

# NORTHERN TERRITORY OF AUSTRALIA

## LIQUOR ACT

As in force at 27 January 2012

### Table of provisions

<b>Part I</b>	<b>Preliminary</b>	
1	Short title .....	1
2	Commencement .....	1
3	Objects .....	1
4	Interpretation .....	2
5	Application .....	6
6	Public interest criteria in respect of licence or licensed premises .....	7
7	Meaning of <i>drunk</i> .....	9
8	Application of Criminal Code .....	10
<b>Part II</b>	<b>Administration</b>	
<b>Division 2</b>	<b>Assessors</b>	
14	Assessors .....	10
15	Tenure and remuneration .....	10
16	Commission to seek advice of assessor.....	10
<b>Division 3</b>	<b>Inspectors</b>	
18	Inspectors .....	11
19	Inspector's powers.....	11
<b>Division 4</b>	<b>General</b>	
20	Assessors not to act where interested.....	13
22	Delegation by Commission .....	14
23	Protection of members .....	15
<b>Part III</b>	<b>Licences</b>	
<b>Division 1</b>	<b>Issue of Licence</b>	
23A	Meaning of <i>associate</i> .....	16
24	Licences .....	17
25	Body corporate as licensee .....	17
26	Application for licence.....	18
26A	Disclosure of influential persons or potential beneficiaries .....	18
27	Notice of application .....	20
28	Assessment of applications .....	20



---

<b>Part IV</b>	<b>Objections and complaints</b>	
47F	Person may object to certain applications .....	38
47G	Applicant to be given opportunity to reply to objection.....	40
47H	Facts specified as constituting objection delimits inquiry etc. in relation to objection .....	40
47I	Decision on whether objection to proceed to hearing.....	40
47J	Review of member's decision to dismiss objection.....	41
48A	Power to suspend licence or impose or vary conditions .....	42
49A	Licence may be suspended if drug premises order made .....	42
<b>Part V</b>	<b>Hearings</b>	
50	Commission to conduct hearing in certain circumstances .....	43
51	Procedure at hearing .....	44
52	Power to summon witnesses .....	46
53	Failure to attend or produce document.....	46
54	Refusal to take oath or give evidence.....	47
55	Member may inspect documents.....	47
56	Decision of Commission to be final.....	47
<b>Part VI</b>	<b>Special licences</b>	
57	Special licences.....	48
58	Application for special licence.....	48
59	Conditions of special licence .....	48
59A	Minister's power to determine additional licence conditions .....	49
60	Issue of special licence by Director .....	49
61	Application to be submitted to Commission in certain circumstances.....	50
62	Decision on consideration by Commission .....	50
63	Revocation of special licence .....	50
64	Application of certain provisions to special licences .....	51
<b>Part VII</b>	<b>Enforcement provisions for licences and special licences</b>	
<b>Division 1</b>	<b>Preliminary matters</b>	
65	Object of Part.....	51
66	Application .....	51
67	Meaning of <i>complaint</i> , <i>disciplinary action</i> and <i>ground for complaint or disciplinary action</i> .....	52
<b>Division 2</b>	<b>Director's powers in relation to complaints</b>	
68	Complaints.....	53

---

<b>Division 3</b>	<b>Commission's power to take disciplinary action</b>	
69	Disciplinary action.....	55
70	Monetary penalty.....	56
71	Variation or imposition of licence conditions, or suspension or cancellation of licence .....	57
72	Appeal against Commission's decision.....	57
<b>Division 4</b>	<b>Director's power to enter into enforceable undertakings</b>	
72A	Enforceable undertakings.....	58
72B	Register of enforceable undertakings.....	58
<b>Part VIII</b>	<b>General and public restricted areas</b>	
<b>Division 1</b>	<b>Preliminary matters</b>	
73	Interpretation .....	59
74	Power to declare restricted area.....	59
75	Prohibitions for restricted areas.....	59
76	Application for declaration .....	61
<b>Division 1A</b>	<b>Declaration of general restricted area</b>	
76A	Application.....	61
77	Consideration of application .....	61
78	Opinions regarding application .....	62
79	Commission to ascertain residents' opinions.....	63
80	Commission to consider opinions expressed regarding application .....	63
81	Decision after hearing.....	63
82	Notice of declaration.....	64
83	Commencement of declaration.....	64
84	Revocation of declaration .....	64
85	Commission to ensure publicity of declaration.....	65
86	Not an offence to transport liquor through general restricted area .....	65
<b>Division 1B</b>	<b>Declaration of public restricted area</b>	
86A	Application.....	65
86B	Consideration of application .....	65
86C	Inquiry by Commission .....	65
86D	Matters the Commission must take into account.....	66
86E	Decision of Commission .....	67
86F	Notice of declaration.....	67
86G	Revocation and amendment of declaration .....	68

---

<b>Division 2</b>	<b>Permits</b>	
87	Permit for general restricted area .....	69
88	Guest of permit holder may consume liquor .....	69
89	Person may deliver liquor to permit holder at holder's request .....	70
89A	Permit for public restricted area .....	70
90	Application for permit .....	71
91	Consideration of application .....	71
92	Decision after consideration .....	72
93	Revocation of permit .....	72
94	Revocation of permit by Commission .....	72
<b>Division 3</b>	<b>Powers of entry, search and seizure for general restricted areas</b>	
94A	Application .....	72
95	Powers of search and seizure .....	72
96	Holding of seized thing .....	74
97	Commissioner of Police may release seized thing .....	75
98	Court may release or dispose of seized thing .....	76
99	Forfeiture of seized thing .....	77
<b>Division 4</b>	<b>Powers of search and seizure for public restricted areas</b>	
101AA	Application .....	78
101AB	Police powers of search and seizure .....	78
101AC	Contravention notice .....	78
<b>Part VIII AA</b>	<b>Special restricted areas</b>	
<b>Division 1</b>	<b>General matters</b>	
101AD	Minister's power in regard to special restricted area .....	79
101AE	Prohibitions for special restricted areas .....	80
101AF	Notice of declaration for special restricted area .....	81
101AG	Variation and revocation of declaration .....	82
101AH	Delegation .....	82
<b>Division 2</b>	<b>Permits for special restricted areas</b>	
101AI	Application for permit .....	82
101AJ	Minister's decision .....	82
101AK	Effect of permit .....	83
101AL	Variation, suspension or revocation of permit .....	83
<b>Division 3</b>	<b>Search and seizure</b>	
101AM	Application .....	84

---

101AN	Powers of search and seizure .....	84
101AO	Holding of seized thing .....	86
101AP	Commissioner of Police may release seized thing .....	86
101AQ	Court may release or dispose of seized thing.....	87
101AR	Forfeiture of seized thing .....	88
101AS	Contravention notice.....	89
101AT	Application to court by alleged offender.....	90
101AU	How court deals with alleged offence .....	90
101AV	Court order if no application under section 101AT.....	91
101AW	Interest in destroyed liquor .....	91

## **Part VIII A      Restricted premises**

### **Division 1      Declaration of restricted premises**

101A	Definitions.....	91
101B	Power to declare restricted premises .....	92
101C	Application for declaration of restricted premises .....	92
101D	Commission to consult regarding application .....	93
101E	Decision after consultation.....	93
101F	Notice of declaration.....	94
101G	Commencement of declaration.....	94
101H	Variation of declaration.....	94
101J	Lapse of declaration .....	95
101K	Revocation of declaration .....	95

### **Division 2      Offences, seizure and forfeiture**

101L	Offences in relation to restricted premises .....	95
101M	Police powers of entry, search and seizure .....	96
101N	Service of contravention notice.....	96
101P	Court order if no application under section 101Q .....	97
101Q	Application to court by alleged offender in contravention notice....	97
101R	How Court deals with offence alleged in contravention notice.....	98
101S	Interest in destroyed liquor .....	98

## **Part IX      Obligations and offences**

### **Division 1      Licensees**

102	Prohibition of sale or supply of liquor to person who is drunk.....	99
103	Sale of adulterated liquor.....	99
104	Persons on licensed premises after hours.....	99
105	Permitting riotous conduct on or at licensed premises .....	100
106	Commission may declare licensed premises prohibited areas for children.....	100
106A	Children on licensed premises.....	101
106B	Licensee or employee not to permit child to enter or remain in prohibited area of licensed premises .....	101

106BA	Offences about misrepresentation of age by child.....	102
106BB	Offences about misrepresentation of identity by purchaser of liquor.....	104
106BD	Seizure of document wrongly used as form of identification.....	105
106C	Offence relating to irresponsible sale or supply of liquor to children.....	106
106CA	Sale or supply of liquor to, or consumption or possession of, liquor by children on licensed premises.....	107
106D	Definitions of <i>parent</i> and <i>guardian</i> .....	109
106E	Evidence.....	109
107	Licence to be kept on premises.....	109
108	Licence to be produced on demand .....	109
109	Permitting breach of <i>Gaming Control Act</i> .....	110
110	Licensee must not contravene licence conditions.....	110
111	Licensee to keep record of liquor purchases .....	111
112	Licensee to produce records and other documents.....	111
113	Licensees to lodge return .....	112
113A	Wholesaler of liquor.....	112
114	Registered wholesalers to lodge return .....	113

## **Division 2      General matters**

115	Sale of liquor not authorised by licence .....	113
116	Purchase of liquor not authorised by licence .....	113
117	Children not to supply liquor .....	113
118	Child not to purchase or collect liquor.....	114

## **Part X            Alteration of premises**

119	Approval of material alteration of licensed premises .....	114
120	Unauthorized alterations.....	116

## **Part XA          Local liquor accords**

120A	Definitions.....	116
120B	Particular parties may prepare draft local liquor accord.....	117
120C	Terms of local liquor accord.....	118
120D	Approval, variation and termination of local liquor accord .....	119

## **Part XAB        Banning notices and exclusion orders**

### **Division 1      Definitions**

120E	Definitions.....	119
------	------------------	-----

### **Division 2      Designated areas**

120F	Declaration of a designated area.....	120
120G	Court proceedings regarding declaration of a designated area ...	121

---

120H	Variation and revocation of declaration of a designated area .....	121
------	--	-----

### **Division 3      Banning notices**

120J	Police officer may give banning notice .....	121
120K	Particulars to be included in banning notice .....	123
120L	Requirements before giving banning notice.....	124
120M	Variation or revocation of banning notice by police officer.....	125
120N	Contravention of banning notice .....	126
120P	Direction to leave designated area or licensed premises .....	126
120Q	Use of reasonable force to remove banned person.....	127
120R	Revocation of banning notice by Commissioner of Police .....	128

### **Division 4      Exclusion orders**

120S	Making of exclusion order.....	128
120T	Contravention of exclusion order .....	130
120U	Direction to leave designated area or licensed premises .....	131
120V	Use of reasonable force to remove excluded person .....	131
120W	Variation of exclusion order .....	132

### **Division 5      General**

120X	Disclosure of information for enforcement purposes .....	132
120Y	Offence to permit contravention of banning notice or exclusion order .....	133
120Z	Annual report by Commissioner of Police.....	133

### **Part XI          Miscellaneous**

121	Power to exclude or remove persons .....	135
121A	Returning to licensed premises after being excluded or removed from licensed premises.....	136
122	Prohibition notice .....	137
122A	Duplicate licences, special licences and permits .....	138
123	Return of licence, special licence or permit to Director.....	138
123A	Prosecution of licensee for actions of employee.....	138
124	Limitation of power to take disciplinary action or action relating to an offence.....	138
124A	Averments in complaints .....	139
124B	Results of breath analysis as evidence .....	139
125	Delivery of documents by post.....	139
125A	Guidelines.....	140
126	Commission may determine on procedures .....	140
127	Commission may extend or abridge time .....	140
127A	Licence etc. not personal property.....	140
128	Regulations.....	141
128A	Acquisitions to be on just terms .....	142

---

<b>Part XII</b>	<b>Transitional matters for Liquor Act 1978</b>	
130	Saving of inspectors' appointments .....	142
132	References to repealed Ordinance.....	142
<b>Part XIII</b>	<b>Transitional matters for Antisocial Behaviour (Miscellaneous Amendments) Act 2006</b>	
133	Definitions.....	143
134	Condition of licence relating to prohibition notice.....	143
135	Continued application of existing prohibition order .....	143
136	Continued application of repealed section 122 .....	143
<b>Part XIV</b>	<b>Transitional matters for Liquor Amendment Act 2006</b>	
137	Savings – restricted areas .....	143
<b>Part XV</b>	<b>Transitional matters for Liquor Legislation Amendment Act 2007</b>	
138	Savings – permit.....	144
139	Savings – licence.....	144
<b>Part XVI</b>	<b>Transitional provisions for Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act 2011</b>	
140	Definition.....	145
141	Identification system .....	145
142	Prohibition notice .....	145
<b>Part XVII</b>	<b>Transitional matters for Alcohol Reform (Liquor Legislation Amendment) Bill 2011</b>	
143	Definition.....	145
144	Application of new Part VII.....	146
145	Savings – guidelines.....	146

**ENDNOTES**

# NORTHERN TERRITORY OF AUSTRALIA

---

This reprint shows the Act as in force at 27 January 2012. Any amendments that commence after that date are not included.

---

## LIQUOR ACT

**An Act to provide for the regulation of the sale, provision, promotion and consumption of liquor, and for related purposes**

### **Part I Preliminary**

#### **1 Short title**

This Act may be cited as the *Liquor Act*.

#### **2 Commencement**

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### **3 Objects**

- (1) The primary object of this Act is to regulate the sale, provision, promotion and consumption of liquor:
  - (a) so as to minimise the harm associated with the consumption of liquor; and
  - (b) in a way that takes into account the public interest in the sale, provision, promotion and consumption of liquor.
- (2) The further objects of this Act are:
  - (a) to protect and enhance community amenity, social harmony and wellbeing through the responsible sale, provision, promotion and consumption of liquor;
  - (b) to regulate the sale of liquor in a way that contributes to the responsible development of the liquor and associated industries in the Territory; and
  - (c) to facilitate a diversity of licensed premises and associated services for the benefit of the community.

- (3) When the Commission exercises a power or performs a function under this Act, the Commission must have regard to the objects of this Act and must exercise the power and perform the function in a way that is consistent with those objects.

#### 4 Interpretation

- (1) In this Act:

***assessor*** means an assessor appointed under section 14.

***accord area***, for Part XA, see section 120A.

***alcohol-related violence***, see section 120A.

***banned person***, for Part XAB, see section 120E.

***banning notice***, for Part XAB, see section 120E.

***Chairperson*** means:

- (a) the Chairperson of the Commission appointed under section 6 of the *Northern Territory Licensing Commission Act*, or
- (b) a person appointed to act as the Chairperson under section 8 of that Act while acting as the Chairperson.

***child*** means a person less than 18 years of age.

***Commission*** means the Northern Territory Licensing Commission established by section 4 of the *Northern Territory Licensing Commission Act*.

***community*** includes an individual member and a group of members of a community.

***complaint***, see section 67(1).

***condition***, of a licence, means a condition of the licence determined or varied under Part III.

***contravention notice*** means:

- (a) a public restricted area contravention notice mentioned in section 101AC(1); or
- (b) a restricted premises contravention notice mentioned in section 101N(1).

***council area*** means the area for which a council is constituted under the *Local Government Act*.

***declaration of a designated area***, for Part XAB, see section 120E.

***declaration of restricted premises*** means a declaration made under Part VIIIA, Division 1.

***Deputy Director*** means a Deputy Director of Licensing appointed under section 24 of the *Northern Territory Licensing Commission Act*.

***designated area***, for Part XAB, see section 120E.

***Director*** means:

- (a) the Director of Licensing appointed under section 22(1) of the *Northern Territory Licensing Commission Act*, or
- (b) a person appointed to act as the Director under section 22(2) of that Act while acting as the Director.

***disciplinary action***, see section 67(2).

***drunk***, see section 7.

***employee***, of a licensee, means a person engaged by the licensee (whether or not under a contract of employment) to perform work in relation to the conduct of the licensee's business.

***enforceable undertaking***, see section 72A(1).

***enter***, for Part XAB, see section 120E.

***excluded person***, for Part XAB, see section 120E.

***exclusion order***, for Part XAB, see section 120E.

***general restricted area*** means a general restricted area declared under section 74(1)(a).

***ground***, for a complaint or disciplinary action against a licensee, see section 67(3).

***hearing*** means a hearing conducted in accordance with Part V by the Commission.

***infringement notice*** means an infringement notice, within the meaning of the *Fines and Penalties (Recovery) Act*, issued under the Regulations.

***inspector*** means an Inspector of Licensed Premises appointed under section 18.

***licence*** means a licence issued under Part III.

***licensed premises*** means premises in respect of which a licensee is licensed.

***licensee*** means a person who holds a licence which is in force for the time being.

***liquor*** means a beverage that contains more than 1.15% by volume of ethyl alcohol.

***local government council*** means a council constituted under the *Local Government Act*.

***local liquor accord***, for Part XA, see section 120A.

***material alteration*** means an alteration to licensed premises which:

- (a) increases or decreases the area used for the sale of liquor or the sale and consumption of liquor; or
- (b) involves structural alteration; or
- (c) alters access to or egress from the premises; or
- (d) alters the external appearance or facilities.

***member*** means a member of the Commission appointed under section 6 of the *Northern Territory Licensing Commission Act*.

***municipality*** means a municipality within the meaning ascribed to that term in the *Local Government Act*.

***permit*** means:

- (a) for Part VIII – a permit mentioned in section 87 or 89A; or
- (b) for Part VIII A – a permit mentioned in section 101A.

***premises*** include an enclosure, place, area of land, vessel or vehicle.

***private premises*** means private premises as defined in section 101A.

***prohibition notice*** means a notice given to a licensee under section 122.

***public restricted area***, means a public restricted area declared under section 74(1)(b).

**quarter** means the period of 3 months ending at the end of March, June, September or December in any year.

**relevant offence** means:

- (a) for Part VIII – see section 94A or 101AA; or
- (b) for Part VIII A – see section 101AM.

**repealed Ordinance** means the *Licensing Ordinance 1939* as in force immediately before the commencement of this Act.

**restricted premises** means private premises, within the meaning of section 101A, which are the subject of a declaration of restricted premises.

**sell** includes:

- (a) offer or expose for sale; and
- (b) keep or have in possession for sale; and
- (c) supply for or in expectation of any reward or benefit paid or provided, or to be paid or provided by the person supplied or another person, whether or not any person was or is under an obligation to pay or provide a reward or benefit.

**special licence** means a special licence issued under Part VI.

**special restricted area** means a special restricted area declared under section 101AD.

**specified offence** means an offence against any of the following:

- (a) section 121(2) or 121A;
- (b) section 66, 133, 166, 174C, 174D, 174E, 176A(2), 177, 181, 186, 188, 189A, 192, 200, 212, 213, 215, 239, 240 or 251 of the Criminal Code;
- (c) section 45D, 45K, 47, 47AA, 50 or 53 of the *Summary Offences Act*;
- (d) section 7(1), 7A or 8 of the *Weapons Control Act*;
- (e) an offence prescribed by regulation as a specified offence.

*Note for definition **specified offence** relating to the timing of when an offence becomes a specified offence*

*If a person committed an offence against a provision and subsequently an offence against the provision is prescribed by this Act or by regulation as a*

---

*specified offence, the previously committed offence is not a specified offence.*

**thing**, in relation to a relevant offence, means a thing:

- (a) that is used in the commission of the offence; or
  - (b) that may be used as evidence in proceedings for the prosecution of the offence.
- (2) Unless the contrary intention appears, a reference in this Act to a person employed by a licensee includes a reference to a person whose services are provided to a licensee under a contract with the person or another person.

## 5 Application

- (1) The provisions of this Act relating to the sale of liquor do not apply to the sale:
- (a) of spirituous or distilled perfume bona fide as perfumery; or
  - (b) of liquor as a medicine or for medicinal purposes by, or under the direction of, a medical practitioner or a person registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession (other than as a student.
- (2) A licence or special licence is not required for the sale:
- (a) of liquor in a naval, military or air force mess, canteen, camp or post by the permission, and under the control of, the naval, military or air force authorities;
  - (b) at a canteen or club established, conducted, maintained or operated in pursuance of the Australian Services Canteens Organization Regulations made under the *Defence Act 1903* of the Commonwealth, of liquor by the Australian Services Canteens Organization Board of Management or a person authorized by the Board for that purpose to a person who is permitted to be in that canteen or club;
  - (c) of liquor within the precincts of the Legislative Assembly of the Northern Territory on the authority of the Speaker of the Legislative Assembly;
  - (d) of liquor on a vessel plying to or from a port in the Territory or on that vessel while that vessel is berthed or moored where the sale, keeping or consumption of liquor is:
    - (i) authorized by the master of the vessel; and

- (ii) is restricted to crew, passengers on board for the purposes of undertaking a voyage of not less than 150 kilometres or bona fide guests on board while the vessel is berthed or moored in a port;
  - (e) of liquor to a passenger with the authority of the pilot on an aircraft in flight;
  - (f) of liquor to a passenger with the authority of the catering officer on a train during a journey;
  - (g) of liquor which has been forfeited under a law of the Territory at a sale by auction conducted by a person who holds a licence granted under the *Auctioneers Act*;
  - (h) of liquor to a person who is licensed (otherwise than by a special licence issued under Part VI) or authorized to sell liquor under a law of a State or Territory; or
  - (j) of liquor on premises occupied by the special defence undertaking for the purposes of the *Defence (Special Undertakings) Act 1952* of the Commonwealth known as the Joint Defence Space Research Facility at Alice Springs.
- (3) The provisions of this Act, other than those requiring the obtaining of a licence or special licence for the sale of liquor apply, so far as applicable, to and in relation to:
- (a) the sale of liquor by a person in respect of whom; or
  - (b) the consumption of liquor on premises in respect of which,
- there is an exemption from so obtaining a licence or special licence by virtue of this section or any other law of the Territory as if that person were a licensee and those premises were licensed premises.
- (4) Section 116 does not apply to a purchase of liquor made by an inspector or a police officer in the execution of the inspector's or officer's duty.

