that, if the liquor is to be delivered to an address in this State, the liquor is despatched and delivered only between the hours of 8 am and 9 pm and not on Good Friday or Christmas Day).
- (2) Section 36(2)—delete subsection (2)

## **20—Amendment of section 39—Producer's licence**

Section 39(4)—after the definition of *licensee* insert:

*production of liquor* includes any step in production including the growing of grapes or other primary produce for production of liquor;

## **21—Amendment of section 40—Special circumstances licence**

- (1) Section 40(1)—delete subsection (1) and substitute:
- (1) A special circumstances licence authorises the licensee in accordance with the terms and conditions of the licence—
    - (a) to sell liquor for consumption on or off the licensed premises—
      - (i) on any day (other than a Sunday) between 5 am and midnight; and
      - (ii) on a Sunday between 11 am and 8 pm; and

- (b) if an extended trading authorisation is in force, to sell liquor for consumption on or off 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 a Sunday, Good Friday, the day after Good Friday, Christmas Day or the day after Christmas Day) between midnight and 5 am;
    - (ii) on a Sunday (not being Christmas Day or the day after Christmas Day) between midnight and 11 am and between 8 pm and midnight;
    - (iii) on Good Friday between midnight and 2 am;
    - (iv) on Christmas Day between midnight and 2 am;
    - (v) if Christmas Day or the day after Christmas Day is a Sunday, on that Sunday between 8 pm and midnight; and
  - (c) to sell liquor at any time in a designated dining area to a diner for consumption in that area with or ancillary to a meal provided by the licensee in that area; and
  - (d) to sell liquor at any time to a lodger for consumption on or off the licensed premises.
- (2) Section 40—after subsection (4) insert:
- (5) The terms and conditions of a special circumstances licence may classify the licence for the purposes of the application of the Commissioner's codes of practice (and that classification may be varied by the Commissioner from time to time).

## **22—Amendment of section 41—Limited licence**

Section 41—after subsection (5) insert:

- (6) The terms and conditions of a limited licence may classify the licence for the purposes of the application of the Commissioner's codes of practice (and that classification may be varied by the Commissioner from time to time).

## **23—Amendment of section 42—Mandatory conditions**

Section 42(1)—delete "(see section 11A)"

## **24—Amendment of section 43—Power of licensing authority to impose conditions**

Section 43—after subsection (3) insert:

- (4) A licensee who is dissatisfied with a decision made by the Commissioner to impose a condition in circumstances in which there are no proceedings before the Commissioner may apply to the Court for a review of the Commissioner's decision as if he or she were a party to proceedings before the Commissioner.

**25—Amendment of section 44—Extended trading authorisation**

- (1) Section 44(1)—delete "authorising extended trade in liquor" and substitute:  
extending the hours during which the licence authorises trade in liquor
- (2) Section 44(4)—delete subsection (4)

**26—Amendment of section 45—Compliance with licence conditions**

Section 45, maximum penalty, (a)—delete paragraph (a) and substitute:

- (a) in the case of the licensee—
  - (i) for a first offence—\$10 000;
  - (ii) for a second or subsequent offence—\$20 000;

**27—Amendment of section 46—Unauthorised sale or supply of liquor**

- (1) Section 46(1), maximum penalty—delete the maximum penalty and substitute:  
Maximum penalty:
  - (a) for a first offence—\$20 000;
  - (b) for a second or subsequent offence—\$40 000.
- (2) Section 46(2), maximum penalty—delete the maximum penalty and substitute:  
Maximum penalty:
  - (a) for a first offence—\$20 000;
  - (b) for a second or subsequent offence—\$40 000.

**28—Amendment of section 100—Supply of liquor to lodgers**

Section 100(2), maximum penalty, (a)—delete paragraph (a) and substitute:

- (a) in the case of the licensee—
  - (i) for a first offence—\$10 000;
  - (ii) for a second or subsequent offence—\$20 000;

**29—Amendment of section 101—Record of lodgers**

Section 101(3), maximum penalty—delete the maximum penalty and substitute:

Maximum penalty:

- (a) for a first offence—\$10 000;
- (b) for a second or subsequent offence—\$20 000.

**30—Amendment of section 103—Restriction on consumption of liquor in, and taking liquor from, licensed premises**

Section 103(4)—insert at the foot of subsection (4):

Maximum penalty:

- (a) for a first offence—\$10 000;
- (b) for a second or subsequent offence—\$20 000.

### **31—Amendment of section 105—Entertainment on licensed premises**

Section 105(5), maximum penalty—delete the maximum penalty and substitute:

Maximum penalty:

- (a) for a first offence—\$10 000;
- (b) for a second or subsequent offence—\$20 000.

### **32—Amendment of section 108—Liquor not to be sold or supplied to intoxicated persons**

Section 108(1), maximum penalty—delete the maximum penalty and substitute:

Maximum penalty:

- (a) for a first offence—\$20 000;
- (b) for a second or subsequent offence—\$40 000.

### **33—Amendment of section 110—Sale of liquor to minors**

(1) Section 110(1), maximum penalty—delete the maximum penalty and substitute:

Maximum penalty:

- (a) in the case of the licensee or responsible person—
  - (i) for a first offence—\$20 000;
  - (ii) for a second or subsequent offence—\$40 000;
- (b) in any other case—\$5 000.

(2) Section 110(1a), maximum penalty—delete the maximum penalty and substitute:

Maximum penalty:

- (a) for a first offence—\$20 000;
- (b) for a second or subsequent offence—\$40 000.

(3) Section 110(2), maximum penalty—delete the maximum penalty and substitute:

Maximum penalty:

- (a) for a first offence—\$20 000;
- (b) for a second or subsequent offence—\$40 000.

### **34—Insertion of Part 7A**

After Part 7 insert:

#### **Part 7A—Offensive or disorderly conduct**

##### **117A—Offensive or disorderly conduct**

- (1) A person must not behave in an offensive or disorderly manner in licensed premises or in the vicinity of licensed premises.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (2) This section does not apply to any behaviour involving violence or a threat of violence.

### **35—Insertion of section 120A**

After section 120 insert:

#### **120A—Commissioner's power to suspend or impose conditions on approval pending disciplinary action**

- (1) The Commissioner may, if of the opinion that it is desirable to do so in the public interest—
- (a) suspend the approval of a person the subject of a complaint; or
  - (b) impose conditions on the person's approval limiting the authority conferred by the approval,
- pending hearing and determination of the complaint.
- (2) If the Commissioner has exercised his or her power to suspend or impose conditions, the Court may revoke or vary the suspension or conditions imposed by the Commissioner.

### **36—Amendment of section 121—Disciplinary action**

- (1) Section 121(4)—delete subsection (4) and substitute:
- (4) If a licensee is convicted of a prescribed offence and a complaint is lodged on the ground of the breach of duty leading to the conviction, the Court must—
- (a) take disciplinary action against the licensee; and
  - (b) if the conviction follows a previous conviction for a prescribed offence of a similar kind or previous disciplinary action for an incident involving the commission of a prescribed offence of a similar kind—suspend or revoke the licence unless the licensee shows cause why that action should not be taken.
- (4a) If—
- (a) the Court finds that there is proper cause for taking disciplinary action against a licensee for an incident involving the commission of an offence against this Act on licensed premises during the hours between 4 am and 7 am on any day; and
  - (b) the finding follows a conviction of the licensee for such an offence committed within the previous 2 years or previous disciplinary action for an incident involving the commission of such an offence within the previous 2 years,

the Court must alter the conditions of the licence so that the licence no longer authorises trade during the hours between 4 am and 7 am on any day unless the licensee shows cause why that action should not be taken.