## **6 Public interest criteria in respect of licence or licensed premises**

- (1) When the Commission has regard to the objects of this Act in:
- (a) considering or determining an application under this Act in respect of a licence or licensed premises; or
  - (b) determining the conditions of a licence,

the Commission must, when taking into account the public interest in the sale, provision, promotion and consumption of liquor, consider any of the criteria specified in subsection (2) that are relevant to the application or conditions.

- (2) For subsection (1), the criteria are the following:
- (a) harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised;
  - (b) liquor is to be sold, or sold and consumed, on licensed premises in a responsible manner;
  - (c) public order and safety must not be jeopardised, particularly where circumstances or events are expected to attract large numbers of persons to licensed premises or an area adjacent to those premises;
  - (d) the safety, health and welfare of persons who use licensed premises must not be put at risk;
  - (e) noise emanations from licensed premises must not be excessive;
  - (f) business conducted at licensed premises must not cause undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the neighbourhood of the premises or who are making their way to or from, or using the services of, a place of public worship, hospital or school;
  - (g) a licensee must comply with provisions of this Act and any other law in force in the Territory which regulate in any manner the sale or consumption of liquor or the location, construction or facilities of licensed premises, including:
    - (i) by-laws made under the *Local Government Act*, and
    - (ii) provisions of or under the *Planning Act*,
  - (h) each person involved in the business conducted at licensed premises must receive suitable training relevant to the person's role in the conduct of the business;
  - (i) the use of credit in the sale of liquor must be controlled;
  - (j) practices which encourage irresponsible drinking must be prohibited;

- (k) it may be necessary or desirable to limit any of the following:
    - (i) the kinds of liquor that may be sold;
    - (ii) the manner in which liquor may be sold;
    - (iii) the containers, or number or types of containers, in which liquor may be sold;
    - (iv) the days on which and the times at which liquor may be sold;
  - (l) it may be necessary or desirable to prohibit persons or limit the number of persons who may be on licensed premises, on any particular part of licensed premises or in an adjacent area subject to the control of the licensee;
  - (m) it may be necessary or desirable to prohibit or limit the entertainment, or the kind of entertainment, which may be provided on licensed premises or in an adjacent area under the control of the licensee;
  - (n) it may be necessary or desirable to prohibit or limit promotional activities in which drinks are offered free or at reduced prices.
- (3) Also, the Commission must consider:
- (a) any other matter the Commission believes is relevant to the public interest in the sale, provision, promotion and consumption of liquor in respect of the application or conditions under consideration; and
  - (b) any information or matter contained in an application, or otherwise provided or raised by the applicant, which is relevant to the public interest in the sale, provision, promotion and consumption of liquor.

## 7 **Meaning of *drunk***

A person is *drunk* if:

- (a) the person's speech, balance, coordination or behaviour appears to be noticeably impaired; and
- (b) it is reasonable in the circumstances to believe the impairment results from the person's consumption of liquor.

## **8 Application of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against this Act (other than an offence against section 75(1) or 101AE(1)).

*Note for section 8*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## **Part II Administration**

### **Division 2 Assessors**

#### **14 Assessors**

The Minister may appoint such persons as he thinks necessary to be assessors to advise the Commission, within the terms of their appointments, regarding any matter concerned with the administration or operation of this Act or the regulations.

#### **15 Tenure and remuneration**

An assessor shall hold office during the pleasure of the Minister and shall be paid such fees, allowances and expenses as the Administrator determines.

#### **16 Commission to seek advice of assessor**

(1) Subject to subsection (2), if the Commission is of the opinion that the advice of an assessor is, or might be, relevant to the exercise of a power, authority or discretion of the Commission under this Act, the Commission shall seek and consider the advice of that assessor before exercising that power, authority or discretion.

(2) Where:

- (a) an assessor is unable for any reason to provide advice; and
- (b) failure or delay by the Commission to exercise a power, authority or discretion of the Commission under this Act until such time as the assessor could provide the advice would, in the opinion of the Commission, cause undue hardship to a person interested in the exercise of that power, authority or discretion,

the Commission shall not be required to seek or consider the advice of that assessor.

## **Division 3 Inspectors**

### **18 Inspectors**

- (1) The Minister may appoint such persons as he thinks necessary to be Inspectors of Licensed Premises.
- (2) An inspector shall perform the duties required to be performed by him by this Act and such other duties as the Commission or the Director directs.
- (3) The Director shall issue to each person appointed as an inspector an identity card in accordance with a form approved by the Commission.

### **19 Inspector's powers**

- (1) An inspector with such assistance as he considers necessary may, with such force as is reasonably necessary, at any time when premises are open for the sale of liquor, enter and inspect those premises.
- (2) An inspector who enters licensed premises in pursuance of subsection (1) may not enter a private room of those premises without the prior consent of the occupant, the licensee or a person who is apparently in charge of those licensed premises unless the inspector has reasonable grounds for believing that an offence against this Act has occurred, is occurring or is likely to occur in that room.
- (3) An inspector with such assistance as he considers necessary may, with such force as is reasonably necessary, at any time, enter and inspect premises when there are reasonable grounds for believing that:
  - (a) liquor is being sold on those premises;
  - (b) liquor is being kept for sale on premises which are not licensed premises within the meaning of this Act; or
  - (c) an offence against this Act has occurred, is occurring or is likely to occur on those premises.
- (4) An inspector who enters premises in pursuance of this section is not authorized to remain on those premises if, on the request by the person apparently in charge of those premises, he does not produce the identity card referred to in section 18(3).

- (5) An inspector who enters premises in pursuance of this section may:
- (a) examine, take stock of and take samples of any liquor on the premises; and
  - (b) inspect any books, documents or other papers on the premises; and
  - (c) remove any books, documents or papers from the premises for the purpose of having copies made; and
  - (d) seize and remove any liquor on the premises which he has reasonable grounds to believe is evidence of or otherwise relates to an offence against this Act; and
  - (e) require a person on the premises to provide his name and address and date and place of birth, evidence of his age and the name or identity of the seller or supplier of any liquor in the person's possession.
- (6) An inspector may retain a book, document or paper removed from premises in pursuance of subsection (5) for so long as is reasonably necessary for the purpose of having copies of the book, document or paper made.
- (7) An inspector who takes a sample of liquor in pursuance of subsection (5) shall:
- (a) divide the sample so taken into approximately equal parts and put each part in a sealed container to which is affixed a label bearing:
    - (i) the signature of the inspector; and
    - (ii) particulars of the premises on which the sample was taken; and
    - (iii) particulars of the date and time when the sample was taken; and
  - (b) deliver one of the containers to the person apparently in charge of the premises for the time being and deliver the other container to an approved analyst.
- (8) In any proceedings in a court in respect of an offence against this Act, a certificate that purports to have been signed by an approved analyst and states the result of an analysis of the contents of a container delivered to him by an inspector is evidence of the matters stated in the certificate.

- (9) A person shall not, except in the course of his duty under this Act or in the course of proceedings in a court in respect of an offence against this Act, divulge to another person information that he has acquired by reason of the inspection of books, documents or papers in pursuance of this section.
- (10) The provisions of this section, other than subsection (4), apply to and in relation to a police officer as if the officer were an inspector.
- (10A) The provisions of Division 3 of Part VIII apply to any liquor seized under subsection (5) as if it was seized under that Division.
- (11) In this section:

*approved analyst* means a person approved by the Commission for the purposes of this section.

*liquor* for the purposes of subsections (5) and (7), includes any liquid in respect of which there are reasonable grounds for believing the liquid to contain alcohol.

*private room* means a room forming part of licensed premises which is used predominantly for purposes other than:

- (a) the storage, sale or consumption of liquor; or
- (b) the preparation, sale or consumption of food,

in the operation or management of those premises as licensed premises.

## Division 4 General

### 20 Assessors not to act where interested

- (1) Where an assessor whose advice the Commission is required to seek and consider by section 16(1) has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission, that assessor shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest to the Commission and to the Minister.
- (2) Where, for any reason, an assessor whose advice the Commission is required to seek and consider by section 16(1) is of the opinion that it would be improper for him to take part in any deliberation or decision of the Commission in relation to a matter or a class of matters being considered or about to be considered by the Commission he shall, as soon as possible after the relevant facts have come to his knowledge, inform the Commission and the

Minister accordingly.

(3) Where an assessor whose advice the Commission is required to seek and consider by section 16(1):

- (a) has an interest of a description referred to in subsection (1); or
- (b) holds an opinion of a description referred to in subsection (2),

that assessor shall not, unless the Minister otherwise determines, take part in any deliberation or decision of the Commission in relation to the matter which is the subject of his interest or the matter or class of matters of a description referred to in subsection (2), as the case may be.

(4) Where an assessor:

- (a) discloses an interest to the Minister pursuant to subsection (1); or
- (b) informs the Minister that he holds an opinion of a description referred to in subsection (2),

the Minister may appoint a person to act in the place of that assessor in relation to the matter which is the subject of the assessor's interest or the matter or class of matters of a description referred to in subsection (2), as the case may be.

(6) A member shall not hold or have any interest in a licence.

## **22 Delegation by Commission**

(1) The Commission may, in writing, delegate to:

- (a) a member; or
- (b) the Director; or
- (c) a Deputy Director,

all or any of its powers or functions under this Act, other than:

- (d) a power to conduct a hearing under this Act; or
- (da) a power or function mentioned in subsection (1A) or (1B); or
- (e) a power or function where, prior to the exercise of that power or function, the Commission is required to conduct a hearing under this Act; or
- (f) this power of delegation.

- (1A) The Commission may, in writing, delegate its powers and functions under sections 86C and 86F(3) to one or more of the following:
- (a) a member;
  - (b) the Director.
- (1B) The Commission may, in writing, delegate its powers and functions under section 89A to one or more of the following:
- (a) a member;
  - (b) the Director;
  - (c) the Deputy Director;
  - (d) the chief executive officer of a local government council;
  - (e) a police officer who is:
    - (i) of or above the rank of senior sergeant; or
    - (ii) the person in charge of a police station.
- (2) A power delegated in accordance with subsection (1), (1A) or (1B) may be exercised by the delegate in accordance with the instrument of delegation.
- (3) A delegation under this section is revocable by the Commission in writing at will and does not prevent the exercise of a power or the performance of a function by the Commission.

## **23 Protection of members**

- (1) An action or proceeding, civil or criminal, does not lie against an assessor or a person concerned in the administration of this Act for or in respect of an act or thing done in good faith by an assessor or a person concerned in the administration of this Act, as the case may be.
- (2) Subsection (1) has effect subject to Part VIIA of the *Police Administration Act* to the extent it relates to the civil liability of a person who is a member of the Police Force.

## Part III Licences

### Division 1 Issue of Licence

#### 23A Meaning of *associate*

- (1) For this Division, the following persons are associates of a person (*the person*):
- (a) the person's spouse or de facto partner;
  - (b) a parent or remoter lineal ancestor, son, daughter or remoter issue, or brother or sister of the person;
  - (c) a partner of the person;
  - (d) a body corporate of which the person is an executive officer;
  - (e) if the person is a body corporate – an executive officer of the body corporate;
  - (f) a person who, in the previous year, has provided to the person advice for fee or reward in relation to the sale of liquor;
  - (g) an employee or employer of the person;
  - (h) an officer or employee of a body corporate of which the person is an officer or employee;
  - (i) an employee of a natural person of whom the person is an employee;
  - (j) a body corporate whose executive officers are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person or, where the person is a body corporate, of the executive officers of that body corporate;
  - (k) a body corporate in accordance with the directions, instructions or wishes of which, or of the executive officers of which, the person is accustomed or under an obligation, whether formal or informal, to act;
  - (l) a body corporate in which the person holds a controlling interest;
  - (m) if the person is a body corporate – a person who holds a controlling interest in the body corporate;

- (n) a person who is named in an affidavit made by the person under section 26A;
  - (o) a person who, because of this subsection, is an associate of any other person who is an associate of the person.
- (2) For subsection (1)(l) and (m), a person is taken to hold a controlling interest in a body corporate if that person, alone or together with one or more associates of that person, is in a position to control at least 15% of the voting power in the body corporate or holds interests in at least 15% of the issued shares in the body corporate.

## **24 Licences**

Subject to this Act, the Commission may issue a licence, in a form approved by the Commission, to an applicant for the sale of liquor, or the sale and consumption of liquor on, at, or away from, premises specified in the licence.

## **25 Body corporate as licensee**

- (1) A body corporate shall not hold a licence unless it is a corporation within the meaning of the Corporations Act 2001.
- (2) Where a body corporate applies for a licence, other than under section 26(2) where the body corporate does not intend to carry on any business under the licence being applied for shall nominate a person to be its manager of the licensed premises.
- (3) For the purposes of this Act, the manager of the licensed premises nominated by a body corporate shall be deemed to be the person licensed in respect of the premises and the premises shall be deemed to be his licensed premises or the premises in respect of which he is licensed.
- (4) For the purposes of an objection under Part IV, the manager nominated by a body corporate shall be deemed to be a joint applicant with the body corporate for a licence.
- (5) Upon the grant of a licence to a body corporate, the name of the manager nominated by that body corporate shall, in addition to the name of the body corporate, be endorsed on the licence and the approval in writing of the Commission shall be necessary before any change of the manager so nominated will be recognized for the purposes of this Act.

- (5A) Where a person, whose name is endorsed as the person nominated as manager on a licence held by a body corporate, is unwilling to conduct the business of a licensee, the body corporate shall not sell liquor after the date upon which the nominated manager is unwilling to conduct that business until:
- (a) the person nominated as manager on the licence is willing to resume the conduct of the business of the licensee; or
  - (b) approval of a change of manager under subsection (5) is obtained.
- (6) In addition to a manager nominated pursuant to subsection (2) every director and officer of a body corporate may be prosecuted for an offence committed against this Act by the nominated manager.
- (7) The directors and officers of the body corporate shall not be liable pursuant to subsection (6) where it is proved that the body corporate had given such directions to the nominated manager and had exercised or caused to be exercised such supervision of that manager, as were reasonably necessary to ensure that the manager did not commit an offence against this Act.

## **26 Application for licence**

- (1) An application for the grant of a licence shall be lodged with the Director in a form approved by the Commission and accompanied by the affidavit made under section 26A and the prescribed fee.
- (2) An application under subsection (1) may be made in respect of premises which are to be constructed or which are under construction and, in respect of such premises or proposed premises, by a person who does not intend to carry on any business under the licence being applied for.
- (3) The applicant for a licence must demonstrate in the application that the grant of the licence will be in the public interest:
- (a) by providing information about any relevant criteria referred to in section 6(2); and
  - (b) by specifying any other matter relevant to the public interest in the sale, provision, promotion and consumption of liquor.

## **26A Disclosure of influential persons or potential beneficiaries**

- (1) An applicant for a licence must make an affidavit disclosing whether certain persons may be able to influence the applicant, or expect a benefit from the applicant, if the licence is granted.

- (2) If the applicant is a body corporate, the affidavit must be made by:
- (a) the principal executive officer of the body corporate; or
  - (b) if that officer does not have knowledge of the relevant facts – another person who has knowledge of the relevant facts and is authorised by the body corporate to make the affidavit.
- (3) The affidavit must be in a form approved by the Commission and, subject to subsection (6), must disclose the following matters:
- (a) subject to subsection (4), whether or not there is any person who will by any lease, agreement or arrangement be able to influence any decision made by the applicant in relation to the sale of liquor or the sale and consumption of liquor;
  - (b) subject to subsection (5), whether or not there is any person other than the applicant who by any lease, agreement or arrangement may expect any benefit from the applicant in relation to the sale of liquor or the sale and consumption of liquor;
  - (c) if a person disclosed under paragraph (a) or (b) is a natural person – the person's full name, address and date of birth;
  - (d) if a person disclosed under paragraph (a) or (b) is a body corporate other than a club – the name of the body corporate and the full name, address and date of birth of the secretary and each executive officer of the body corporate;
  - (e) if a person disclosed under paragraph (a) or (b) is a club or other voluntary association of persons:
    - (i) the name of the club or voluntary association of persons; and
    - (ii) the full name, address and date of birth of the secretary and each executive officer of the club or voluntary association of persons; and
    - (iii) details of the objectives (if any) of the club or voluntary association of persons and whether or not the club is a non-proprietary club or the voluntary association of persons conducts its business in the same way as a non-proprietary club;
  - (f) full and correct particulars of any lease, agreement or arrangement disclosed under paragraph (a) or (b);

- (g) if the applicant is a body corporate other than a club – the names of all persons who have a substantial holding (within the meaning of section 9 of the Corporations Act 2001) in the body corporate.
- (4) If the applicant is a body corporate, subsection (3)(a) does not require disclosure of a person who is the secretary, an executive officer, a member or a shareholder of the body corporate carrying out the duties or exercising the normal rights of the person in that capacity.
- (5) Subsection (3)(b) does not require disclosure of a contract, agreement or other arrangement entered into for the purposes of this Act or the Regulations and approved by the Commission.
- (6) The affidavit need not disclose anything specified by the Regulations as not requiring disclosure.

## **27 Notice of application**

- (1) An applicant for a licence shall, within 28 days of lodging an application pursuant to section 26, cause to be published in a newspaper or newspapers nominated by the Commission notice of the fact that the applicant has applied for the grant of a licence.
- (2) The notice of the application shall:
  - (a) include a description in sufficient detail to identify the location of the premises in respect of which the application is made;
  - (b) include a description of the nature of any business associated with the licence applied for that it is proposed to conduct on the premises referred to in paragraph (a);
  - (c) contain such other particulars as may be determined by the Commission; and
  - (d) be not less than a size determined by the Commission.
- (3) If the application relates to premises within the area of a shire council, the Director must, as soon as reasonably practicable, inform the CEO of the council that the application has been made.

## **28 Assessment of applications**

- (1) The Commission must conduct or cause to be conducted the investigations it considers necessary to enable it to make a proper assessment of an application for a licence.

- (2) The Commission must consider an application for a licence, the accompanying affidavit made under section 26A and the results of investigations conducted in relation to the application and make an assessment of the following matters:
- (a) the suitability of the premises in respect of which the application is made, having regard to any law of the Territory which regulates in any manner the sale or consumption of liquor or the location, construction or facilities of premises which are used for that purpose;
  - (b) if the applicant is a natural person – the financial stability, general reputation and character of the applicant;
  - (c) if the applicant is a body corporate – the business reputation and financial stability of the body corporate and the general reputation and character of the secretary and executive officers of the body corporate;
  - (d) if the applicant is a federation of clubs – the business reputation and financial stability of each constituent club and the general reputation and character of the secretary and executive officers of each constituent club;
  - (e) whether the applicant is a fit and proper person to hold a licence;
  - (f) if a person is referred to in the affidavit under section 26A – whether that person is a fit and proper person to be an associate of a licensee;
  - (g) if the Commission considers it appropriate – whether any other associate of the applicant is a fit and proper person to be an associate of a licensee;
  - (h) if the applicant has nominated a person under section 25(2) to be its manager – whether that person is a fit and proper person to be the manager.
- (3) In assessing whether an applicant is a fit and proper person to hold a licence, the Commission must have regard to any matters prescribed by the Regulations relevant to that assessment.
- (4) The Commission may require an applicant, a nominee manager of the applicant or an associate of the applicant to provide the Commission with the additional information or material that the Commission considers necessary to make a proper assessment of the application.

## **29 Decision after consideration of application**

- (1) Where:
  - (a) no objection to the grant of a licence has been lodged with the Director pursuant to section 47F; or
  - (b) such an objection has been dismissed under Part IV,the Commission shall, as soon as reasonably practicable, consider an application for a licence.
- (2) After considering an application for a licence, the Commission must, having regard to the objects of this Act:
  - (a) issue a licence subject to such conditions as are determined by it under section 31;
  - (b) refuse the application and direct the Director to forward notice of the refusal together with a statement of the reasons for refusal to the applicant; or
  - (c) conduct a hearing in relation to the application.
- (3) Where the Commission has conducted a hearing in relation to an application for a licence under subsection (2)(c) or Part IV the Commission shall, after that hearing, take action of a kind described in subsection (2)(a) or (b), in addition to any action it may take under Part IV.
- (4) Where the Commission refuses an application for a licence under subsection (2)(b), the Commission may, if it thinks fit, refund the whole or any part of the prescribed fee paid to the Commission under section 26.

## **30 Duration of licence**

A licence shall remain in force until surrendered, suspended or cancelled under this Act.

## **Division 2 Conditions of licence generally**

### **31 Conditions of licence**

- (1) Subject to the Regulations, the Commission may issue a licence subject to such conditions as it may consider necessary or desirable in the particular circumstances of an application before it.

- (2) Without limiting the generality of subsection (1), the Commission may, subject to the Regulations, determine conditions with respect to:
- (a) the construction and furnishing of licensed premises; and
  - (b) the equipment and facilities to be provided on or at licensed premises; and
  - (c) the restriction of days when and times during which licensed premises may be open for the sale of liquor; and
  - (d) the minimum facilities and services to be operative on the days when and times during which licensed premises may be open for the sale of liquor; and
  - (e) the method of sale of liquor, including restrictions on the type of container in which liquor may be sold and limitations as to the quantities or type of liquor which may be sold by a licensee; and
  - (f) the standard of repair, cleanliness and hygiene to be maintained on or at licensed premises; and
  - (g) the provision of entertainment on or at licensed premises; and
  - (h) the provision of food on or at licensed premises; and
  - (i) the display and content of notices, relating to this Act, on or at licensed premises; and
  - (j) the persons who may be admitted to licensed premises; and
  - (k) the prohibition of specified activities on or at licensed premises by the licensee, employees of the licensee or patrons of those premises.
- (3) Without limiting the generality of subsection (1) or (2), the Commission may, in respect of an application for a licence in respect of premises or proposed premises referred in section 26(2), grant the licence subject to the condition that the sale of liquor on the premises is not permitted until the approval in writing to do so is obtained from the Commission or the licence is transferred under section 40.
- (4) It is a condition of all licences that a licensee:
- (a) must not take any action that, in the opinion of the Commission, would induce the irresponsible or excessive consumption of liquor on licensed premises; and

- (b) must not publish or cause to be published, in any media, an advertisement which, in the opinion of the Commission, could be construed as inducing the irresponsible or excessive consumption of liquor on licensed premises; and
  - (c) where a code of conduct or code of ethics or rules (by whatever name it is called) relating to the advertising of liquor, or another matter relating to the operation of a licence, is approved by the Commission and is accepted and promulgated by the Minister by notice in the *Gazette*, a licensee must abide by that code or rules.
- (5) Notwithstanding subsection (4), a licence is not subject to a condition under paragraph (a) or (b) of subsection (4) until 14 days after the publication by the Commission of guidelines under section 125A relating to the expression of its opinion under those paragraphs.
- (6) It is a condition of all licences that a licensee must comply with every prohibition notice given to the licensee.

### **31A Conditions about identification system**

- (1) This section applies to a sale of liquor:
- (a) in a way prescribed by regulation; or
  - (b) under a licence prescribed by regulation.
- (2) The Minister may establish an identification system for determining whether the individual is subject to a prohibition covered by any of the following provisions:
- (a) a SMART order under the *Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act*;
  - (ab) a BAT notice or GAP order, or a BADT order relating to alcohol, under the *Alcohol Reform (Prevention of Alcohol-related Crime and Substance Misuse) Act*;
  - (b) a bail condition as defined in the *Bail Act* (otherwise than for a bail granted under Part III of the Act) relating to liquor;
  - (c) a condition of a court order under the *Domestic Violence Act* or the *Domestic and Family Violence Act* relating to liquor;
  - (d) a provision under a law in force in the Territory prescribed by regulation.

- (3) For subsection (2), a scanner must be given to the licensee for the licence:
- (a) to enable the licensee or an employee of the licensee (an *authorised seller*) to scan an identification of the individual; and
  - (b) to indicate to an authorised seller whether the individual is prohibited from purchasing liquor or liquor of a particular kind or quantity.
- (4) The identification must be one of the following (an *approved identification*):
- (a) the individual's passport;
  - (b) the individual's driver licence;
  - (c) any other identification approved by the Director.
- (5) Each of the following requirements is a condition of the licence:
- (a) an authorised seller must not sell liquor to an individual without scanning an approved identification of the individual with the scanner;
  - (b) an authorised seller must not sell liquor to an individual contrary to a prohibition mentioned in subsection (2) indicated in the scanner;
  - (c) except for this Act or another law in force in the Territory, an authorised seller must not disclose or use any information indicated in the scanner;
  - (d) an authorised seller must not damage or tamper with the scanner or any other component of the system;
  - (e) any requirement about maintaining the system specified by the Director in writing;
  - (f) any other requirement specified by regulation for the system.
- (6) A person must not contravene a requirement in subsection (5).
- Maximum penalty: 100 penalty units.
- (7) An offence against subsection (6) is an offence of strict liability.

- (7A) It is a defence to a prosecution for an offence against subsection (6) if the defendant establishes a reasonable excuse.

*Example for subsection (7A)*

*A reasonable excuse for a contravention of the requirement in subsection (5)(a) or (b) may be based on a failure of the system to operate properly for a reason other than the defendant's conduct.*

- (8) The Director may, by *Gazette* notice, exempt a licence from a requirement in subsection (5) for a specified period.

### **32 Objects etc. to be considered in determining conditions**

In determining the conditions of a licence, the Commission:

- (a) must have regard to the objects of this Act; and
- (b) may conduct or cause to be conducted any further investigations it considers necessary to enable it to make a proper determination.

### **32A Variation of conditions on application by licensee**

- (1) A licensee may apply to the Commission in a form approved by the Commission for a variation of the conditions of the licence held by the licensee and may request that the Commission conduct a hearing in relation to the application.
- (2) If the Commission considers it to be in the public interest, the Commission may conduct a hearing in relation to the application whether or not the applicant has requested a hearing.
- (3) If the Commission decides to conduct a hearing, the Commission must require the applicant to cause notice of the application to be published:
  - (a) in a newspaper or newspapers nominated by the Commission; and
  - (b) within the period specified by the Commission.
- (4) The notice must:
  - (a) include a description in sufficient detail to identify the location of the premises in respect of which the application is made; and
  - (b) include a description of the nature of any business associated with the licence that is conducted on those premises; and
  - (c) include details of the proposed variation of conditions; and

- (d) contain any other particulars determined by the Commission;  
and
  - (e) be not less than a size determined by the Commission.
- (5) If the application relates to premises within the area of a shire council, the Director must, as soon as reasonably practicable, inform the CEO of the council that the application has been made.
- (6) Where:
- (a) the Commission does not require the applicant to give notice of the application; or
  - (b) the applicant has given notice as required and no objection to the application is lodged with the Director pursuant to section 47F or such an objection has been dismissed under Part IV,
- the Commission must, as soon as reasonably practicable, consider the application.
- (7) After considering an application under subsection (6), the Commission must, having regard to the objects of this Act:
- (a) by notice to the applicant, vary the conditions of the licence; or
  - (b) refuse to vary the conditions of the licence and direct the Director to forward to the applicant notice of the refusal together with a statement of the reasons for refusal.
- (8) Where a hearing is conducted in relation to an application, the Commission may, having regard to the objects of this Act:
- (a) vary or refuse to vary the conditions of the licence; and
  - (b) make any other order it thinks fit.
- (9) A variation of the conditions of a licence takes effect on the date specified by the Commission in a notice under subsection (7)(a) or an order under subsection (8).
- (10) In this section:
- condition***, of a licence, does not include a condition determined under Division 2AA.

### 33 Commission may vary conditions

- (1) Subject to this section, the Commission may, from time to time by notice in writing, vary the conditions of the licence held by a licensee.
- (2) A licensee may, within 28 days of the date on which the licensee receives a notice of a description referred to in subsection (1), by notice in writing lodged with the Director, request that the Commission conduct a hearing in relation to the conditions of his licence.
- (3) Where, under subsection (2), a licensee requests that the Commission conduct a hearing, the Commission shall conduct a hearing in relation to the conditions of the licence of the licensee.
- (4) After the Commission has conducted a hearing pursuant to this section, the Commission may:
  - (a) affirm, set aside or vary the decision made without a hearing; and
  - (b) make such other order as it thinks fit.
- (5) A variation of the conditions of a licence under this section shall have effect on and from:
  - (a) where the licensee does not request, under subsection (2), that the Commission conduct a hearing:
    - (i) the expiration of the period referred to in that subsection; or
    - (ii) such later date as the Commission may specify in the notice referred to in that subsection; or
  - (b) where the Commission conducts a hearing pursuant to subsection (3) and the Commission affirms or varies the variation of the conditions of the licence:
    - (i) the date of the conclusion of the hearing; or
    - (ii) such later date as the Commission may specify at that hearing.
- (6) In this section:

*condition*, of a licence, does not include a condition determined under section 33AA.

## **Division 2AA Additional conditions determined by Minister**

### **33AA Minister's power to determine additional licence conditions**

- (1) The Minister may determine additional conditions of a licence if the Minister thinks the determination is urgently needed for the wellbeing of the communities that might be affected by the operation of the licence.
- (2) Without limiting subsection (1), the Minister may determine any of the following conditions under that subsection:
  - (a) a condition about when the licensed premises may be open for the sale of liquor;
  - (b) a condition about the type of liquor that may be sold on the premises;
  - (c) a condition about the amount of liquor that may be sold for consumption away from the premises;
  - (d) a condition requiring proof of the purchaser's identity for a sale of liquor exceeding an amount prescribed by regulation;
  - (e) a condition requiring the keeping of records prescribed by regulation for the sale.
- (3) In determining the conditions, the Minister:
  - (a) must have regard to the objects of this Act; and
  - (b) may consult with the Commission (and in doing so, may seek information, advice or a recommendation from the Commission).
- (4) The Minister must table a copy of the determination in the Legislative Assembly within 6 sitting days after making the determination.
- (5) A condition of the licence determined under subsection (1) prevails to the extent to which it is inconsistent with a condition of the licence determined by the Commission.

## **Division 2A Special conditions of certain licences about payment**

### **33A Definitions**

In this Division:

*Australian Consumer Law (NT)* means the provisions applying as a law of the Territory because of Part 4 of the *Consumer Affairs and Fair Trading Act*.

*credit card*, see section 39(5) of the Australian Consumer Law (NT).

*debit card*, see section 39(6) of the Australian Consumer Law (NT).

*licensee* means the holder of a licence to which this Division applies.

### **33B Application of Division**

- (1) This Division applies to a licence that authorises only the sale of liquor for removal from and consumption away from the licensed premises to which the licence relates.
- (2) This Division applies to a licence regardless of the date of its issue.

### **33C Special conditions of licences**

- (1) This Division prescribes conditions for licences.
- (2) However, this Division does not affect the imposition of additional or more stringent conditions under section 31, 33 or 33AA.

### **33D Payment for liquor**

- (1) A licensee must not sell liquor to a person unless payment is made under subsection (2) for the liquor at the time of the sale.

Maximum penalty: 100 penalty units.

- (2) For subsection (1), payment must be made in one or more of the following ways:
  - (a) by legal tender within the meaning of the *Currency Act 1965* of the Commonwealth;
  - (b) by cheque drawn by the person and dated on or before the date of sale;

- (c) by credit card or debit card;
- (d) by debit to an ADI account authorised by the person;
- (e) if the sale is made to the person, or the person on behalf of an entity, in the ordinary course of business – by charging the business account of the person or entity held with the licensee;
- (f) by another prescribed way.

### **33E Retention of credit and debit cards**

- (1) A licensee must not retain possession of a person's credit card or debit card as security for payment by the person for the sale of liquor or other goods at the licensed premises.

Maximum penalty: 100 penalty units.

- (2) Subsection (3) applies to a prosecution for an offence against subsection (1).
- (3) In the absence of evidence to the contrary, on production of a certificate signed by the Director stating that on a specified date a specified licensee had possession of a specified person's credit card or debit card, the licensee must be taken to have had possession of the card in contravention of subsection (1).
- (4) Without limiting subsection (3), proof of compliance with record keeping requirements for the sale of liquor in guidelines approved by the Minister is evidence to the contrary for that subsection.
- (5) The approval of guidelines must be published in the *Gazette*.
- (6) In this section:

*possession*, of a credit card or debit card, includes having the card under control in any place, whether or not another person has the custody of the card.

### **33F Exemptions**

The Commission may, on application made to it by a licensee, exempt the licensee from a condition prescribed by this Division.

### **33G Deciding application**

- (1) In deciding whether to grant the application, the Commission must have regard to the prescribed factors.

- (2) The Commission may make the enquiries it considers appropriate to decide whether to grant the application.
- (3) The Commission may give an exemption on the conditions it considers appropriate.
- (4) The conditions must be stated in the exemption.

### **33H Notice of decision**

- (1) The Commission must give the licensee written notice of its decision on the application.
- (2) If the Commission refuses the application or grants the application but gives an exemption on conditions, the notice must state:
  - (a) the reasons for the decision; and
  - (b) the applicant may, under Part 4 of the *Northern Territory Licensing Commission Act*, apply to the Commission for a review of the decision.

### **33I Compliance with conditions**

A licensee must not engage in conduct that results in the contravention of a condition of the licensee's exemption.

Maximum penalty: 100 penalty units.

## **Division 4 Surrender of Licence**

### **39 Surrender of licence**

- (1) Subject to this section, a licensee may surrender his licence by lodging it with the Director.
  - (1A) The surrender of a licence shall not have effect until it is accepted by the Commission.
  - (1B) The Commission shall accept the surrender of a licence if it is satisfied that all persons who have an interest in the licensed premises to which the licence relates have been given by the licensee not less than 2 weeks notice of the licensee's intention to surrender the licence.

- (2) Upon the acceptance by the Commission of the surrender of a licence, the person whose licence is surrendered shall cease to be a licensee, but shall remain liable for:
  - (a) an act or omission done, caused, permitted or made by him prior to the surrender; and
  - (b) a liability incurred by him under this Act prior to the surrender.

## **Division 5 Transfer of Licence**

### **40 Transfer of licence**

- (1) Subject to this Act and the Regulations, a licence may be transferred from the holder for the time being of the licence to another person.
- (2) A transfer of a licence does not take effect until the Commission authorizes the transfer or until such later date as the Commission specifies.

### **41 Application for transfer**

- (1) The person to whom a licence is proposed to be transferred must:
  - (a) lodge with the Director an application in the form approved by the Commission for the transfer; and
  - (b) pay an application fee of:
    - (i) \$2; or
    - (ii) if another amount is prescribed by regulation – that amount.
- (2) The provisions of sections 25, 26A and 28 apply to and in relation to an application for the transfer of a licence as if that application were an application for the grant of a licence under section 24.

### **43 Consideration of application**

The Commission shall, as soon as reasonably practicable, consider an application for the transfer of a licence and after such consideration, having regard to the objects of this Act:

- (a) authorize the transfer of the licence; or

- (b) refuse the application and direct the Director to forward notice of the refusal, together with a statement of the reasons for refusal, to:
  - (i) the holder for the time being of the licence; and
  - (ii) the person to whom it was proposed to transfer the licence.

#### **45 Certificate of transfer**

Where the Commission authorizes the transfer of a licence, the Director shall issue a certificate of transfer in a form approved by the Commission to the applicant.

#### **46 Liabilities and privileges of transferor and transferee**

Upon the issue of the certificate of transfer pursuant to section 45:

- (a) the applicant shall have and may exercise the same privileges and be subject to the same liabilities and penalties as if the licence transferred to him had been originally granted to him; and
- (b) the person whose licence is transferred shall cease to be a licensee, but shall remain liable for an act or omission done, caused, permitted or made by him prior to the transfer.

#### **46A Substitution of premises**

- (1) A licensee may apply to the Commission in a form approved by the Commission for the substitution of other premises (*new premises*) for the premises specified in a licence held by the licensee.
- (2) The applicant must, within 28 days of lodging the application, cause notice of the application to be published in a newspaper or newspapers nominated by the Commission.
- (3) The notice must:
  - (a) include a description in sufficient detail to identify the location of the proposed new premises; and
  - (b) include a description of the nature of any business associated with the licence that it is proposed to conduct on the proposed new premises; and
  - (c) contain any other particulars determined by the Commission; and

- (d) be not less than a size determined by the Commission.
- (4) If the application relates to premises within the area of a shire council, the Director must, as soon as reasonably practicable, inform the CEO of the council that the application has been made.
- (5) Where:
  - (a) no objection to the application is lodged with the Director pursuant to section 47F; or
  - (b) such an objection has been dismissed under Part IV,the Commission must, as soon as reasonably practicable, consider the application.
- (6) After considering the application, the Commission must, having regard to the objects of this Act:
  - (a) approve the application and substitute the new premises in the licence held by the applicant; or
  - (b) refuse the application and direct the Director to forward notice of the refusal together with a statement of the reasons for refusal to the applicant; or
  - (c) conduct a hearing in relation to the application.
- (7) After the Commission has conducted a hearing under Part IV or subsection (6)(c), the Commission must take action of a kind described in subsection (6)(a) or (b) in addition to any action it may take under Part IV.

#### **47 Acting licensee**

- (1) If a licensee is, or is expected to be, unable for any reason to conduct the business of the licensee during any period of time, the licensee must:
  - (a) appoint a person to act as the licensee to conduct the licensee's business during that period; and
  - (b) give written notice to the Commission of the full name, address and occupation of the person within 3 days after the date of the appointment.

Maximum penalty: 20 penalty units.

- (2) If the licensee has not appointed anyone under subsection (1), the Commission may appoint a person to act as the licensee to conduct the licensee's business during that period.
- (4) Unless the Commission otherwise determines, a person appointed under subsection (1) or (2) must not act as a licensee for more than 42 days during any period of 12 months that the licence is in force.

Maximum penalty: 20 penalty units.

- (5) Where:
- (a) a licensee's inability to conduct the business of a licensee is, or is expected to be, permanent; and
- (b) an application for transfer of the licence of that licensee is not made in accordance with section 41 within the period referred to in subsection (4) of this section,

the Commission must cancel that licence at the expiration of that period, unless arrangements which are satisfactory to the Commission are made during that period to conduct the business of the licensee.

- (6) A person appointed to act as a licensee has all the rights, powers, authorities, functions, duties and obligations of a licensee under this Act.

#### **47A Continuation of licence after death**

- (1) Where a licensee dies, his licence shall continue in force:
- (a) for the unexpired portion of the period of the licence, including the period, if any, as varied under subsection (2); or
- (b) until the licence is cancelled under section 47B,
- whichever first occurs.
- (2) Where a licensee dies or becomes bankrupt, the Commission may vary the period of the licence as it thinks fit.

#### **47B Licence to lapse in certain circumstances**

Where a licensee:

- (a) dies; or

- (b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors or makes an assignment of his property, interest or remuneration for the benefit of his creditors,

and the Commission is not satisfied that adequate arrangements have been made for the conduct of the business of the licensee, the Commission may cancel the licence at the expiration of 7 days after the date of the death, declaration of bankruptcy, application or assignment, as the case may be.

#### **47C Conduct of business after death**

A person who is:

- (a) the legal representative of a deceased licensee; or
- (b) a member of a deceased licensee's family who has attained the age of 18 years; or
- (c) the representative of a person or class of persons claiming an entitlement in the estate of a deceased licensee,

may, in a form approved by the Commission, apply to the Commission for approval to conduct the business of the licensee.

#### **47D Conduct of business after bankruptcy etc.**

- (1) Where a licensee becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors or makes an assignment of the licensee's property, interest or remuneration for the benefit of licensee's creditors:
  - (a) the licensee must notify the Commission of that fact; and
  - (b) the person who is the trustee, assignee or other person in whom the estate of the licensee becomes vested may apply to the Commission for approval to conduct the business of the licensee.
- (1A) The licensee commits an offence if subsection (1)(a) is contravened.

Maximum penalty: 20 penalty units.

- (2) A notification or an application under subsection (1) must be in a form approved by the Commission and lodged within 7 days after the licensee is declared bankrupt or makes an application to take the benefit of a law for the relief of bankrupt or insolvent debtors or makes an assignment of the licensee's property, interest or

remuneration for the benefit of licensee's creditors, as the case may be.

- (3) The licensee commits an offence if subsection (2) is contravened in relation to the notification mentioned in subsection (1)(a).

Maximum penalty: 20 penalty units.

- (4) The person mentioned in subsection (1)(b) commits an offence if subsection (2) is contravened in relation to the application mentioned in subsection (1)(b).

Maximum penalty: 20 penalty units.

#### **47E Licensee by endorsement**

- (1) Where the Commission considers an application under section 47C or 47D and is satisfied that the applicant is a suitable person to conduct the business of the deceased licensee or licensee, it may endorse the name of the applicant on the licence as a person who may conduct the business of the deceased licensee or licensee, as the case may be.
- (2) A person whose name is endorsed on a licence under subsection (1) shall be deemed to be the licensee for the period in which the licence continues in force under section 47A.
- (4) The Commission may authorize the transfer of a licence from a person deemed to be a licensee under subsection (2) to the person on his own behalf.

## **Part IV Objections and complaints**

### **47F Person may object to certain applications**

- (1) Subject to this section, a person, organisation or group may make an objection to the following applications:
- (a) an application for the grant of a licence, as notified under section 27;
  - (b) an application for a variation of the conditions of a licence, as notified under section 32A;
  - (c) an application for the substitution of other premises for the premises specified in a licence, as notified under section 46A;
  - (d) an application for approval to make a material alteration to licensed premises, as notified under section 119.

- (2) The objection may only be made on the ground that the grant of the licence, variation of conditions, substitution of other premises or material alteration may or will adversely affect:
- (a) the amenity of the neighbourhood where the premises the subject of the application are or will be located; or
  - (b) health, education, public safety or social conditions in the community.
- (3) Only the following persons, organisations or groups may make an objection under subsection (1):
- (a) a person residing or working in the neighbourhood where the premises the subject of the application are or will be located;
  - (b) a person holding an estate in fee simple in land, or a lease over land, in the neighbourhood where the premises the subject of the application are or will be located;
  - (c) a member or employee of the Police Force acting in that capacity;
  - (d) a member or employee of the Fire and Rescue Service within the meaning of the Fire and Emergency Act acting in that capacity;
  - (e) an Agency or public authority that performs functions relating to public amenities, including health, education and public safety;
  - (f) a community-based organisation or group (for example, a local action group or a charity).
- (4) An objection under subsection (1) is to:
- (a) be in writing; and
  - (b) be signed by or on behalf of the person, organisation or group making the objection; and
  - (c) set out the facts relied on by the person, organisation or group to constitute the ground on which the objection is made; and
  - (d) be lodged with the Director within 30 days after the publication of the notice or the last of the notices referred to in section 27, 32A, 46A or 119 (as applicable).

- (5) If an objection is lodged by post, the objection is taken to be duly lodged with the Director if it is delivered to an office of Australia Post for transmission to the office of the Director within the period referred to in subsection (4)(d).

**47G Applicant to be given opportunity to reply to objection**

If an objection to an application is lodged with the Director under section 47F, the Director must, within 5 days after the expiry of the 30 day period referred to in section 47F(4)(d), inform the applicant to whom the objection relates of the substance of the objection and give the applicant sufficient opportunity to provide a written reply to the objection.