(2) Section 121—after subsection (6) insert:

(7) In this section—

*prescribed offence* means—

- (a) an offence involving the unlawful sale or supply of liquor to a minor; or
- (b) an offence involving the unlawful sale or supply of liquor to an intoxicated person or to a person in circumstances in which the person's speech, balance, coordination or behaviour is noticeably impaired and it is reasonable to believe that the impairment is the result of the consumption of liquor; or
- (c) an offence involving trafficking in a controlled drug (within the meaning of the *Controlled Substances Act 1984*) in respect of events occurring (wholly or partly) on the licensed premises; or
- (d) an offence of a kind prescribed by the regulations.

### **37—Amendment of heading to Part 9**

Heading to Part 9—delete the heading and substitute:

## **Part 9—Special powers and enforcement**

### **38—Insertion of Part 9 Division 4**

After Part 9 Division 3 insert:

#### **Division 4—Public order and safety**

##### **128B—Power of Commissioner to issue public order and safety notice**

- (1) The Commissioner may, in his or her absolute discretion, issue a public order and safety notice in respect of a licence if the Commissioner considers that the notice is necessary or desirable to address an issue or perceived issue of public order and safety or to mitigate adverse consequences arising from an issue or perceived issue of public order and safety.
- (2) A public order and safety notice may—
  - (a) vary or suspend a condition of the licence; or
  - (b) impose a condition on the licence; or
  - (c) vary the trading hours fixed by the licensing authority in relation to the licence; or

- (d) require the licensed premises to be closed and remain closed for specified hours, despite a requirement of this Act to keep the premises open to the public during those hours; or
  - (e) suspend the licence.
- (3) Unless the urgency of the circumstances require otherwise, the Commissioner must, before issuing a public order and safety notice in respect of a licence, give the licensee a reasonable opportunity to make submissions about the making of the notice and its proposed terms (however, failure to comply with this subsection does not affect the validity of the notice).
- (4) A public order and safety notice in respect of a licence takes effect when served on the licensee or at a later time specified in the notice and remains in force for a period of not more than 72 hours specified in the notice.
- (5) A public order and safety notice in respect of a licence may not be issued except with the approval of the Minister if the licence has been subject to another public order and safety notice within the 72 hours immediately preceding the period for which the notice would apply.
- (6) A public order and safety notice in respect of a licence may be varied or revoked by the Commissioner by notice in writing served on the licensee.
- (7) The Commissioner must include in the Commissioner's annual report to the Minister a record of—
- (a) the number of notices issued under this section during the period to which the report relates; and
  - (b) in relation to each notice issued during that period—
    - (i) the licence in relation to which the notice was issued; and
    - (ii) the period for which the notice was in force; and
    - (iii) the grounds on which the notice was issued; and
  - (c) any other matters the Commissioner considers relevant.
- (8) No civil liability attaches to the Commissioner or the Crown in respect of an act or omission in good faith in the making, variation or revocation of a public order and safety notice.

### **128C—Power of police to clear or close licensed premises etc**

- (1) If a senior police officer believes on reasonable grounds that it would be unsafe for members of the public to enter or remain in a licensed premises or part of a licensed premises because of conditions temporarily prevailing there, the officer may—
- (a) order persons to leave the premises or part of the premises immediately; or