**47H Facts specified as constituting objection delimits inquiry etc. in relation to objection**

A person, organisation or group who or which objects to an application under section 47F may not, in the course of any determination, inquiry, review or hearing under this Act or the *Northern Territory Licensing Commission Act* in relation to the person's, organisation's or group's objection, rely on any facts other than the facts specified in the objection as the facts constituting the ground on which the objection is made.

**47I Decision on whether objection to proceed to hearing**

- (1) The Director must forward an objection and the reply to the objection (if any) to the Chairperson.
- (2) On receiving the objection and the reply to the objection, the Chairperson must select a member to consider the substance of the objection.
- (3) The member selected under subsection (2):
- (a) must consider the objection and the reply to the objection; and
  - (b) may inquire into any circumstance relating to the objection as he or she considers appropriate; and
  - (c) must:
    - (i) dismiss the objection if satisfied that the objection:
      - (A) is of a frivolous, irrelevant or malicious nature; or

- (B) does not describe circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community; or
  - (ii) determine that the Commission must conduct a hearing in relation to the objection and forward the objection, reply to the objection and his or her findings in relation to the objection to the Commission.
- (4) If the member dismisses the objection under subsection (3)(c)(i), he or she must direct the Director to inform the person, organisation or group who made the objection that the objection has been dismissed.
- (5) The Director must inform the person, organisation or group that the objection has been dismissed by notice in writing as soon as practicable after receiving the member's direction.
- (6) The notice to the person, organisation or group is to include the member's reasons for dismissing the objection.
- (7) If the member determines under subsection (3)(c)(ii) that the Commission must conduct a hearing, the Commission must conduct the hearing.

#### **47J Review of member's decision to dismiss objection**

- (1) If a member dismisses an objection under section 47I(3)(c)(i), the person, organisation or group who made the objection may apply to the Commission for a review of the member's decision.
- (2) An application for review is to:
  - (a) be in writing; and
  - (b) be signed by or on behalf of the person, organisation or group who made the objection; and
  - (c) set out the grounds on which the application for review is made and the facts relied on to establish the grounds; and
  - (d) be lodged with the Director within 14 days after the person, organisation or group received notice of the member's decision to dismiss the objection.
- (3) The Commission must review the member's decision in a manner that is fair and expeditious and must give proper consideration to the issues.

- (4) After determining the review, the Commission must, by notice in writing to the person, organisation or group who applied for the review:
  - (a) affirm the member's decision to dismiss the objection; or
  - (b) revoke the member's decision and conduct a hearing in relation to the objection.
- (5) If the Commission affirms the member's decision, the Commission must specify its reasons for doing so in the notice.
- (6) A decision of the Commission under subsection (4):
  - (a) is not a decision referred to in section 56; and
  - (b) may be reviewed under Part 4 of the *Northern Territory Licensing Commission Act*.

#### **48A Power to suspend licence or impose or vary conditions**

- (1) The Commission may, on its own motion in an emergency or pending the investigation of a complaint or consideration of an application for taking disciplinary action, but subject to subsection (2), suspend a licence, or impose or vary a condition of a licence, where in its opinion it is in the public interest to do so.
- (2) Without derogating from the Commission's powers elsewhere given in this Act, action of the Commission taken under subsection (1) has no effect after the expiration of 7 days after the action is taken.
- (3) In this section:

*condition*, of a licence, does not include a condition determined under section 33AA.

#### **49A Licence may be suspended if drug premises order made**

- (1) The Commissioner of Police may apply to the Commission in the approved form for the suspension of a licence in respect of licensed premises that are drug premises within the meaning of the *Misuse of Drugs Act*.
- (2) The Commission must conduct a hearing in relation to an application under subsection (1) within 28 days after the application is made.

- (3) At a hearing in relation to an application under subsection (1), the Commission is to have regard to the matters it thinks fit, including:
  - (a) the material before the Local Court when the drug premises order in relation to the premises was made; and
  - (b) evidence of the steps, if any, taken by the licensee, before or after the making of the order, to ensure that dangerous drugs are not supplied on the premises by an employee or agent of the licensee.
- (4) At the conclusion of a hearing in relation to an application under subsection (1), the Commission may suspend the licence if it is of the opinion that:
  - (a) suspension of the licence is necessary for the protection of the public; or
  - (b) the circumstances of the case are of sufficient gravity to justify the suspension of the licence.
- (5) A suspension may be imposed under subsection (4) for a period of not more than 14 days specified by the Commission.
- (6) The Commission must serve notice of a decision under this section on the Commissioner of Police and the licensee.
- (7) The suspension of a licence under subsection (4) has effect on and from:
  - (a) the date on which the licensee receives the notice referred to in subsection (6); or
  - (b) another later date that the Commission specifies in the notice.
- (8) This section does not prevent the Commission taking any other action that it is permitted to take under this Act in relation to premises to which a drug premises order relates.

## **Part V Hearings**

### **50 Commission to conduct hearing in certain circumstances**

- (1) In addition to the circumstances where, under this Act, the Commission may, or is required to, conduct a hearing, the Commission shall conduct a hearing where:
  - (a) an applicant for a licence requests a hearing after his or her application has been refused without a hearing; or

- 
- (b) the holder for the time being of a licence or a person to whom it was proposed to transfer the licence, requests a hearing after an application for transfer of the licence has been refused without a hearing; or
  - (c) a licensee requests a hearing in relation to the conditions of his or her licence where the licence was issued without a hearing; or
  - (d) a licensee requests a hearing after an application for a variation of the conditions of his or her licence has been refused without a hearing; or
  - (e) a licensee requests a hearing after approval of a material alteration has been refused without a hearing.
- (2) After the Commission has conducted a hearing pursuant to subsection (1), the Commission may, having regard to the objects of this Act:
- (a) affirm, set aside or vary the decision made without a hearing; and
  - (b) make such other order as it thinks fit.

## **51 Procedure at hearing**

- (1) Where a hearing is to be conducted under this Act, the Chairperson shall fix a time and place for the hearing.
- (2) The Chairperson shall cause notice of the time and place fixed for the hearing, together with copies of all documents relating to the subject-matter of the hearing and which have been lodged with the Director under this Act, to be given to the parties not less than 7 days before the date fixed for the hearing.
- (2A) At a hearing under this Act the Commission may be constituted by:
- (a) one member (whether or not the Chairperson); or
  - (b) 3 members,
- selected by the Chairperson, and, where the Chairperson is not one of the 3 members referred to in paragraph (b), the member nominated by the Chairperson shall preside at the hearing.
- (3) At a hearing under this Act:
- (a) the procedure shall be within the discretion of the Commission; and

- (b) the Commission may require a person appearing before it to give evidence on oath; and
  - (c) the Commission shall give all parties an opportunity to be heard; and
  - (d) the Commission shall not be bound by the rules of evidence but may inform itself in such manner as it thinks fit.
- (4) The Commission may adjourn a hearing from time to time and from place to place.
  - (5) Subject to subsection (6), a hearing shall be conducted in public.
  - (6) If the Commission is of the opinion that the conduct of a hearing in public is likely to cause undue hardship to a person, it may direct that the hearing or part of the hearing be conducted in private.
  - (7) Where the Commission has given a direction under subsection (6), a person shall not enter, or remain in, the room in which a hearing is taking place except with the permission of the Commission.
  - (8) A party may be represented at a hearing by a legal practitioner, or by another person, who may examine witnesses and address the Commission on behalf of the person for whom he appears.
  - (9) A legal practitioner appearing for a party at a hearing has the same protection and immunity as a legal practitioner has in appearing for a party in proceedings in the Supreme Court.
  - (10) A witness who gives evidence at a hearing has the same protection as a witness has in giving evidence in proceedings in the Supreme Court.
  - (10A) Where the Commission is constituted by one member, a party who is not satisfied with the decision of the Commission may apply, within 14 days after the decision, in writing to the Chairperson for a new hearing.
  - (10B) Where a party applies, under subsection (10A), for a new hearing the Chairperson may, if he thinks fit, cause a new hearing to be held.
  - (10C) Where a new hearing is held, under subsection (10B), the Commission:
    - (a) shall be constituted by not less than 3 members; and
    - (b) may make any decision that it could have made if a hearing had not previously been held.

(10D) A decision by the Commission under subsection (10C) shall be in substitution for the decision made at the hearing by a single member in respect of which the new hearing is being held.

(11) In this section, *party* means:

- (a) an applicant for the exercise of a power, authority or discretion of the Commission; or
- (b) a person who has made an objection or complaint under Part IV; or
- (c) a licensee who is, or a licensee of premises which are, the subject of an objection or complaint made under Part IV; or
- (d) the holder for the time being of a licence in respect of which an application has been made under section 41 for the transfer of that licence,

as the case requires.

## **52 Power to summon witnesses**

- (1) The Chairperson may, by written notice, summon a person to:
  - (a) attend a hearing at a specified time and place; and
  - (b) at the hearing, give evidence and produce specified documents controlled by the person.
- (2) A notice under subsection (1) may be served:
  - (a) personally; or
  - (b) by sending it by post to the person at the place of abode or business of the person that is last known to the Chairperson; or
  - (c) by leaving it at that place of abode or business with a person who has apparently attained 16 years of age.

## **53 Failure to attend or produce document**

- (1) A person served with a notice under section 52(1) to attend a hearing must:
  - (a) attend the hearing; and

- (b) produce at the hearing the documents controlled by the person that the person is required to produce by the notice.

Maximum penalty: 50 penalty units or imprisonment for 6 months.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes:

- (a) a reasonable excuse; or
- (b) for a requirement to produce a document – the document was not relevant to the hearing.

#### **54 Refusal to take oath or give evidence**

- (1) A person appearing as a witness at a hearing must not refuse to:

- (a) take an oath; or
- (b) answer a question relevant to the hearing that is put to the person by a member.

Maximum penalty: 50 penalty units or imprisonment for 6 months.

- (2) A statement or disclosure made before the Commission by a witness is not, except in proceedings for giving false testimony at a hearing, admissible in evidence in civil or criminal proceedings.

#### **55 Member may inspect documents**

- (1) A member may inspect documents produced at a hearing and must return them as soon as practicable after the completion of the hearing.
- (2) A member may make copies of such portions of those books or other documents as are relevant to a matter before a hearing.

#### **56 Decision of Commission to be final**

- (1) Subject to subsection (2) and section 51, where a hearing has been conducted by the Commission under this Act, a decision of the Commission:
  - (a) is final and conclusive; and
  - (b) cannot be challenged, appealed against, reviewed, quashed or called into question in any court.

- (2) If the Commission conducts a hearing for deciding an application for disciplinary action against a licensee, the decision has effect subject to the following:
- (a) a review of the decision under Part 4 of the *Northern Territory Licensing Commission Act*,
  - (b) an appeal against the decision to the Supreme Court under section 72.

## **Part VI Special licences**

### **57 Special licences**

Subject to this Act, a special licence authorizes the holder to sell liquor:

- (a) during the period or periods; and
- (b) on or at the premises; and
- (c) subject to the conditions, specified in the special licence.

### **58 Application for special licence**

- (1) Subject to subsection (2), an application for the grant of a special licence shall be:
- (a) lodged with the Director not later than 7 days before the date or the first date in respect of which the application is made; and
  - (b) in a form approved by the Commission.
- (2) The Director may, at his discretion, accept an application for the grant of a special licence which does not comply with provisions of subsection (1).

### **59 Conditions of special licence**

The Commission may issue, or approve the issue of, a special licence to an applicant subject to such conditions as it thinks fit.

**59A Minister's power to determine additional licence conditions**

- (1) The Minister may determine additional conditions of a special licence if the Minister thinks the determination is urgently needed for the wellbeing of the communities that might be affected by the operation of the licence.
- (2) Without limiting subsection (1), the Minister may determine any of the following conditions under that subsection:
  - (a) a condition about when the licensed premises may be open for the sale of liquor;
  - (b) a condition about the type of liquor that may be sold on the premises;
  - (c) a condition about the amount of liquor that may be sold for consumption away from the premises;
  - (d) a condition requiring proof of the purchaser's identity for a sale of liquor exceeding an amount prescribed by regulation;
  - (e) a condition requiring the keeping of records prescribed by regulation for the sale.
- (3) In determining the conditions, the Minister:
  - (a) must have regard to the objects of this Act; and
  - (b) may consult with the Commission (and in doing so, may seek information, advice or a recommendation from the Commission).
- (4) The Minister must table a copy of the determination in the Legislative Assembly within 6 sitting days after making the determination.
- (5) A condition of the licence determined under subsection (1) prevails to the extent to which it is inconsistent with a condition of the licence determined by the Commission.

**60 Issue of special licence by Director**

- (1) Subject to section 61, if an application for a special licence has been made in accordance with section 58, the Director must issue a special licence to the applicant on payment of a fee of:
  - (a) \$20; or
  - (b) if another amount is prescribed by regulation – that amount.

- (2) A special licence issued under subsection (1) must:
- (a) be in a form approved by the Commission; and
  - (b) be subject to such conditions as may be determined by the Commission under section 59.

**61 Application to be submitted to Commission in certain circumstances**

Where:

- (a) an application for a special licence relates to a period or periods which in total exceed 10 hours on more than one day, where a day is a period of 24 hours ending at 2 o'clock in the morning; or
- (b) the Director is of the opinion that there are facts or circumstances by reason of which it is desirable that the Commission considers an application for a special licence,

the Director shall submit the application to the Commission.

**62 Decision on consideration by Commission**

- (1) Where an application for a special licence has been submitted to the Commission pursuant to section 61, the Commission shall, as soon as reasonably practicable, consider the application.
- (2) For the purposes of subsection (1), the Commission may conduct such investigations and cause to be conducted such investigations as it thinks fit.
- (3) After considering an application for a special licence, the Commission shall:
  - (a) issue a special licence in a form approved by the Commission subject to such conditions as are determined by it under section 59; or
  - (b) refuse the application and direct the Director to forward notice of the refusal together with a statement of the reasons for refusal to the applicant.

**63 Revocation of special licence**

A special licence may be revoked by the Commission at its discretion.

**64            Application of certain provisions to special licences**

Divisions 1 and 2 of Part VII, Part IX with the exception of sections 104(3)(e), (f), 106, 111, 112 and 113, Parts X and XI, with such alterations as the circumstances may require, apply to and in relation to the holder of a special licence and the premises in respect of which a special licence is issued as if that holder of a special licence were a licensee and those premises were licensed premises.

**Part VII            Enforcement provisions for licences and  
special licences**

**Division 1        Preliminary matters**

**65            Object of Part**

- (1) The object of this Part is to create mechanisms for the enforcement of the requirements of this Act that are imposed on a licensee.
- (2) The object is to be achieved by empowering:
  - (a) the Director to:
    - (i) deal with a complaint against a licensee; and
    - (ii) enter into an enforceable undertaking with a licensee; and
  - (b) the Commission to take disciplinary action against a licensee.

**66            Application**

- (1) This Part applies in relation to a special licence in the same way as it applies to a licence.
- (2) This Part also applies in relation to a licence or special licence that has ceased to be in force if:
  - (a) a complaint, or an application for disciplinary action, is made in relation to the licence or special licence within 6 months after the occurrence of a matter that forms a ground for the complaint or disciplinary action; and
  - (b) the matter occurred while the licence or special licence was in force.

- (3) For subsection (2), a reference to a licensee in this Part includes a reference to the person holding a licence or special licence when the matter mentioned in that subsection occurred.

**67**      **Meaning of *complaint*, *disciplinary action* and *ground* for complaint or disciplinary action**

- (1) A ***complaint*** is a complaint made against a licensee under section 68.
- (2) ***Disciplinary action*** means any of the following actions against a licensee:
- (a) giving a formal warning to the licensee;
  - (b) varying the conditions of the licensee's licence or imposing additional conditions for the licence;
  - (c) suspending the licence;
  - (d) cancelling the licence;
  - (e) imposing a monetary penalty on the licensee;
  - (f) directing the licensee to take, or refrain from, a specified action;
  - (g) disqualifying the licensee from holding a licence for a specified period.
- (3) Any of the following is a ***ground*** for a complaint or disciplinary action against a licensee:
- (a) the licensee has contravened a provision of this Act (whether or not the provision creates an offence);
  - (b) the licensee has contravened another law in force in the Territory that regulates:
    - (i) the sale, supply or consumption of liquor; or
    - (ii) the location, construction or facilities of licensed premises;
  - (c) the licensee has contravened a licence condition;
  - (d) the licensee, or if the licensee is a body corporate, a director of the body corporate, has been found guilty by a court of an offence against a law in force in the Territory that is punishable by imprisonment for 5 years or more;

- (e) the licensee has contravened a provision of an enforceable undertaking;
- (f) the licensee has contravened a direction by the Commission given to the licensee as disciplinary action;
- (g) the licensee's licensed premises are no longer being used:
  - (i) for the sale or supply of liquor; or
  - (ii) consistently with the business of the licence;
- (h) the licensee is not a fit and proper person to hold the licence;
- (i) the manager of the licensed premises is not a fit and proper person to be the manager and the licensee should reasonably have known that to be the case;
- (j) an employee of the licensee is not a fit and proper person to be an employee of the licensee and the licensee should reasonably have known that to be the case;
- (k) the licensee obtained the licence by fraud or misrepresentation;
- (l) the licensee holds the licence for the benefit (wholly or partly) of a person to whom the Commission would not have granted the licence;
- (m) the way in which the licensed premises has been used:
  - (i) has caused annoyance or disturbance to persons residing, working or conducting a business in the neighbourhood of the premises; or
  - (ii) has caused disorderly conduct on the premises or in the neighbourhood of the premises;
- (n) the licensee is otherwise no longer eligible to hold the licence.

## **Division 2      Director's powers in relation to complaints**

### **68      Complaints**

- (1) A person may make a complaint against a licensee.
- (2) The complaint must:
  - (a) specify the ground for the complaint in the form approved by the Director; and

- (b) be signed by the complainant; and
  - (c) be lodged with the Director.
- (3) The Director must, as soon as practicable after receiving the complaint, by notice to the complainant:
- (a) accept the complaint; or
  - (b) refuse to deal with the complaint if the Director is satisfied it is frivolous or vexatious.
- (4) If the Director accepts the complaint, the Director must:
- (a) inform the licensee about the substance of the complaint; and
  - (b) give the licensee a reasonable opportunity to comment on the complaint; and
  - (c) conduct an investigation of the complaint as the Director considers appropriate.
- (5) On completing the investigation, the Director must take one of the following actions:
- (a) dismiss the complaint if the Director is satisfied:
    - (i) no ground exists for making the complaint (including, because there is insufficient evidence for a ground for the complaint); or
    - (ii) although a ground exists for making the complaint, it does not warrant any action to be taken under this section;
  - (b) otherwise – any of the following as provided by this Act in relation to a ground for the complaint:
    - (i) issue an infringement notice under the regulations in relation to that ground;
    - (ii) enter into an enforceable undertaking with the licensee under section 72A in relation to that ground;
    - (iii) apply to the Commission under section 69 for disciplinary action to be taken against the licensee in relation to that ground.
- (6) If the Director takes an action mentioned in subsection (5)(a) or (b)(i) or (ii), the Director must give a report to the Commission about taking that action.

- (7) An application mentioned in subsection (5)(b)(iii) must include any comment given by the licensee under subsection (4)(b) and the result of the investigation conducted by the Director.
- (8) The Director must, as soon as practicable after taking an action under subsection (5), notify the complainant of the action taken.
- (9) Regulations may provide for a matter arising under this section (including, for example, provisions relating to a particular ground for a complaint).

### **Division 3 Commission's power to take disciplinary action**

#### **69 Disciplinary action**

- (1) The Director or a person prescribed by regulation may apply to the Commission for disciplinary action to be taken against a licensee.
- (2) The application must:
  - (a) be in the form approved by the Commission; and
  - (b) specify details about:
    - (i) the disciplinary action that is sought; and
    - (ii) the ground for the disciplinary action.
- (3) The applicant must give the licensee details about the application when making the application.
- (4) The Commission must, after considering the application, by written notice to the applicant and licensee:
  - (a) accept the application if the Commission considers a hearing should be conducted for deciding the application; or
  - (b) otherwise – refuse to accept the application.
- (5) The Commission must conduct a hearing for deciding the application if the Commission accepts the application.

*Note for subsection (5)*

*For a hearing by the Commission, see Part V.*

- (6) On completing the hearing, the Commission must, by written notice to the applicant and licensee:
  - (a) dismiss the application; or

- (b) approve the application by taking specified disciplinary action against the licensee (whether or not it is the disciplinary action specified in the application).
- (7) The Commission may take disciplinary action against the licensee only if the Commission is satisfied:
  - (a) on the balance of probabilities, a ground for taking the disciplinary action exists; and
  - (b) the disciplinary action is appropriate in relation to that ground.
- (8) The operation of this section and section 71 do not affect the operation of section 48A or 49A.
- (9) However, this section has effect subject to section 124.
- (10) Regulations may provide for a matter arising under this section (including, for example, provisions about taking a particular disciplinary action for a particular ground for disciplinary action).

## **70 Monetary penalty**

- (1) The Commission may take disciplinary action against a licensee by imposing a monetary penalty on the licensee only if the Commission is satisfied the licensee has contravened a provision that creates an offence against this Act.
- (2) The amount of the monetary penalty:
  - (a) must not exceed the lesser of the following:
    - (i) the maximum amount of the fine specified for the offence;
    - (ii) 100 penalty units; and
  - (b) is a debt due to the Territory; and
  - (c) is due and payable by a licensee within 28 days, or a longer period allowed by the Commission, after notice for the penalty is given by the Commission to the licensee.
- (3) To avoid doubt, the monetary penalty is a civil penalty for the purposes of the *Penalty Units Act*.

**71 Variation or imposition of licence conditions, or suspension or cancellation of licence**

- (1) If the Commission intends to take disciplinary action against a licensee by varying the conditions of, or imposing additional conditions for, the licensee's licence, or suspending or cancelling the licence, the Commission must:
  - (a) notify the licensee of:
    - (i) the Commission's intention to do so; and
    - (ii) the ground for the disciplinary action; and
    - (iii) the factual basis constituting that ground; and
  - (b) for the cancellation of the licence – give the licensee a reasonable opportunity to explain to the Commission why the Commission should not do so.
- (2) The Commission may take disciplinary action by cancelling the licence only after taking into account any explanation given by the licensee under subsection (1)(b).

**72 Appeal against Commission's decision**

- (1) If the Commission decides to take disciplinary action against a licensee, the licensee may appeal to the Supreme Court against the decision.
- (2) The appeal may be made in relation to a question of law only.
- (3) The Supreme Court may:
  - (a) dismiss the appeal; or
  - (b) declare the disciplinary action to be invalid.
- (4) If subsection (3)(b) applies:
  - (a) the Supreme Court may request the Commission to reconsider its decision to take the disciplinary action; and
  - (b) the Commission must reconsider the decision on the request.
- (5) This section does not affect any other provision about a review of the decision of the Commission.

## **Division 4 Director's power to enter into enforceable undertakings**

### **72A Enforceable undertakings**

- (1) The Director may accept a written undertaking (***enforceable undertaking***) given by a licensee for either or both of the following:
  - (a) a contravention of this Act that has occurred;
  - (b) the prevention of a contravention of this Act.
- (2) The Director must give a copy of the enforceable undertaking to the licensee and Commission.
- (3) The licensee may, with the Director's consent, withdraw or vary the enforceable undertaking.
- (4) Regulations may prescribe matters arising under this section (including, for example, provisions about the consequence of a breach of an enforceable undertaking).

### **72B Register of enforceable undertakings**

- (1) The Commission must:
  - (a) maintain a register of enforceable undertakings; and
  - (b) record each enforceable undertaking in the register.
- (2) The register must contain the following information:
  - (a) the name and address of the licensee giving the undertaking;
  - (b) the date of the undertaking;
  - (c) a copy of the undertaking;
  - (d) if the undertaking has expired, or has been withdrawn or varied:
    - (i) the date of the expiry, withdrawal or variation; or
    - (ii) for a variation – the variation.
- (3) The register may be inspected by any person at any reasonable time free of charge.
- (4) Regulations may provide for a matter arising under this section.

## Part VIII      General and public restricted areas

### Division 1      Preliminary matters

#### 73      Interpretation

- (1) In this Part:

*area of land* includes premises on an area of land.

*relevant area* means a specified area of land which is, or proposed to be, a restricted area.

*restricted area* means a general restricted area or public restricted area.

- (2) Where the Commission declares, under section 74(2), that a general restricted area is restricted in respect of liquor other than a type of liquor, in this Part, *liquor* does not, in respect of that general restricted area, include that type of liquor.

#### 74      Power to declare restricted area

- (1) The Commission may:

- (a) declare a specified area of land to be a general restricted area; or
- (b) declare a specified area of land, other than private premises, to be a public restricted area.

- (1A) However, the Commission may declare a public restricted area that includes private premises that are specified by regulation.

- (2) The Commission may, upon the declaration of a general restricted area, declare that the general restricted area is restricted in respect of liquor other than a specified type of liquor.

#### 75      Prohibitions for restricted areas

- (1) A person commits an offence if the person:

- (a) brings liquor into a general restricted area; or
- (b) has liquor in his or her possession, or under his or her control, in a general restricted area; or

- (c) consumes, sells, supplies or otherwise disposes of liquor in a general restricted area.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

(1AA) An offence against subsection (1) is a regulatory offence.

(1AAA) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves, on the balance of probabilities, that the contravention constituting the offence:

- (a) occurred in an emergency; and
- (b) was necessary to preserve life or prevent injury or to protect property.

(1A) Subsection (1), other than paragraph (c) so far as it relates to the sale of liquor in a general restricted area, does not apply to liquor that is being or will be:

- (a) brought into a general restricted area; and
- (b) administered within a general restricted area,

for the purposes of worship associated with the celebration of the Holy Communion or any other religious service by a person approved by the Commission (for the purposes of paragraph (a) or (b) or of both (a) and (b)).

(1B) A person commits an offence if the person consumes liquor within a public restricted area.

Maximum penalty: 20 penalty units.

(1BA) An offence against subsection (1B) is an offence of strict liability.

(1C) Subsection (1B) does not apply if the liquor is consumed:

- (a) in accordance with a permit granted under section 89A; or
- (b) for the purposes of worship associated with the celebration of the Holy Communion.

(2) In any proceeding for an offence against this section, a certificate, purporting to be signed by a person who claims in the certificate to be the Director or a Deputy Director, stating that a place was or was not, at a specified time, within a restricted area is evidence of the facts stated.

## **76            Application for declaration**

- (1) An application for a specified area of land to be declared a restricted area shall:
  - (a) be lodged with the Director; and
  - (b) be in writing; and
  - (c) be signed by the applicant; and
  - (d) include a description of the relevant area in sufficient detail to enable the Commission to identify the location of the proposed restricted area; and
  - (e) include a statement of the applicant's reasons for desiring the relevant area to be declared a general restricted area or public restricted area; and
  - (f) if the applicant desires the relevant area to be declared a general restricted area in respect of liquor other than a type of liquor – state the type of liquor.
- (2) An application for the declaration of a public restricted area may only be made by one or more of the following:
  - (a) the Commissioner of Police;
  - (b) the Director;
  - (c) if all or part of the relevant area forms all or part of a council area – the local government council for the council area.

## **Division 1A      Declaration of general restricted area**

### **76A          Application**

This Division applies to an application for the declaration of a general restricted area.

### **77            Consideration of application**

- (1) The Commission shall, as soon as reasonably practicable, consider the application and shall:
  - (a) refuse the application where the Commission is of the opinion that the application is of a frivolous, irrelevant or malicious nature; or
  - (b) conduct a hearing.

- (2) Where the Commission decides to conduct a hearing pursuant to subsection (1)(b), the Director shall, as soon as reasonably practicable, inform all of the following:
- (a) each licensee whose licensed premises are located in the relevant area;
  - (b) each applicant for a licence whose premises, in respect of which a licence is sought, are located in the relevant area;
  - (c) each licensee who, in the opinion of the Director, may be affected adversely by a declaration of the relevant area to be a restricted area;
  - (d) if the relevant area forms the whole or part of a council area – the clerk of the council;

of the location of the relevant area and the time and place of the hearing.

- (3) A hearing pursuant to subsection (1)(b) shall be held:
- (a) at a place within the relevant area; or
  - (b) at a place in the vicinity of the relevant area which, in the opinion of the Chairperson, is convenient for persons who may desire to express an opinion regarding the application in accordance with section 78.

## **78      Opinions regarding application**

- (1) A person may express an opinion regarding the application:
- (a) by submitting an opinion in writing to the Chairperson; or
  - (b) subject to subsection (2), by appearing in person at a hearing conducted pursuant to section 77(1)(b).
- (2) Where a person notifies the Chairperson in writing, not later than 7 days before the date fixed for a hearing to be conducted pursuant to section 77(1)(b), that the person wishes to be heard with respect to the application, the person is entitled to appear before the Commission and to express an opinion regarding the application.

**79            Commission to ascertain residents' opinions**

- (1) Where the Commission decides to conduct a hearing pursuant to section 77(1)(b), the Chairperson shall, prior to that hearing, take all such steps as are, in his opinion, necessary to:
  - (a) inform the people who reside in the relevant area of the time and place of the hearing; and
  - (b) inform such people that a person may express an opinion regarding the application in accordance with section 78; and
  - (c) ascertain opinions of such people regarding the application; and
  - (d) if the relevant area forms the whole or part of a council area – ascertain the advice of the council regarding the application.
- (2) For the purposes of subsection (1)(c), the Commission may conduct such investigations and cause to be conducted such investigations as it thinks fit.

**80            Commission to consider opinions expressed regarding application**

In deciding whether to grant the application, the Commission shall:

- (a) consider the opinions regarding the application expressed or ascertained pursuant to sections 78, 79(1)(c) and (2); and
- (b) where the relevant area forms the whole or part of a municipality or shire – consider any advice regarding the application ascertained pursuant to section 79(1)(d).

**81            Decision after hearing**

- (1) Subject to section 80, after the Commission has conducted a hearing in relation to the application, the Commission must, having regard to the objects of this Act:
  - (a) refuse to declare the relevant area to be a general restricted area and direct the Director to forward notice of the refusal together with a statement of the reasons for refusal to the applicant; or
  - (b) declare an area of land to be a general restricted area; or
  - (c) declare an area of land to be a general restricted area in respect of liquor other than a type of liquor.

- (2) A declaration by the Commission under subsection (1)(b) or (1)(c) may be in relation to:
  - (a) the relevant area; or
  - (b) land that in area is equal to, greater than or less than the relevant area.
- (3) The land referred to in subsection (2)(b) shall include a part of the relevant area.

## **82      Notice of declaration**

- (1) The Commission shall, within 14 days of declaring an area of land to be a general restricted area, cause to be published in the *Gazette* and in a newspaper or newspapers nominated by the Commission notice of the fact that the declaration has been made.
- (2) The notice of the declaration shall include:
  - (a) a description of the general restricted area in sufficient detail to identify the location of that area of land; and
  - (aa) if the general restricted area is restricted in respect of liquor other than a type of liquor – a statement to that effect identifying the type of liquor; and
  - (b) a copy of section 75; and
  - (c) such other particulars as may be determined by the Commission.

## **83      Commencement of declaration**

A declaration of an area of land to be a general restricted area shall have effect on and from:

- (a) the date of the publication of the notice referred to in section 82 in the *Gazette*; or
  - (b) the date on which it is published in a newspaper or newspapers in accordance with that section; or
  - (c) such date as is specified in the declaration,
- whichever is the latest.

## **84      Revocation of declaration**

A declaration of an area of land to be a general restricted area may be revoked by the Commission at its discretion.

**85            Commission to ensure publicity of declaration**

Where an area of land is declared to be a general restricted area, the Commission shall take all such steps as are, in its opinion, necessary to cause to be posted and to be kept posted at:

- (a) the place where a road or other customary access route enters the general restricted area; and
- (b) the customary departure locations for aircraft flying into the general restricted area,

a notice stating that it is an offence to bring liquor into, to be in possession or control of liquor or to consume, sell or otherwise dispose of liquor within the area.

**86            Not an offence to transport liquor through general restricted area**

- (1) It shall not be an offence under section 75(1) where a person brings liquor into, or has liquor in his possession or under his control within, a general restricted area, for the purpose only of transporting that liquor to a destination outside a general restricted area.
- (2) In any proceedings for an offence under section 75(1), the onus of establishing a purpose of a nature referred to in subsection (1) shall be on the accused.

**Division 1B      Declaration of public restricted area**

**86A          Application**

This Division applies to an application for the declaration of a public restricted area.

**86B          Consideration of application**

The Commission must consider the application as soon as practicable after receiving it.

**86C          Inquiry by Commission**

- (1) The Commission must conduct an inquiry to inform itself about the application.
- (2) The inquiry:
  - (a) must be conducted in or near the relevant area; and

- (b) may be conducted in any way the Commission considers appropriate.
- (3) The Commission must give notice about the inquiry:
  - (a) to each local government council mentioned in section 76(2)(c) in relation to the area; and
  - (b) in a newspaper circulating in the area.
- (4) The notice must:
  - (a) specify the area; and
  - (b) invite individuals and bodies to make submissions about the application by a specified time; and
  - (c) include any other information the Commission considers appropriate.
- (5) For subsection (4)(b), the submissions may be in writing or made in any other way the Commission considers appropriate.
- (6) In conjunction with the inquiry, the Commission may also inform itself about the application by conducting investigations and consultations as it considers appropriate.

#### **86D      Matters the Commission must take into account**

The Commission must take into account the following information in considering the application:

- (a) information about the consumption of liquor in or near the relevant area (including the amount and type of liquor sold under each licence in or near the area and conditions of the licence);
- (b) incidents of crime in or near the area that are related to liquor consumption;
- (c) the views of any of the following in relation to the application that have been given to the Commission:
  - (i) an individual who lives or works, or proposes to live or work, in the area;
  - (ii) a body (whether incorporated or not) that has, or proposes to have, an address in the area;
  - (iii) each local government council mentioned in section 76(2)(c) in relation to the area;

- (iv) the Police Force, an Agency and any other authorities established by a law of the Territory;
- (v) anyone else whom the Commission considers to have an interest in the area;
- (d) any other information the Commission considers relevant to the application.

#### **86E      Decision of Commission**

- (1) Having considered the application, the Commission must:
  - (a) declare, by *Gazette* notice, an area of land that is or includes all or part of the relevant area to be a public restricted area if the Commission considers:
    - (i) it is in the public interest to make the declaration; and
    - (ii) the declaration is consistent with the objects of this Act;  
or
  - (b) otherwise – refuse the application.
- (2) The declaration under subsection (1)(a):
  - (a) takes effect from a date specified in the declaration, which must be later than the date of the *Gazette* notice and the date on which a notice for the declaration is published under section 86F; and
  - (b) ceases to have effect:
    - (i) when the declaration is revoked; or
    - (ii) if the declaration specifies a period and the declaration is not revoked before the end of the period – at the end of the period.
- (3) If the Commission refuses the application, the Commission must give notice to the applicant of the refusal and the reasons for it.

#### **86F      Notice of declaration**

- (1) The Commission must, within 28 days after declaring a public restricted area, publish a notice of the declaration in a newspaper circulating in the area.
- (2) The notice must:
  - (a) describe the area in sufficient detail for it to be identified; and

- (b) specify when the declaration will take effect; and
  - (c) specify the period for which the declaration will have effect if the declaration specifies that period; and
  - (d) specify any other matters the Commission considers appropriate.
- (3) The Commission:
- (a) must, before the declaration takes effect, set up signs in the area publicising the declaration; and
  - (b) must maintain the signs while the declaration has effect; and
  - (c) may publicise the declaration in other ways as the Commission considers appropriate.
- (4) Without limiting subsection (3), a sign set up under that subsection must specify the following:
- (a) the declaration;
  - (b) the offence in section 75(1B);
  - (c) the penalty for the offence.
- (5) If all or part of the area forms all or part of a council area, the Commission may enter into an arrangement with the local government council for each such council area for the doing of a thing mentioned in subsection (3).

### **86G      Revocation and amendment of declaration**

- (1) A declaration of a public restricted area may be revoked or amended by the Commission at any time.
- (2) The Commission may do so on any of the following (the *proposal*):
- (a) the Commission's initiative;
  - (b) an application by anyone who could have applied for the declaration.
- (3) Sections 86B to 86F apply in relation to the proposal as if:
- (a) a reference to an application in those sections were a reference to the proposal; and
  - (b) a reference to a declaration were a reference to a decision to accept the proposal; and

- (c) sections 86C(4) and 86F(2) had each required the notice mentioned in that section to specify such a decision; and
- (d) if the proposal relates to a revocation – section 86F(3)(a) and (b) and (4) had been omitted.

## **Division 2      Permits**

### **87      Permit for general restricted area**

- (1) Subject to this Part, the Commission may grant a permit to a person:
  - (a) who resides in; or
  - (b) who is temporarily living in, or intends to temporarily live in, a general restricted area.
- (1A) The permit may only be granted on an application by the person mentioned in subsection (1).
- (2) Subject to subsection (3), the holder of the permit may:
  - (a) bring liquor into; or
  - (b) have liquor in his possession or under his control within; or
  - (c) consume liquor within, the general restricted area to which the permit relates.
- (3) The Commission may issue a permit subject to such conditions as it thinks fit.

### **88      Guest of permit holder may consume liquor**

A person who:

- (a) does not reside in the general restricted area to which the permit relates; and
- (b) is a guest of the holder of the permit on or at premises which are owned or occupied by that holder of the permit,

may consume liquor at the invitation of that holder of the permit on or at those premises.

**89 Person may deliver liquor to permit holder at holder's request**

A person may, at the request of the holder of the permit:

- (a) bring liquor which is owned by, or ordered under a contract of purchase by, that holder of the permit into; or
- (b) have such liquor in his possession or under his control within, the general restricted area to which the permit relates, for the purpose only of delivering the liquor to that holder of the permit.

**89A Permit for public restricted area**

- (1) The Commission may grant a permit for a public restricted area to an individual or body (whether incorporated or not).
- (2) The permit may only be granted:
  - (a) on an application by the individual or body; and
  - (b) for the purposes specified in the application.
- (3) Without limiting subsection (2)(b), the purposes for which the permit may be granted include a wedding and any other event organised by the applicant.
- (4) The Commission must specify in the permit:
  - (a) the purposes for which the permit is granted; and
  - (b) any conditions of the permit (including conditions about when liquor may be consumed in the area).
- (5) If the permit is granted, a person may consume liquor in the area in accordance with the permit.
- (6) The Commission must, as soon as practicable after granting the permit, give notice to each of the following about the permit:
  - (a) if all or part of the area forms all or part of a council area – the local government council for each such council area;
  - (b) the person in charge of the police station that is closest to the area.
- (7) The notice must detail the purposes and conditions specified in the permit.

- (8) The following person commits an offence if the person engages in conduct that results in a contravention of a condition of a permit granted under subsection (1):
- (a) if the permit is granted to an individual – the individual;
  - (b) if the permit is granted to a body corporate – the body corporate;
  - (c) if the permit is granted to an unincorporated body – a person constituting the body.

Maximum penalty:      20 penalty units.

- (9) An offence against subsection (8) is an offence of strict liability.

## **90      Application for permit**

An application for a permit under section 87 or 89A must:

- (a) be lodged with the Director; and
- (b) be in writing; and
- (c) be signed by the applicant; and
- (d) for an application under section 87 – include a statement of the applicant's reasons for making the application; and
- (e) for an application under section 89A – specify the purposes for the permit.

## **91      Consideration of application**

- (1) The Commission shall consider an application for a permit and shall:
- (a) conduct such investigations and cause to be conducted such investigations of the application as it thinks fit; and
  - (b) take all such steps as are, in its opinion, necessary to ascertain opinions regarding the application of the people who reside in the restricted area to which the application relates.
- (2) In deciding whether to grant an application for a permit, the Commission shall consider the results of any investigations under subsection (1)(a) and the opinions ascertained pursuant to subsection (1)(b).

**92 Decision after consideration**

Subject to section 91(2), after considering an application for a permit, the Commission shall:

- (a) issue a permit in a form approved by the Commission, subject to such conditions as are specified by the Commission under section 87(3) or 89A(4); or
- (b) refuse the application and direct the Director to forward notice of the refusal together with a statement of the reasons for refusal to the applicant.

**93 Revocation of permit**

- (1) A permit is revoked if the holder of the permit contravenes a condition of the permit.
- (2) The holder of the revoked permit must return the permit to an inspector or police officer when requested to do so by the inspector or police officer.

Maximum penalty: 20 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

**94 Revocation of permit by Commission**

A permit may be revoked by the Commission at its discretion.

**Division 3 Powers of entry, search and seizure for general restricted areas**

**94A Application**

This Division applies to an offence against this Part in relation to a general restricted area (a *relevant offence*).

**95 Powers of search and seizure**

- (1) An inspector may, without a warrant:
  - (a) do 1 or more of the following if the inspector reasonably suspects a relevant offence has been, or is being or likely to be, committed:
    - (i) enter and search an area of land (whether or not it is the general restricted area);

- (ii) stop, enter, search, remove and retain a vehicle, vessel or aircraft (whether or not it is in the general restricted area);
    - (iii) stop, detain and search a person in connection with the exercise of a power under subparagraph (i) or (ii);
    - (iv) search a thing in connection with the exercise of a power under subparagraph (i), (ii) or (iii); and
  - (b) seize a thing found in connection with the exercise of a power under paragraph (a)(i), (ii), (iii) or (iv) that the inspector reasonably believes to be related to a relevant offence.
- (2) In addition, an inspector may, without a warrant:
- (a) do 1 or more of the following on a random basis for the detection of a relevant offence that has been, or is being or likely to be, committed:
    - (i) stop, enter, search, remove and retain a vehicle (whether or not it is in the general restricted area);
    - (ii) stop, detain and search a person (whether or not in connection with the exercise of a power under subparagraph (i));
    - (iii) search a thing in connection with the exercise of a power under subparagraph (i) or (ii); and
  - (b) seize a thing in connection with the exercise of a power under paragraph (a)(i), (ii) or (iii) that the inspector reasonably believes to be related to a relevant offence.
- (3) A person commits an offence if the person:
- (a) obstructs the exercise of a power under subsection (1) or (2);  
or
  - (b) fails to comply with a reasonable request made by the inspector for the purposes of exercising powers under subsection (1) or (2).
- Maximum penalty: 50 penalty units or imprisonment for 6 months.
- (4) It is a defence to a prosecution for an offence against subsection (3) if the person has a reasonable excuse.

- (5) In exercising a power under this section, an inspector must carry an identity card provided by the Director that:
- (a) states the name and office of the inspector; and
  - (b) contains:
    - (i) the signature of the inspector; and
    - (ii) a photograph of the inspector; and
    - (iii) the verification of the signature and photograph by the Director.
- (6) If an inspector purports to exercise a power under this section without producing the inspector's identity card when requested to do so:
- (a) the inspector is not authorised to exercise the power; and
  - (b) a person is not required to comply with a requirement made by the inspector.
- (7) A person may only be searched under this section by someone who is of the same gender as the person.
- (8) An inspector who seizes a container that the inspector reasonably believes contains liquor may immediately:
- (a) empty the container if it is opened; or
  - (b) destroy the container (including its content) if it is unopened.
- (9) If the container is not so emptied or destroyed, the inspector must ensure it is taken to a police station to be destroyed.
- (10) The inspector may use any reasonable force or assistance in acting under this section.
- (11) A police officer is taken to be an inspector for this section (except subsections (5) and (6)).