- (b) order the licensee immediately to remove persons from the premises or part of the premises; or
  - (c) order the licensee to take other specified action to rectify the situation immediately or within a specified period; or
  - (d) if an order under paragraph (a), (b) or (c) is not obeyed, take action to carry out the order; or
  - (e) if satisfied that the safety of persons cannot reasonably be ensured by other means, order the licensee to close the premises or part of the premises immediately and for such period as the officer considers necessary (but not exceeding 24 hours) for the alleviation of the danger; or
  - (f) if a closure order under paragraph (e) cannot for any reason be given to the licensee, or if a closure order, having been given to the licensee, is not immediately obeyed, take action to close the premises or part of the premises for such period as the officer considers necessary (but not exceeding 24 hours) for the alleviation of the danger.
- (2) If a person given an order under this section refuses or fails to obey the order, the person is guilty of an offence.  
Maximum penalty: \$2 500 or imprisonment for 6 months.
- (3) An order under this section may be given orally or by notice in writing.
- (4) If a closure order under this section is given orally, the officer must as soon as practicable cause a written notice containing the order to be served on the licensee.
- (5) When a senior police officer is satisfied that the danger has been alleviated, he or she may revoke an order under this section.
- (6) A senior police officer may authorise another police officer to issue an order under subsection (1) if satisfied (whether on the basis of his or her own observations or the report of another police officer) that urgent action is required.
- (7) A police officer may use such force to enter a place, or to take other action under this section, as is reasonably necessary for the purpose.
- (8) The Commissioner of Police must include in his or her annual report to the Minister to whom the administration of the *Police Act 1998* is for the time being committed a record of—
- (a) the number of orders made under this section during the period to which the report relates; and
  - (b) in relation to each order made during that period—
    - (i) the licensed premises or part of licensed premises in relation to which the order was made; and
    - (ii) the period for which the order was in force; and
    - (iii) the grounds on which the order was made; and

- (c) any other matters the Commissioner of Police considers relevant.
- (9) This section does not derogate from the powers of a police officer under any other Act or law.
- (10) In this section—  
*senior police officer* means a police officer of or above the rank of inspector.

### **39—Amendment of section 135—Evidentiary provision**

Section 135(2)—after "certificate" wherever occurring insert:  
, notice

### **40—Amendment of section 136—Service**

- (1) Section 136(1)—after paragraph (c) insert:  
or  
(d) by transmitting it to the licensee by fax or email to the fax number or email address last provided to the Commissioner by the licensee for that purpose.
- (2) Section 136(2)—after paragraph (d) insert:  
or  
(e) by transmitting it to the person by fax or email to the fax number or email address last provided to the Commissioner by the person for that purpose.
- (3) Section 136—after subsection (3) insert:  
(4) A notice or other document transmitted to a person under this section will be conclusively presumed to have been served on the person at the time of transmission.

### **41—Amendment of section 138—Regulations**

Section 138—after subsection (4) insert:

- (5) A regulation may provide for the Commissioner to waive, reduce or refund fees payable under this Act.

### **42—Repeal of Schedule**

Schedule—delete the Schedule

## Schedule 1—Transitional provisions

### 1—Amendments apply to existing licences, approvals and authorisations

- (1) An amendment to the *Liquor Licensing Act 1997* effected by a provision of this Act applies in respect of a licence, approval or extended trading authorisation granted under that Act, or the holder of a licence, approval or authorisation under that Act, whether the licence, approval or authorisation was granted before or after the commencement of that provision (and any existing licence, approval or authorisation is taken to be modified accordingly).
- (2) However, the trading rights under a special circumstances licence in respect of which a decision was made under clause 3(10)(b) of the Schedule of the *Liquor Licensing Act 1997* as in force before its repeal by this Act are not diminished by reason of subclause (1) and to the extent that an extended trading authorisation or other special licence condition would be required to replicate those trading rights, the licence will, on the commencement of this clause, be taken to include such an authorisation or condition.

### 2—Issue of replacement licence, approval or authorisation

The Commissioner may issue to the holder of a licence, approval or extended trading authorisation under the *Liquor Licensing Act 1997* in force immediately before the commencement of a provision of this Act a replacement copy of the licence, approval or authorisation in order to take account of modifications effected by the provision or, in the case of a licence, to include on the licence a statement of the trading hours or the classification of the licence for the purposes of the Commissioner's codes of practice.

### 3—Consequential modification of gaming machine licence

The Commissioner must, in relation to each gaming machine licence that is in force under the *Gaming Machines Act 1992* at the commencement of this clause, vary the condition fixing the hours during which gaming operations may be conducted on the licensed premises to such extent (if any) as is necessary to ensure the hours are not outside the hours during which the licensed premises are authorised to be open for the sale of liquor.