## **96 Holding of seized thing**

The Commissioner of Police must keep a thing seized, but not destroyed, under section 95 in the Commissioner's custody until it is otherwise dealt with under this Division.

**97 Commissioner of Police may release seized thing**

- (1) A person who owns, or has an interest in, the thing may apply to the Commissioner of Police for its release.
- (2) The application must be made within 60 days after the seizure of the thing or that period as extended by the Commissioner.
- (3) The application may be made only if:
  - (a) the thing has not been forfeited under section 99; and
  - (b) the applicant is not being charged with a relevant offence to which the thing is related; and
  - (c) if someone has been charged with such an offence – the proceedings for the prosecution of the offence are continuing.
- (4) The Commissioner must, within 14 days after the application is made or that period as extended by the Commissioner:
  - (a) approve the application by releasing the thing to the applicant;  
or
  - (b) refuse the application.
- (5) The Commissioner may release the thing to the applicant only if the Commissioner is satisfied:
  - (a) the applicant owns, or has an interest in, the thing; and
  - (b) the applicant did not know or could not reasonably have known about the commission of the offence.
- (6) Despite subsection (5), the Commissioner may refuse the application if the Commissioner decides it is inappropriate for the Commissioner to release the thing, having regard to:
  - (a) the evidential value of the thing for any proceedings for the prosecution of a relevant offence; and
  - (b) any other matters the Commissioner considers relevant in deciding the application.
- (7) The release of the thing under subsection (4)(a) is subject to:
  - (a) any conditions specified by the Commissioner; and
  - (b) any order made under section 98 at a later time.

- (8) The Commissioner may:
- (a) extend the period mentioned in subsection (2) or (4) more than once; but
  - (b) must do so before the expiry of the period or the period as extended under that subsection.
- (9) The Commissioner may invite anyone who appears to own, or have an interest in, the thing to make an application under this section.

**98 Court may release or dispose of seized thing**

- (1) A person who owns, or has an interest in, the thing may apply to the Local Court for an order under this section if:
- (a) the thing has not been forfeited under section 99; and
  - (b) proceedings for the prosecution of a relevant offence to which the thing is related have ended; and
  - (c) the person:
    - (i) was not the defendant in the proceedings; or
    - (ii) was the defendant in the proceedings but was found not guilty of the offence.
- (2) The application must be made within 60 days after the end of the proceedings or that period as extended by the court.
- (3) The applicant must give notice of the application to the Commissioner of Police.
- (4) The Local Court:
- (a) must make an order under this section if the court is satisfied:
    - (i) the applicant owns, or has an interest in, the thing; and
    - (ii) the applicant did not know or could not reasonably have known about the commission of the offence; and
  - (b) otherwise – must refuse the application.
- (5) An order under this section must:
- (a) state whether the applicant owns, or has an interest in, the thing; and

- (b) if the applicant has an interest in the thing – state the nature and value of the interest as at the time of the making of the order; and
  - (c) direct that:
    - (i) the thing be released to the applicant; or
    - (ii) the thing be disposed of in a specified way and all or a specified part of the proceeds from the disposal be paid to the applicant and any other specified persons.
- (6) The Court may extend the period mentioned in subsection (2) only on the application of the Commissioner of Police.
- (7) The Court:
- (a) may extend the period more than once; but
  - (b) must do so before the expiry of the period or the period as extended under subsection (2).

## 99 Forfeiture of seized thing

- (1) A thing seized under section 95 that is not destroyed under that section is forfeited to the Territory if:
- (a) no application for the thing has been made under section 97 within the period mentioned in section 97(2), or such an application has been made and is refused; and
  - (b) 1 of the following applies:
    - (i) no application for the thing has been made under section 98 within the period mentioned in section 98(2);
    - (ii) such an application has been made and is refused;
    - (iii) such an application has been made and an order (*disposal order*) containing a direction mentioned in section 98(5)(c)(ii) is made for the thing.
- (2) Except as provided in a disposal order, the Commissioner of Police may dispose of the thing as the Commissioner considers appropriate.
- (3) Any proceeds from the disposal must be paid in the following order of priority:
- (a) first – the expenses for the sale;

- (b) second – the cost of holding and removing the thing;
- (c) third – any payment under a disposal order;
- (d) fourth – the Central Holding Authority.

#### **Division 4 Powers of search and seizure for public restricted areas**

##### **101AA Application**

This Division applies to an offence against this Part in relation to a public restricted area (a *relevant offence*).

##### **101AB Police powers of search and seizure**

- (1) If a police officer believes on reasonable grounds that a relevant offence has been, is being, or is likely to be, committed by a person in a public restricted area, the officer may, without a warrant:
  - (a) search the person; and
  - (b) seize any opened or unopened container in the area that the officer has reason to believe contains liquor.
- (2) A person may only be searched under subsection (1)(a) by someone who is of the same gender as the person.
- (3) A police officer who seizes a container under subsection (1)(b) may immediately:
  - (a) empty the container if it is opened; or
  - (b) destroy the container (including the liquor in it) if it is unopened.
- (4) The officer must ensure that any containers covered by subsection (3)(a) that are not emptied, and any containers covered by subsection (3)(b) that are not destroyed, are taken to a police station, where they must be destroyed.

##### **101AC Contravention notice**

- (1) A police officer may serve a public restricted area contravention notice on a person if the officer:
  - (a) believes on reasonable grounds the person has committed an offence against section 75(1B); and

- (b) has seized one or more unopened containers of liquor under section 101AB; and
  - (c) does not intend to make a complaint or serve an infringement notice for the alleged offence.
- (2) Section 101N(2) and (3) and sections 101P to 101S (the *applied provisions*) apply for the purposes of this Division as if, in the applied provisions:
- (a) a reference to a restricted premises contravention notice were a reference to a public restricted area contravention notice; and
  - (b) a reference to section 101L(1) were a reference to section 75(1B); and
  - (c) a reference to section 101M were a reference to section 101AB; and
  - (d) a reference to section 101P or 101Q were a reference to that section as applied by this section.

## **Part VIII A A Special restricted areas**

### **Division 1 General matters**

#### **101AD Minister's power in regard to special restricted area**

- (1) The Minister may, by *Gazette* notice, declare a specified area of land to be a special restricted area if the Minister thinks the declaration is urgently needed for the wellbeing of the communities in and near the area.
- (2) The declaration has effect:
  - (a) from the date of the notice or a later date specified in the notice; and
  - (b) for the period specified in the notice.
- (3) The Minister may, before the expiry of the period:
  - (a) extend the period by *Gazette* notice; or
  - (b) revoke the declaration by *Gazette* notice.
- (4) The declaration may be extended more than once.

- (5) In making the declaration, the Minister:
  - (a) must have regard to the objects of this Act; and
  - (b) may consult with the Commission (and in doing so, may seek information, advice or a recommendation from the Commission).
- (6) If the area is, or includes, a general or public restricted area, the declaration of the general or public restricted area is suspended while the declaration under subsection (1) is in force.
- (7) However, the declaration of the general or public restricted area is in force again when the declaration under subsection (1) ceases to be in force.
- (8) The Minister must table a copy of each notice under subsection (1) or (3) in the Legislative Assembly within 6 sitting days after making the notice.

#### **101AE Prohibitions for special restricted areas**

- (1) A person commits an offence if the person:
  - (a) brings liquor into a special restricted area; or
  - (b) has liquor in his or her possession, or under his or her control, in a special restricted area; or
  - (c) consumes, sells, supplies or otherwise disposes of liquor in a special restricted area.

Maximum penalty: 100 penalty units or imprisonment for 6 months

- (1A) An offence against subsection (1) is a regulatory offence.
- (1B) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves, on the balance of probabilities, that the contravention constituting the offence:
  - (a) occurred in an emergency; and
  - (b) was necessary to preserve life or prevent injury or to protect property.
- (2) It is a defence for an offence against subsection (1) if the act is carried out:
  - (a) for a religious service conducted by a person approved by the Director in the area; or

- (b) in accordance with a permit for the area, or a licence for licensed premises in the area, that is in force.
- (3) It is a defence for an offence against subsection (1)(a) or (b) if the defendant proves:
  - (a) the liquor is in unopened containers; and
  - (b) the act is carried out for transporting the liquor to a place outside the area.

#### **101AF Notice of declaration for special restricted area**

- (1) The Minister must, within 28 days after declaring a special restricted area, publish a notice of the declaration in a newspaper circulating in the area.
- (2) The notice must specify:
  - (a) the special restricted area; and
  - (b) when the declaration has effect; and
  - (c) any other matters the Minister considers appropriate.
- (3) The Minister:
  - (a) must, before the declaration takes effect, set up signs in and near the area publicising the declaration; and
  - (b) must maintain the signs while the declaration has effect; and
  - (c) may publicise the declaration in other way the Minister considers appropriate.
- (4) Without limiting subsection (3), a sign mentioned in that subsection must specify the following:
  - (a) the declaration;
  - (b) the offence against section 101AE;
  - (c) the penalty for the offence.
- (5) If all or part of the area comprises all or part of a council area, the Minister may enter into an arrangement with the local government council for each such area for the doing of a thing mentioned in subsection (3).

### **101AG Variation and revocation of declaration**

- (1) A declaration of a special restricted area may be varied or revoked by the Minister by *Gazette* notice.
- (2) Section 101AF applies to the variation or revocation as if:
  - (a) a reference to the declaration in section 101AF(1) or (2) were a reference to the variation or revocation; and
  - (b) if the proposal relates to a variation – a reference to the declaration in section 101AF(3) or (4) were a reference to the declaration as varied; and
  - (c) if the proposal relates to a revocation – section 101AF(3)(a) and (b) and (4) had been omitted and a reference to the declaration in section 101AF(3)(c) were a reference to the revocation.

### **101AH Delegation**

The Minister may delegate any of the Minister's powers and functions under this Part (other than section 101AD and this section) to the Commission.

## **Division 2 Permits for special restricted areas**

### **101AI Application for permit**

- (1) A body (whether incorporated or not) or an individual who is at least 18 years of age may apply for a permit for a special restricted area for a purpose specified in the application.
- (2) Without limiting subsection (1), the purpose may be any of the following:
  - (a) a single special event (for example, a wedding or festival);
  - (b) special events held periodically or regularly (for example, a gathering to be held once a month).

### **101AJ Minister's decision**

- (1) The Minister may:
  - (a) approve the application by issuing the permit to the applicant;  
or
  - (b) refuse the application.

- (2) The Minister must not approve the application unless:
  - (a) the Minister has considered the following:
    - (i) the likely impact of the issuing of the permit on the communities in and near the area;
    - (ii) any view expressed by the communities about the application; and
  - (b) the Minister is satisfied the issuing of the permit is unlikely to harm the communities in any way.
- (3) The Minister must specify in the permit:
  - (a) the purpose for which the permit is issued; and
  - (b) the conditions of the permit.
- (4) The Minister must, as soon as practicable after issuing the permit, give notice to each of the following about the permit:
  - (a) if all or part of the special restricted area comprises all or part of a council area – the local government council for each such area;
  - (b) the person in charge of the police station that is closest to the special restricted area.

#### **101AK Effect of permit**

- (1) A person may do any of the things mentioned in section 101AE(1) in the special restricted area in accordance with the conditions of the permit.
- (2) A person must not engage in conduct that results in a contravention of any of the conditions.

Maximum penalty: 100 penalty units.

#### **101AL Variation, suspension or revocation of permit**

- (1) The Minister may vary, suspend or revoke the permit by written notice given to the permit holder.
- (2) Without limiting subsection (1), the Minister may suspend or revoke the permit if the holder of the permit contravenes a condition of the permit.
- (3) The Minister may specify conditions under which the permit is suspended.

- (4) A person must not engage in conduct that results in a contravention of any of the conditions.

Maximum penalty: 100 penalty units.

## **Division 3 Search and seizure**

### **101AM Application**

This Division applies to an offence against a provision in this Part in relation to a special restricted area (a *relevant offence*).

*Note*

*The provisions in this Division are similar, but not identical to, the provisions for a general restricted area in Part VIII, Division 3.*

*The major difference between these provisions is that, under this Division, a person who is charged with a relevant offence or found guilty of such an offence may apply for the release of a thing seized by an inspector, which is not allowed under Part VIII, Division 3.*

### **101AN Powers of search and seizure**

- (1) An inspector may, without a warrant:
- (a) do 1 or more of the following if the inspector reasonably suspects a relevant offence has been, or is being or likely to be, committed:
    - (i) enter and search an area of land (whether or not it is the special restricted area);
    - (ii) stop, enter, search, remove and retain a vehicle, vessel or aircraft (whether or not it is in the special restricted area);
    - (iii) stop, detain and search a person in connection with the exercise of a power under subparagraph (i) or (ii);
    - (iv) search a thing in connection with the exercise of a power under subparagraph (i), (ii) or (iii); and
  - (b) seize a thing found in connection with the exercise of a power under paragraph (a)(i), (ii), (iii) or (iv) that the inspector reasonably believes to be related to a relevant offence.

- (2) In addition, an inspector may, without a warrant:
- (a) do 1 or more of the following on a random basis for the detection of a relevant offence that has been, or is being or likely to be, committed:
    - (i) stop, enter, search, remove and retain a vehicle (whether or not it is in the special restricted area);
    - (ii) stop, detain and search a person (whether or not in connection with the exercise of a power under subparagraph (i));
    - (iii) search a thing in connection with the exercise of a power under subparagraph (i) or (ii); and
  - (b) seize any thing in connection with the exercise of a power under paragraph (a)(i), (ii) or (iii) that the inspector reasonably believes to be related to a relevant offence.
- (3) A person commits an offence if the person:
- (a) obstructs the exercise of a power under subsection (1) or (2); or
  - (b) fails to comply with a reasonable request made by the inspector for the purposes of exercising powers under subsection (1) or (2).
- Maximum penalty: 50 penalty units or imprisonment for 6 months.
- (4) It is a defence to a prosecution for an offence against subsection (3) if the person has a reasonable excuse.
- (5) In exercising a power under this section, an inspector must carry an identity card provided by the Director that:
- (a) states the name and office of the inspector; and
  - (b) contains:
    - (i) the signature of the inspector; and
    - (ii) a photograph of the inspector; and
    - (iii) the verification of the signature and photograph by the Director.

- (6) If an inspector purports to exercise a power under this section without producing the inspector's identity card when requested to do so:
  - (a) the inspector is not authorised to exercise the power; and
  - (b) a person is not required to comply with a requirement made by the inspector.
- (7) A person may only be searched under this section by someone who is of the same gender as the person.
- (8) An inspector who seizes a container that the inspector reasonably believes contains liquor may immediately:
  - (a) empty the container if it is opened; or
  - (b) destroy the container (including its content) if it is unopened.
- (9) If the container is not so emptied or destroyed, the inspector must ensure it is taken to a police station to be destroyed.
- (10) The inspector may use any reasonable force or assistance in acting under this section.
- (11) A police officer is taken to be an inspector for this section (except subsections (5) and (6)).

#### **101AO Holding of seized thing**

The Commissioner of Police must keep a thing seized, but not destroyed, under section 101AN in the Commissioner's custody until it is otherwise dealt with under this Division.

#### **101AP Commissioner of Police may release seized thing**

- (1) A person who owns, or has an interest in, the thing may apply to the Commissioner of Police for its release.
- (2) The application must be made within 60 days after the seizure of the thing or that period as extended by the Commissioner.
- (3) The application may be made only if:
  - (a) the thing has not been forfeited under section 101AR; and
  - (b) if someone has been charged with such an offence – the proceedings for the prosecution of the offence are continuing.

- (4) The Commissioner must, within 14 days after the application is made or that period as extended by the Commissioner:
  - (a) approve the application by releasing the thing to the applicant;  
or
  - (b) refuse the application.
- (5) The Commissioner may release the thing to the applicant only if the Commissioner is satisfied the applicant owns, or has an interest in, the thing.
- (6) Despite subsection (5), the Commissioner may refuse the application if the Commissioner decides it is inappropriate for the Commissioner to release the thing, having regard to:
  - (a) the evidential value of the thing for any proceedings for the prosecution of a relevant offence; and
  - (b) any other matters the Commissioner considers relevant in deciding the application.
- (7) The release of the thing under subsection (4)(a) is subject to:
  - (a) any conditions specified by the Commissioner; and
  - (b) any order made under section 101AR at a later time.
- (8) The Commissioner may:
  - (a) extend the period mentioned in subsection (2) or (4) more than once; but
  - (b) must do so before the expiry of the period or the period as extended under that subsection.
- (9) The Commissioner may invite anyone who appears to own, or have an interest in, the thing to make an application under this section.

**101AQ Court may release or dispose of seized thing**

- (1) A person who owns, or has an interest in, the thing may apply to the Local Court for an order under this section if:
  - (a) the thing has not been forfeited under section 101AR; and
  - (b) proceedings for the prosecution of a relevant offence to which the thing is related have ended (whether or not the person is the defendant in the proceedings).

- (2) The application must be made within 60 days after the end of the proceedings or that period as extended by the court.
- (3) The applicant must give notice of the application to the Commissioner of Police.
- (4) The Local Court:
  - (a) must make an order under this section if the Court is satisfied the applicant owns, or has an interest in, the thing; or
  - (b) otherwise – must refuse the application.
- (5) An order under this section must:
  - (a) state whether the applicant owns, or has an interest in, the thing; and
  - (b) if the applicant has an interest in the thing – state the nature and value of the interest as at the time of the making of the order; and
  - (c) direct that:
    - (i) the thing be released to the applicant; or
    - (ii) the thing be disposed of in a specified way and all or a specified part of the proceeds from the disposal be paid to the applicant and any other specified persons.
- (6) The Court may extend the period mentioned in subsection (2) only on the application of the Commissioner of Police.
- (7) The Court:
  - (a) may extend the period more than once; but
  - (b) must do so before the expiry of the period or the period as extended under subsection (2).

#### **101AR Forfeiture of seized thing**

- (1) A thing seized under section 101AN that is not destroyed under that section is forfeited to the Territory if:
  - (a) no application for the thing has been made under section 101AP within the period mentioned in section 101AP(2), or such an application has been made and is refused; and

- (b) 1 of the following applies:
- (i) no application for the thing has been made under section 101AQ within the period mentioned in section 101AQ(2);
  - (ii) such an application has been made and is refused;
  - (iii) such an application has been made and an order (*disposal order*) containing a direction mentioned in section 101AQ(5)(c)(ii) is made for the thing.
- (2) Except as provided in a disposal order, the Commissioner of Police must dispose of the thing as the Commissioner considers appropriate.
- (3) Any proceeds from the disposal must be paid in the following order of priority:
- (a) first – the expenses for the sale;
  - (b) second – the cost of holding and removing the thing;
  - (c) third – any payment under a disposal order;
  - (d) fourth – the Central Holding Authority.

#### **101AS Contravention notice**

- (1) A police officer may give a contravention notice to a person if the officer:
- (a) reasonably believes the person has committed a relevant offence (the *alleged offence*); and
  - (b) has seized 1 or more unopened containers of liquor under section 101AN in relation to the alleged offence; and
  - (c) does not intend to make a complaint or serve an infringement notice for the alleged offence.
- (2) The contravention notice must specify:
- (a) the name of the person; and
  - (b) the date, time and area of the alleged offence; and
  - (c) a description of the alleged offence and the circumstances causing the officer to believe the offence was committed; and
  - (d) a description of the liquor seized by the officer; and

- (e) the name and rank of the officer; and
  - (f) the police station to which the officer is attached; and
  - (g) a statement that the alleged offender may choose to have the matter dealt with by the Court of Summary Jurisdiction by making an application under section 101AT.
- (3) The police officer in charge of the police station must send a copy of the notice to the Court of Summary Jurisdiction.

#### **101AT Application to court by alleged offender**

- (1) The person may apply to the Court of Summary Jurisdiction for the alleged offence to be dealt with by the Court.
- (2) The application must be:
- (a) made within 28 days after the date of the alleged offence; and
  - (b) in writing; and
  - (c) accompanied by a copy of the contravention notice.
- (3) On receiving the application, the clerk of the court must:
- (a) fix a time and date for the court to deal with the matter; and
  - (b) notify the following persons of the time and date:
    - (i) the alleged offender;
    - (ii) the police officer in charge of the police station.
- (4) The date fixed by the clerk must not be earlier than 14 days after the last day the alleged offender is permitted by this section to make the application.

#### **101AU How court deals with alleged offence**

- (1) The contravention notice is taken to be a complaint alleging the person specified in the notice committed the offence at the time and place, and in the circumstances, specified in the notice.
- (2) If a court receives 2 or more applications under section 101AT and is satisfied the alleged offences arose out of the same facts, the Court may deal with the applications together.

### **101AV    Court order if no application under section 101AT**

If a person who is given a contravention notice does not make an application under section 101AT, the Court of Summary Jurisdiction may make an order that the person committed the alleged offence as specified in the notice.

### **101AW    Interest in destroyed liquor**

- (1) The interest that a person had in any liquor destroyed because of section 101AN is taken to have become, on the destruction, an interest in an amount of money equal to the liquor's value.
- (2) The interest in the amount is forfeited to the Territory if:
  - (a) an order is made under section 101AV for a relevant offence in relation to the liquor; or
  - (b) a court otherwise finds a person guilty of a relevant offence in relation to the liquor.
- (3) If subsection (2) does not apply, a person who has the interest in the amount may seek compensation for the interest in the court of competent jurisdiction.
- (4) Without limiting subsection (3), a court that finds a person not guilty of a relevant offence in relation to the liquor may make an order of compensation for the interest in the amount.

## **Part VIII A      Restricted premises**

### **Division 1        Declaration of restricted premises**

#### **101A    Definitions**

In this Division:

*interested person*, in relation to private premises referred to in an application under section 101C(2), means any of the following:

- (a) a person residing in or conducting business in the neighbourhood of the premises;
- (b) a community-based organisation or group whose activities are connected with or relevant to the neighbourhood of the premises;
- (c) a police officer of or above the rank of Senior Sergeant.

***private premises*** includes the following:

- (a) privately owned land, and any building on the land, even if all or part of the land or building is open to and used by the public;
- (b) Crown land that is leased or occupied under a licence or agreement;
- (c) residential premises;
- (d) retail shopping centres within the meaning of the *Business Tenancies (Fair Dealings) Act*;
- (e) churches and other buildings owned by religious bodies and used for public worship;
- (f) hospitals and other premises providing health services;
- (g) schools and other educational premises;
- (h) premises specified by the Regulations to be private premises.

**101B      Power to declare restricted premises**

Subject to this Act, the Commission may declare that private premises are restricted premises.

**101C      Application for declaration of restricted premises**

- (1) An owner or occupier (including a tenant) of private premises may apply to the Commission for a declaration that the premises, or a specified part of the premises, are restricted premises.
- (2) An interested person may apply to the Commission for a declaration of restricted premises for any part of private premises open to and used by the public.
- (3) The application may be made by a person or body representing the applicant.
- (4) The application must:
  - (a) be lodged with the Director; and
  - (b) give particulars of the applicant and (if applicable) the applicant's representative; and
  - (c) be signed by the applicant or (if applicable) the applicant's representative; and

- (d) include a description of the private premises and (if applicable) the specified part, in sufficient detail to enable the Commission to identify the location of the premises and (if applicable) the specified part; and
  - (e) include a statement of the applicant's reasons for desiring the private premises to be declared restricted premises; and
  - (f) if the applicant is not the owner of the private premises – give particulars of the owner and a statement of whether the applicant or applicant's representative has informed the owner of the application.
- (5) The Director or Commission may request additional information from the applicant or applicant's representative.

#### **101D      Commission to consult regarding application**

- (1) As soon as practicable after the Commission receives an application for a declaration of restricted premises, the Commission must consult with the following persons:
- (a) the occupiers of the private premises;
  - (b) the owners of the private premises;
  - (c) if the application is made under section 101C(2) – the interested person;
  - (d) the Commissioner of Police.
- (2) The consultations may be conducted in the manner the Commission considers appropriate in the circumstances.

#### **101E      Decision after consultation**

- (1) The Commission may make a declaration of restricted premises if it is satisfied:
- (a) making the declaration:
    - (i) if the application is made under section 101C(1) – will reflect the wishes of the majority of the occupiers of the private premises; or
    - (ii) if the application is made under section 101C(2) – will be in the public interest, particularly having regard to the object of this Act in section 3(2)(a) in relation to the consumption of liquor; and

- (b) making the declaration is practicable in the circumstances.
- (2) The declaration may be made for the whole of the premises specified in the application, or to a smaller or larger part than specified, and must describe the area to which it relates in sufficient detail for it to be clearly identified.
- (3) The Commission must refuse to make the declaration if it is not satisfied about the matters in subsection (1) or is satisfied the application is of a frivolous, irrelevant or malicious nature.
- (4) If the Commission refuses to make the declaration, the Director must give the applicant a notice of the refusal and a statement of the reasons for the refusal.

#### **101F      Notice of declaration**

- (1) Within 14 days after making a declaration of restricted premises, the Commission must display on the premises a notice about the declaration.
- (2) The notice must include the following:
  - (a) a statement that the premises are restricted premises;
  - (b) a statement about the offences and penalty under section 101L;
  - (c) any other information the Commission considers appropriate.
- (3) Subject to subsection (4), a person must not remove, deface or otherwise interfere with the notice.

Maximum penalty:      20 penalty units.

- (4) The Commission must remove the notice as soon as practicable after the declaration of restricted premises lapses or is revoked.

#### **101G      Commencement of declaration**

A declaration of restricted premises takes effect from the time the notice of the declaration is displayed at the restricted premises.

#### **101H      Variation of declaration**

- (1) The Commission may, on application, vary a declaration of restricted premises by reducing or enlarging the area to which the declaration relates.

- (2) This Division applies (with the necessary changes) to an application for the variation of a declaration of restricted premises as if it were an application for the declaration.

#### **101J      Lapse of declaration**

- (1) This section applies to a declaration of restricted premises only if the application for the declaration was made under section 101C(1).
- (2) The declaration lapses if:
- (a) the title of ownership of the premises is transferred; or
  - (b) the lease of the premises is terminated.
- (3) The applicant for the declaration, or the applicant's representative, must give written notice to the Commission of the transfer of ownership or termination of the lease of the premises.
- (4) If the applicant for the declaration is not the owner of the premises, the owner must also give written notice to the Commission of the transfer or termination.

#### **101K      Revocation of declaration**

- (1) The Commission may revoke a declaration of restricted premises on the written application of the applicant for the declaration or the applicant's representative.
- (2) The Commission may revoke a declaration of restricted premises, or part of a declaration, in other circumstances at its discretion.

### **Division 2      Offences, seizure and forfeiture**

#### **101L      Offences in relation to restricted premises**

- (1) A person must not:
- (a) bring liquor onto restricted premises; or
  - (b) have liquor in the person's possession on restricted premises;  
or
  - (c) consume liquor on restricted premises.

Maximum penalty:      100 penalty units.

- (1A) An offence against subsection (1) is an offence of strict liability.

- (2) Subsection (1) does not apply in relation to liquor on restricted premises belonging to a religious body and used for public worship if the liquor is intended for use in connection with the celebration of the Holy Communion or any other religious service.
- (3) Subsection (1)(a) or (b) does not apply to a person who is passing through an area of restricted premises, open to and used by the public, in possession of an unopened container of liquor intended for consumption elsewhere.

#### **101M      Police powers of entry, search and seizure**

- (1) If a police officer believes on reasonable grounds a person is contravening section 101L(1), the police officer may, without a warrant:
  - (a) enter the restricted premises; and
  - (b) search the premises and any person on the premises; and
  - (c) in accordance with this section, seize any opened or unopened container the police officer has reason to believe contains liquor.
- (2) A person may only be searched under subsection (1)(b) by someone who is of the same gender as the person.
- (3) A police officer who seizes a container under subsection (1)(c) may immediately:
  - (a) empty the container if it is opened; or
  - (b) destroy the container (including the liquor in it) if it is unopened.
- (4) The officer must ensure that any containers covered by subsection (3)(a) that are not emptied, and any containers covered by subsection (3)(b) that are not destroyed, are taken to a police station, where they must be destroyed.

#### **101N      Service of contravention notice**

- (1) A police officer may serve a restricted premises contravention notice on a person believed on reasonable grounds to have contravened section 101L(1) if the officer:
  - (a) has seized one or more unopened containers of liquor under section 101M; and

- (b) does not intend to make a complaint or serve an infringement notice for the alleged offence.
- (2) The contravention notice must contain the following information:
- (a) the name of the alleged offender;
  - (b) the date, time and place of the alleged offence;
  - (c) a description of the alleged offence and the circumstances causing the police officer to believe an offence was being committed against section 101L(1);
  - (d) a description of the liquor seized by the police officer including, if possible, the type and quantity;
  - (e) the name and rank of the police officer and the name of the police station to which the police officer is attached;
  - (f) a statement that the alleged offender may choose to have the matter dealt with by the Court of Summary Jurisdiction by making an application under section 101Q.
- (3) The police officer in charge of the police station referred to in the contravention notice must send a copy of the notice to the Court of Summary Jurisdiction.

**101P      Court order if no application under section 101Q**

If the alleged offender served with a contravention notice does not make an application under section 101Q, the Court of Summary Jurisdiction may make an order that the alleged offender committed the offence described in the notice on the date specified in the notice.

**101Q      Application to court by alleged offender in contravention notice**

- (1) The alleged offender served with a contravention notice may apply to the Court of Summary Jurisdiction for the alleged offence described in the notice to be dealt with by the court.
- (2) The application must be:
  - (a) made no later than 28 days after the date of the alleged offence; and
  - (b) in writing; and
  - (c) accompanied by a copy of the contravention notice.

- (3) On receiving the application, the clerk of the Court must:
  - (a) fix a time and date for the Court to deal with the matter; and
  - (b) notify the following persons of the time and date:
    - (i) the alleged offender;
    - (ii) the person in charge of the police station named in the contravention notice.
- (4) The date fixed by the clerk of the Court must be no earlier than 14 days after the last day the alleged offender is permitted by this section to make the application.

#### **101R      How Court deals with offence alleged in contravention notice**

- (1) When a court deals with an alleged offence described in a contravention notice, the notice is taken to be a complaint alleging the person named in the notice committed the offence at the time and place and in the circumstances specified in the notice.
- (2) If a court receives more than one application under section 101Q and is satisfied the alleged offences described in the accompanying contravention notices arise out of the same facts, the court may try the matters together and may adjourn the hearing of the matters.

#### **101S      Interest in destroyed liquor**

- (1) The interest that a person had in any liquor destroyed because of section 101M is taken to have become, on the destruction, an interest in an amount of money equal to the liquor's value.
- (2) The interest in the amount is forfeited to the Territory if:
  - (a) an order is made under section 101P(1) for an offence against section 101L(1) (a *relevant offence*) in relation to the liquor; or
  - (b) a court otherwise finds a person guilty of a relevant offence in relation to the liquor.
- (3) If subsection (2) does not apply, a person who has the interest in the amount may seek compensation for that interest in a court of competent jurisdiction.
- (4) Without limiting subsection (3), a court that finds a person not guilty of a relevant offence in relation to the liquor may make an order of compensation for the interest in the amount.

## **Part IX            Obligations and offences**

### **Division 1        Licensees**

#### **102            Prohibition of sale or supply of liquor to person who is drunk**

A licensee or an employee of a licensee must not sell or otherwise supply liquor to a person who is drunk.

Maximum penalty:        100 penalty units.

#### **103            Sale of adulterated liquor**

A licensee or employee of a licensee must not sell adulterated liquor.

Maximum penalty:        100 penalty units.

#### **104            Persons on licensed premises after hours**

- (1) A person must not enter, or remain on, premises that are licensed for the consumption of liquor on the premises unless they are open for the sale of liquor in accordance with the conditions of the licence.

Maximum penalty:        50 penalty units.

- (1A) An offence against subsection (1) is an offence of strict liability.

- (2) A person does not commit an offence against subsection (1) by remaining on licensed premises for a period not exceeding 30 minutes after those premises cease to be open for the sale of liquor.

- (3) Nothing in this section applies to, or in relation to:

- (a) the licensee of premises; or
- (b) a member of the family of the licensee; or
- (c) a person who enters, or remains on, licensed premises in the course of his employment; or
- (d) a person who enters, or remains on, licensed premises at the invitation of, and as a guest of, the licensee or a member of the family of the licensee; or
- (e) a lodger occupying residential accommodation provided on the licensed premises; or

- (f) a person who enters licensed premises at the invitation of, and as a guest of, such a lodger; or
- (g) a person authorized by the Commission, either on application or on the motion of the Commission, to enter licensed premises.

**105        Permitting riotous conduct on or at licensed premises**

- (1) A licensee or an employee of a licensee must not permit indecent, violent, quarrelsome or riotous conduct to occur on or at the licensee's licensed premises.

Maximum penalty:        100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse.

**106        Commission may declare licensed premises prohibited areas for children**

- (1) The Commission may, by notice in writing, declare licensed premises or parts of licensed premises to be an area or areas where a child:

- (a) must not enter or remain; or
- (b) must not enter or remain unless the child is in the company of an adult who is the child's parent, guardian or spouse.

- (2) Where the Commission makes a declaration under subsection (1), the Commission must serve a copy of the declaration on the licensee of the licensed premises to which the declaration relates.

- (3) A licensee, on being served a copy of a declaration under subsection (2), must cause a notice in a form approved by the Commission to be posted, and to be kept posted, at each entrance of the licensed premises or part of the licensed premises to which the declaration relates, and at such other places on the licensed premises as the Commission may require.

Maximum penalty:        20 penalty units.

- (4) An offence against subsection (3) is an offence of strict liability.

### **106A      Children on licensed premises**

- (1) A child must not enter or remain on licensed premises or any part of licensed premises that is the subject of a declaration for the purposes of section 106(1)(a).

Maximum penalty:      20 penalty units.

- (2) A child must not enter or remain on licensed premises or any part of licensed premises that is the subject of a declaration for the purposes of section 106(1)(b) unless the child is in the company of an adult who is the child's parent, guardian or spouse.

Maximum penalty:      20 penalty units.

- (2A) An offence against subsection (1) or (2) is an offence of strict liability.

- (2B) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant establishes a reasonable excuse.

- (3) In proceedings for an offence against subsection (1) or (2), evidence that the accused person was required under section 19(5)(e) to provide evidence of the person's age and did not provide, and has not subsequently provided, that evidence, is prima facie evidence that the accused person was a child on the date when the requirement was made.

- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) that the accused person did not know he or she had entered or remained on licensed premises or any part of licensed premises the subject of a declaration under section 106 and that he or she did not have reasonable cause to know that he or she had entered or remained on licensed premises or part of licensed premises the subject of a declaration under section 106.

### **106B      Licensee or employee not to permit child to enter or remain in prohibited area of licensed premises**

- (1) A licensee or employee of a licensee must not permit a child to enter or remain on the licensee's licensed premises contrary to a declaration under section 106.

Maximum penalty:      85 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that:
- (a) the person to whom the liquor was supplied was at least 16 years of age; and
  - (b) before the liquor was supplied to the person, the defendant was provided with a form of identification that may reasonably be accepted as:
    - (i) a form of identification of the person; and
    - (ii) indicating that the person was an adult.

**106BA    Offences about misrepresentation of age by child**

- (1) A child must not, for the purposes of entering or remaining on licensed premises contrary to a declaration under section 106, misrepresent his or her age by:
- (a) oral statements made by the child or someone else; or
  - (b) presenting a form of written identification that purports to relate to the child but is in fact fictitious or relates to someone else; or
  - (c) presenting a form of written identification that is false in a material particular.

Maximum penalty:     50 penalty units.

- (2) A person commits an offence if:
- (a) the person makes a document that could reasonably be taken to be a form of identification of a person; and
  - (b) the form of identification is fictitious or is false in a material particular; and
  - (c) the person is reckless as to whether the form of identification:
    - (i) is fictitious or is false in a material particular; and
    - (ii) would be used to misrepresent the age of a person for a purpose contrary to this Act.

Maximum penalty:     50 penalty units.

- (3) A child must not represent to an Agency or statutory body that he or she has attained the age of 18 years in order to obtain a form of identification if the child intends:
- (a) to use the form of identification for himself or herself for a purpose contrary to this Act; or
  - (b) to give it to another person for a purpose contrary to this Act.

Maximum penalty:     50 penalty units.

- (4) A person must not give a genuine form of identification of the person to someone else if the person is reckless about any of the following circumstances:
- (a) the form of identification may be used to misrepresent the age of a person for a purpose contrary to this Act;
  - (b) the form of identification may be used to obtain another genuine form of identification with the intention of using the other form of identification to misrepresent the age of a person for a purpose contrary to this Act.

Maximum penalty:     50 penalty units.

- (5) A person commits an offence if the person:
- (a) defaces or interferes with a genuine form of identification of the person or someone else; and
  - (b) intends to use the form of identification, as defaced or interfered with, to misrepresent the age of a person for a purpose contrary to this Act.

Maximum penalty:     50 penalty units or imprisonment for 6 months.

- (6) In this section:

***make***, in relation to a document, includes modify an existing document.

***purpose contrary to this Act*** includes:

- (a) a child entering or remaining on licensed premises contrary to a declaration under section 106; and
- (b) a child attempting to purchase liquor from a place (whether or not the child would otherwise be entitled to enter or remain at the place).

**106BB Offences about misrepresentation of identity by purchaser of liquor**

- (1) A person commits an offence if the person:
- (a) purchases liquor from licensed premises for consumption away from the premises; and
  - (b) misrepresents his or her identity by:
    - (i) oral statements made by the person or someone else; or
    - (ii) presenting a form of written identification that purports to relate to the person but is in fact fictitious or relates to someone else; or
    - (iii) presenting a form of written identification that is false in a material particular.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if the person:
- (a) makes a document that could reasonably be taken to be a form of identification of a person; and
  - (b) the form of identification is fictitious or is false in a material particular; and
  - (c) is reckless as to whether the form of identification:
    - (i) is fictitious or is false in a material particular; and
    - (ii) would be used to misrepresent the identity of a person for a purpose contrary to this Act.

Maximum penalty: 50 penalty units.

- (3) A person must not make representations to an Agency or statutory body in order to obtain a form of identification if the person intends:
- (a) to use the form of identification for himself or herself for a purpose contrary to this Act; or
  - (b) to give it to another person for a purpose contrary to this Act.

Maximum penalty: 50 penalty units.

- (4) A person must not give a genuine form of identification of the person to someone else if the person is reckless about any of the following circumstances:
- (a) the form of identification may be used to misrepresent the identity of a person for a purpose contrary to this Act;
  - (b) the form of identification may be used to obtain another genuine form of identification with the intention of using the other form of identification to misrepresent the identity of a person for a purpose contrary to this Act.

Maximum penalty:     50 penalty units.

- (5) A person commits an offence if the person:
- (a) defaces or interferes with a genuine form of identification of the person or someone else; and
  - (b) intends to use the form of identification, as defaced or interfered with, to misrepresent the identity of a person for a purpose contrary to this Act.

Maximum penalty:     50 penalty units or imprisonment for  
6 months.

- (6) In this section:

*make*, in relation to a document, includes modify an existing document.

*purpose contrary to this Act* includes a person purchasing liquor from licensed premises to be consumed away from the premises in circumstances in which the person is not entitled to do so.

#### **106BD    Seizure of document wrongly used as form of identification**

- (1) A person must seize a form of identification if:
- (a) the form of identification is produced to the person for the purpose of someone else (the *document user*):
    - (i) entering or remaining on licensed premises contrary to a declaration under section 106; or
    - (ii) purchasing liquor from licensed premises in circumstances in which the document user is not entitled to do so; and

- (b) the person believes, on reasonable grounds, the form of identification is relevant to a contravention of section 106BA or 106BB whether the form of identification is either:
  - (i) a genuine form of identification about someone else other than the document user; or
  - (ii) a document that is not a genuine form of identification.

Maximum penalty:     20 penalty units.

- (2) The person does not commit an offence under subsection (1) if the person is not aware of the contravention of section 106BA or 106BB involving the production of the form of identification.
- (3) As soon as practicable after seizing a form of identification, the person must tell the document user that the form of identification is seized and must be given to the Director no later than 72 hours after the time of seizure.

Maximum penalty:     20 penalty units.

- (4) If a person seizes a form of identification under subsection (1), the person must give it to the Director as soon as is reasonably practicable and no later than 72 hours after the time of seizure.

Maximum penalty:     20 penalty units.

- (4A) An offence against subsection (3) or (4) is an offence of strict liability.
- (5) A failure to comply with subsection (3) or (4) does not affect the validity of the seizure.
- (6) As soon as the Director is given a form of identification seized under this section, the Director must:
  - (a) consider if it is relevant to a contravention of section 106BA or 106BB; and
  - (b) if the Director does not consider it is relevant – take all reasonable steps to return it to the person to whom it relates.

**106C    Offence relating to irresponsible sale or supply of liquor to children**

- (1) A person must not sell or otherwise supply liquor to a child unless:
  - (a) the person is a responsible adult for the child; and

- (b) the sale or supply is consistent with the responsible supervision of the child.

Maximum penalty:     100 penalty units.

- (2) The following matters must be taken into account in considering whether the sale or supply is consistent with the responsible supervision of the child:

- (a) whether the adult is drunk;
- (b) whether the child is drunk;
- (c) the age of the child;
- (d) whether the child is consuming the liquor with food;
- (e) whether the adult is responsibly supervising the child's consumption of the liquor;
- (f) the quantity of, and the period over which, the liquor was sold or supplied.

- (3) In this section:

*responsible adult*, for a child, means each of the following:

- (a) an adult who is a parent, step-parent or guardian of the child;
- (b) an adult who has parental rights and responsibilities for the child.

**106CA    Sale or supply of liquor to, or consumption or possession of, liquor by children on licensed premises**

- (1) Despite any other provisions of this Act, a person must not:
  - (a) sell or otherwise supply liquor to a child on licensed premises;  
or
  - (b) permit someone else to sell or otherwise supply liquor to a child on licensed premises; or
  - (c) engages in conduct that results in a child being sold or otherwise supplied with liquor, or consuming liquor, on licensed premises.

Maximum penalty:     85 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that:
- (a) the person to whom the liquor was sold or supplied was at least 16 years of age; and
  - (b) before the liquor was sold or supplied to the person, the defendant was provided with a form of identification that may reasonably be accepted as:
    - (i) a form of identification of the person; and
    - (ii) indicating that the person was an adult.
- (3) In addition, it is a defence to a prosecution for an offence against subsection (1) if the defendant is a licensee, or employee of the licensee, who establishes that:
- (a) in the particular circumstances of the alleged offence:
    - (i) the liquor was sold or supplied to an adult who is the child's parent, guardian or spouse and accompanying the child; and
    - (ii) the defendant reasonably expected that adult would ensure compliance with that subsection in relation to the child; or
  - (b) all of the following:
    - (i) the defendant did not personally sell or supply the liquor to the child;
    - (ii) the business of the licensed premises was not conducted in a way that would entice children to consume liquor;
    - (iii) the defendant exercised proper diligence to prevent the sale, supply or consumption of liquor by children in contravention of that subsection.
- (4) A child must not consume, or be in possession of, liquor on licensed premises.

Maximum penalty:        20 penalty units.

- (5) An offence against subsection (4) is an offence of strict liability.

**106D        Definitions of *parent* and *guardian***

In sections 106(1), 106A(2), 106B and 106C, *parent* and *guardian*, in relation to a person who has not attained the age of 18 years, include a person who has attained the age of 18 years to whom the care and control of the first-mentioned person has been given by his parent or guardian (irrespective of the duration).

**106E        Evidence**

In a prosecution for an offence against section 106A, 106B or 106C:

- (a) a certificate purporting to be signed by a person who claims in the certificate to be the Director or a Deputy Director, stating that licensed premises or a specified part of licensed premises was or was not, at a specified time, the subject of a declaration under section 106 and a copy of the declaration was served on the licensee of the licensed premises on a specified day, is prima facie evidence of the facts stated; and
- (b) the onus of proving that the care and control of a person who has not attained the age of 18 years had, at the relevant time, been given to a particular person by his parent or guardian rests on the accused person.

**107        Licence to be kept on premises**

- (1) A licensee must ensure that the licence is kept on or at the premises to which it relates at all times.

Maximum penalty:        20 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that, at the time of the alleged offence, the licence:
  - (a) had been given to the Director; and
  - (b) had not been returned to the defendant.

**108        Licence to be produced on demand**

- (1) A licensee must produce the licensee's licence to an inspector or a police officer on demand made by the inspector or officer on or at the premises to which the licence relates.

Maximum penalty:        20 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that, at the time of the alleged offence, the licence:
  - (a) had been given to the Director; and
  - (b) had not been returned to the defendant.

**109        Permitting breach of *Gaming Control Act***

- (1) A licensee commits an offence if:
  - (a) a person is found guilty of an offence against the *Gaming Control Act*, and
  - (b) the offence occurred on the licensee's licensed premises.

Maximum penalty:        100 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes:
  - (a) that the licensee or, if at the time of the offence the licensee was not on the premises, the person then in charge of the premises, did not know, and could not by the exercise of all practicable diligence have known, that the offence against the *Gaming Control Act* was taking place; or
  - (b) that the offence against the *Gaming Control Act* took place contrary to the will of the licensee or, if the licensee was not at the time on the premises, contrary to the will of the person who was then in charge of the premises, and the licensee or the person so in charge, as the case may be, took all reasonable steps to prevent the offence against the *Gaming Control Act* from taking place.

**110        Licensee must not contravene licence conditions**

A licensee commits an offence if:

- (a) the licensee engages in conduct that results in a contravention of a condition of the licensee's licence; and
- (b) the contravention does not constitute another offence against this Act.

Maximum penalty:        100 penalty units.

### 111        **Licensee to keep record of liquor purchases**

- (1) A licensee must keep a written record for each quarter during which the licensee's licence is in force, of every purchase of liquor for disposal under the licensee's licence.
- (2) The record must be in the form approved by the Director and specify details about:
  - (a) the quantity of liquor purchased; and
  - (b) the date of purchase; and
  - (c) the name and address of the person from whom the liquor was purchased; and
  - (d) the gross price paid or payable for the liquor.
- (3) The licensee must, except with the Commission's permission, retain the record for a quarter for at least 3 years after the date of the last entry in that record.
- (3A) The licensee commits an offence if subsection (1) or (3) is contravened in relation to the licence.  
  
Maximum penalty:        50 penalty units.
- (3B) An offence against subsection (3A) is an offence of strict liability.
- (4) In this section:

***gross price*** includes all duties, taxes, imposts and other charges, not being the cost of freight or packaging for freight, paid or payable for or in connection with liquor regardless of whether the duties, taxes, imposts or other charges are paid or payable together with or separately from the price paid or payable for liquor.

### 112        **Licensee to produce records and other documents**

A licensee must, on request by an inspector on the licensee's licensed premises, produce to the inspector:

- (a) a record kept under section 111; or
- (b) any other documents relating to the licensee's business.

Maximum penalty:        20 penalty units.



- (5) A certificate signed by the Director specifying that a specified person was not registered as a wholesaler of liquor at a specified time is evidence of the matter specified in the certificate.

**114        Registered wholesalers to lodge return**

- (1) A person registered under section 113A must, within 28 days after the end of each quarter, lodge with the Director a return for that quarter that complies with subsection (3).

Maximum penalty:        20 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

- (3) The return must:

- (a) be in the form approved by the Director; and  
(b) specify details about all purchases and sales of liquor made by the person during the quarter.

**Division 2        General matters**

**115        Sale of liquor not authorised by licence**

A person must not sell any liquor unless the sale is authorised by a licence.

Maximum penalty:        250 penalty units or imprisonment for  
12 months.

**116        Purchase of liquor not authorised by licence**

A person must not purchase any liquor unless:

- (a) the sale of the liquor to the person is authorised by a licence;  
or  
(b) the person selling the liquor to the person is licensed, registered or otherwise authorised to sell liquor under a law of a State or another Territory.

Maximum penalty:        100 penalty units.

**117        Children not to supply liquor**

- (1) A licensee must not employ a child to sell or otherwise supply liquor on licensed premises.

Maximum penalty:        85 penalty units.

- (2) Subsection (1) does not apply to a child who is permitted by the Commission to sell or otherwise supply liquor on licensed premises as:
  - (a) an employee of the licensee; or
  - (b) someone undergoing employment training.
- (3) The Commission may give the permission generally or on application by the licensee.

**118 Child not to purchase or collect liquor**

- (1) A person must not send a child to purchase or collect liquor from licensed premises.  
Maximum penalty: 50 penalty units.
- (2) A child must not purchase liquor from licensed premises.  
Maximum penalty: 20 penalty units.
- (3) An offence against subsection (2) is an offence of strict liability.

**Part X Alteration of premises**

**119 Approval of material alteration of licensed premises**

- (1) A licensee must not make a material alteration to the licensee's licensed premises without the Commission's approval.  
Maximum penalty: 100 penalty units.
- (1A) An offence against subsection (1) is an offence of strict liability.
- (2) An application for the approval must be:
  - (a) lodged with the Director; and
  - (b) accompanied by a copy of the plans and specifications for the alteration; and
  - (c) accompanied by evidence which is sufficient to show that the alteration will not result in a contravention of or a failure to comply with a provision of this Act or a law of the Territory which regulates in any manner the sale or consumption of liquor or the location, construction or facilities of premises which are used for such a purpose.

- (3) The Commission may require the applicant to cause a notice of the application to be published:
- (a) in a newspaper or newspapers nominated by the Commission; and
  - (b) within the period specified by the Commission.
- (4) The notice must:
- (a) include a description in sufficient detail to identify the location of the premises in respect of which the application is made; and
  - (b) include a description of the nature of any business associated with the licence that is conducted on those premises; and
  - (c) include details of the material alteration; and
  - (d) contain any other particulars determined by the Commission; and
  - (e) be not less than a size determined by the Commission.
- (5) If the application relates to premises within the area of a shire council, the Director must, as soon as reasonably practicable, inform the CEO of the council that the application has been made.
- (6) Where:
- (a) the Commission does not require the applicant to give notice of the application; or
  - (b) the applicant has given notice as required and no objection to the application is lodged with the Director pursuant to section 47F or such an objection has been dismissed under Part IV,
- the Commission must, as soon as reasonably practicable, consider the application.
- (7) After considering the application, the Commission must, having regard to the objects of this Act:
- (a) approve the material alteration; or
  - (b) refuse to approve the material alteration and direct the Director to forward notice of the refusal together with a statement of the reasons for refusal to the applicant; or
  - (c) conduct a hearing in relation to the application.

- (8) After the Commission has conducted a hearing under Part IV or subsection (7)(c), the Commission must take action of a kind described in subsection (7)(a) or (b) in addition to any action it may take under Part IV.
- (9) The Commission may conduct or cause to be conducted the investigations it considers necessary in relation to the application.
- (10) Where the Commission grants approval of a material alteration, the licensee must not, while the alteration is being made, conduct business on the licensed premises except in accordance with arrangements approved by the Commission.

Maximum penalty: 100 penalty units.

- (11) An offence against subsection (10) is an offence of strict liability.

## 120 Unauthorized alterations

- (1) Where, without the approval of the Commission, a licensee makes a material alteration to the premises to which his licence relates, the Commission may, after giving to the licensee notice of its intention to do so, cause that alteration to be removed from the licensed premises or those premises to be restored to a condition which is satisfactory to the Commission.
- (2) The cost of taking the required action pursuant to subsection (1) shall be a debt due to the Territory by the licensee and be recoverable in a court of competent jurisdiction.

## Part XA Local liquor accords

### 120A Definitions

In this Part:

***accord area*** means an area, as determined under section 120D(2) or (3), to which a local liquor accord applies.

***alcohol-related violence*** includes anti-social behaviour, disorder, harm and violence, including domestic violence as defined in section 5 of the *Domestic and Family Violence Act*, if alcohol is involved in the conduct constituting the behaviour, disorder, harm or violence.

*local liquor accord* means any written code of practice, memorandum of understanding or other arrangement that:

- (a) 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) is made under this Part for the purpose of preventing or reducing alcohol-related violence.

**120B Particular parties may prepare draft local liquor accord**

- (1) A licensee and at least one of the following entities may prepare a draft local liquor accord and give it to the Director for approval:
  - (a) the Director;
  - (b) the Commissioner of Police;
  - (c) a council constituted under the *Local Government Act*;
  - (d) any body or organisation representing commercial or business interests in a local area;
  - (e) a community or residents' group with an interest in preventing or reducing alcohol-related violence or in improving the amenity of a local area;
  - (f) another person, or other body, organisation or group, prescribed by regulation.
- (2) The draft local liquor accord must include each of the following:
  - (a) the name of each party to the draft;
  - (b) the name and address of the coordinator for the local liquor accord (being a party to the draft or the representative of a party to the draft);
  - (c) the proposed area to which the local liquor accord is to apply;
  - (d) another matter prescribed by regulation.

**120C Terms of local liquor accord**

- (1) A local liquor accord may provide for one or more of the following:
- (a) authorising or requiring any licensee who is a party to the accord to do either of the following from a time of day that is earlier than the time at which, as required by the relevant licence, the selling of liquor must cease:
    - (i) to cease or restrict selling liquor (including take-away liquor) on the licensed premises;
    - (ii) to restrict the public's access to the licensed premises in the way and to the extent provided by the accord;
  - (b) authorising or requiring any licensee who is a party to the accord:
    - (i) to prohibit or restrict the use of glass containers; or
    - (ii) to maintain an incident register; or
    - (iii) to install and operate closed-circuit television or another security device; or
    - (iv) to provide security staff; or
    - (v) to charge a particular price for liquor; or
    - (vi) to do any other thing prescribed by regulation as a measure that may be taken to prevent or reduce alcohol-related violence.
- (2) Subsection (1) does not limit other matters that may be included in a local liquor accord.
- (3) Any conduct on the part of any person for the purpose of preparing a draft local liquor accord, for approval of a local liquor accord or for promoting or giving effect to the terms of a local liquor accord, is specifically authorised for the purposes of section 51 of the *Competition and Consumer Act 2010* (Cth).

*Example of conduct for preparing a local liquor accord*

*Holding a meeting to discuss the option of preparing a local liquor accord.*

- (4) Conduct authorised by subsection (3) is authorised only to the extent to which the conduct, so far as it consists of things done to regulate the supply of liquor or in some other respect, would otherwise contravene Part IV of the *Competition and Consumer Act 2010* (Cth).

**120D      Approval, variation and termination of local liquor accord**

- (1) The Director may approve a local liquor accord and the accord takes effect when so approved.
- (2) As part of approving a local liquor accord, the Director must determine the area to which the accord is to apply by taking into account the area proposed in the draft local liquor accord by the parties to the draft and any other relevant matters.
- (3) The Director may, on the Director's own initiative or on application of the parties to a local liquor accord, determine to vary it at any time by written notice to the coordinator of the accord.
- (4) A determination to vary a local liquor accord includes:
  - (a) varying the accord area; and
  - (b) adding or omitting a party to the accord but only if the party added or omitted made a written request to the Director to do so.
- (5) The coordinator of a local liquor accord is to notify the Director if the parties to the accord wish to terminate the accord.
- (6) By written notice to the coordinator of a local liquor accord, the Director may terminate the accord at any time if the Director considers it appropriate to do so, including after considering a notice under subsection (5).

**Part XAB      Banning notices and exclusion orders**

**Division 1      Definitions**

**120E      Definitions**

In this Part:

*banned person* means a person to whom a banning notice applies.

*banning notice* means a notice given under section 120J(1).

*declaration of a designated area* means a declaration made under section 120F(1).

**designated area** means an area of land declared to be a designated area under section 120F(1).

*Note for definition **designated area** relating to the timing of when an area of land becomes a designated area*

*If a person wholly or partially committed an offence in an area and subsequently the area is declared to be a designated area, the offence is not an offence committed in a designated area.*

**enter**, a designated area or licensed premises, includes re-enter the designated area or licensed premises.

**excluded person** means a person to whom an exclusion order applies.

**exclusion order** means an order made under section 120S.

## Division 2      Designated areas

### 120F      Declaration of a designated area

- (1) The Minister may, by *Gazette* notice, declare an area of land to be a designated area if the Minister believes:
  - (a) alcohol-related violence has occurred in a public place in the vicinity of licensed premises within the designated area; and
  - (b) the exercise of powers under Division 3 or 4 in relation to the designated area is reasonably likely to be an effective way of preventing or reducing the occurrence of alcohol-related violence in the area.
- (2) Before making a declaration under subsection (1), the Minister may consult with any person the Minister considers relevant for that purpose including, for example, the Commissioner of Police.
- (3) In this section:

**public place** includes:

- (a) every place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of the place; and
- (b) every place to which the public are admitted on payment of money, the test of the admittance being the payment of the money only; and

- (c) every road, street, footway, court, alley or thoroughfare that the public are allowed to use, even if the road, street, footway, court, alley or thoroughfare is formed on private property.

#### **120G Court proceedings regarding declaration of a designated area**

- (1) In any proceeding in which the validity of a declaration of a designated area is called into question, the court hearing the proceeding must not stay the operation of the declaration pending the final determination of the proceeding, unless the court considers there are exceptional circumstances.
- (2) If a court finds a declaration of a designated area is invalid, the finding does not affect the validity, in relation to any period before that finding, of the following:
  - (a) any banning notice given or exclusion order made in relation to the designated area the subject of the declaration;
  - (b) anything done under this Part in reliance on the banning notice or exclusion order.

#### **120H Variation and revocation of declaration of a designated area**

The Minister, by *Gazette* notice:

- (a) may vary or revoke a declaration of a designated area at any time; but
- (b) must revoke a declaration of a designated area if the Minister believes the grounds for making the declaration no longer exist.

### **Division 3 Banning notices**

#### **120J Police officer may give banning notice**

- (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 a period specified in the notice, from:
  - (a) the designated area; or
  - (b) all licensed premises in the designated area.
- (2) The period specified in the banning notice must not exceed 48 hours starting from the time the notice is given to the person.

- (3) The police officer cannot give a banning notice to a person unless the officer:
- (a) believes, on reasonable grounds, that giving the notice would be an effective and reasonable way of preventing the person from:
    - (i) continuing to commit the specified offence in the designated area; or
    - (ii) committing a further specified offence in the designated area; and
  - (b) considers 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 in the designated area.
- (4) In determining whether there are reasonable grounds for his or her belief as mentioned in subsection (3)(a), the police officer must consider each of the following:
- (a) the apparent state of health of the person to whom the notice is to apply;
  - (b) whether the person is likely to continue to commit the specified offence, or to commit a further specified offence, in the designated area;
  - (c) whether the person should be arrested or held in custody pending the hearing of any charges against the person in relation to the specified offence;
  - (d) whether the person is capable of comprehending the nature and effect of the notice;
  - (e) any other matter the officer considers is relevant.
- (5) Despite anything to the contrary in a banning notice, it does not operate to prevent the banned person from entering or remaining in, or attempting to enter or remain in:
- (a) for a banning notice that bans the person from a designated area – the designated area or licensed premises in the specified designated area for the purpose of the banned person residing in or attending his or her usual place of residence or work in the designated area; or

- (b) for a banning notice that bans the person from all licensed premises in a designated area – licensed premises in the designated area for the purpose of the banned person residing in or attending his or her usual place of residence or work in the licensed premises.
- (6) No more than one banning notice may be given to a person banning the person from a designated area, or all licensed premises in a designated area, in relation to the same specified offence.
- (7) However, a banning notice banning the person from a designated area or all licensed premises in a designated area may be given to a person who is already a banned person under a banning notice for the same designated area or for all licensed premises in the designated area, if the subsequent notice is given in relation to a separate specified offence.

#### **120K Particulars to be included in banning notice**

A banning notice must state each of the following:

- (a) the name of the person to whom the notice applies;
- (b) the specified offence that the police officer who is giving the notice suspects the person is committing or has committed and the grounds for the suspicion;
- (c) the name, rank and place of duty of the police officer giving the notice;
- (d) the designated area in which the notice applies;
- (e) the time when the notice is given to the person and the specified period for which it applies;
- (f) whether the notice bans the person from the designated area or from all licensed premises in the designated area;
- (g) for a notice that bans the person from a designated area – that each of the following applies subject to section 120J(5)(a):
  - (i) the person must not enter the designated area during the specified period;
  - (ii) if the person is in the designated area, the person must leave the designated area in accordance with any direction given by a police officer;

- (iii) it is an offence not to comply with the notice or with a direction given by a police officer to leave the designated area;
- (h) for a notice that bans the person from licensed premises in the designated area – each of the following applies subject to section 120J(5)(b):
  - (i) the person must not enter any licensed premises in the designated area during the specified period;
  - (ii) if the person is in any licensed premises in the designated area, the person must leave the licensed premises in accordance with any direction given by a police officer;
  - (iii) it is an offence not to comply with the notice or with a direction given by a police officer to leave the licensed premises;
- (i) a copy of the notice and, if available, a photograph of the banned person may be provided to licensees of licensed premises in the designated area and persons employed in those premises for the enforcement of the notice;
- (j) the notice may be varied by a police officer, or revoked by the police officer who gave the notice, under section 120M;
- (k) the notice may be revoked under section 120R but only if a request is made under that section to the Commissioner of Police.

#### **120L Requirements before giving banning notice**

- (1) If a police officer intends to give a banning notice to a person, the officer:
  - (a) must produce his or her police identification unless the officer is in uniform; and
  - (b) must inform the person of the officer's intention of giving the notice; and
  - (c) may ask the person to state the person's name and address.
- (2) The person must not:
  - (a) fail to comply with the request without a reasonable excuse; 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 usual place of residence or work.

Maximum penalty: 5 penalty units.

- (2A) An offence against subsection (2) is an offence of strict liability.
- (3) However, the person may ask the police officer to state the officer's name, rank and place of duty.
- (4) The police officer must not:
  - (a) fail to comply with the person's request for the officer's name, rank and place of duty; 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 that is the officer's ordinary place of duty.
- (5) If the person states a name and address in response to a request made under subsection (1) and the police officer suspects, on reasonable grounds, the stated name or address may be false, the officer may ask the person to produce evidence of the correctness of the name and address.
- (6) The person must comply with the request.

Maximum penalty: 5 penalty units.

- (6A) It is a defence to a prosecution for an offence against subsection (6) if the defendant establishes a reasonable excuse.
- (7) It is not an offence for the person to fail to comply with a request made under subsection (1) or (5) 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.
- (8) A contravention of subsection (1) or (4) by a police officer does not constitute an offence against this Act but may be dealt with under the *Police Administration Act*.

#### **120M Variation or revocation of banning notice by police officer**

- (1) A police officer may vary a banning notice at any time by written notice given to the banned person stating the variation.
- (2) However, a banning notice cannot be varied to extend the period for which the notice applies.

- (3) The police officer who gave a banned person a banning notice may revoke it if the police officer considers it appropriate to do so.

*Note for subsection (3)*

*A banned person may also apply to the Commissioner of Police to revoke a banning notice under section 120R.*

## **120N Contravention of banning notice**

- (1) A banned person must not do any of the following in contravention of a banning notice that applies to the person:
- (a) enter a designated area or licensed premises;
  - (b) remain in a designated area or licensed premises;
  - (c) attempt to enter or remain in a designated area or licensed premises.

Maximum penalty: 20 penalty units.

*Note about when the banning notice does not operate to prevent certain actions*

*Under section 120J(5), a banning notice does not operate to prevent a person from entering or remaining in, or from attempting to enter or remain in, a designated area or licensed premises in a designated area for particular purposes. If a person enters or remains in, or attempts to enter or remain in a designated area or licensed premises for one of those purposes, the person does not contravene the banning notice.*

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse.

## **120P Direction to leave designated area or licensed premises**

- (1) This section applies if a police officer believes a banned person is in a designated area or licensed premises in contravention of a section 120N.
- (2) The police officer may direct the banned person to leave the designated area or the licensed premises, including by specifying the way in which the person is to leave.
- (3) The banned person must comply with the direction unless subsection (4) is not complied with.

Maximum penalty: 20 penalty units.

- (3A) An offence against subsection (3) is an offence of strict liability.

- (4) In exercising a power under subsection (2), a police officer must:
  - (a) produce his or her police identification unless the officer is in uniform; and
  - (b) inform the banned person the officer is empowered to give the direction and it is an offence to fail to comply with the direction; and
  - (c) make all reasonable attempts to ensure the banned person understands the direction.
- (5) A direction under subsection (2):
  - (a) may be given orally or in writing; and
  - (b) must be reasonable in all the circumstances.
- (6) A banned person does not contravene subsection (3) if the banning notice does not operate to prevent the person from entering or remaining in, or from attempting to enter or remain in, the designated area or licensed premises as mentioned in section 120J(5).
- (7) A contravention of subsection (4) by a police officer does not constitute an offence against this Act but may be dealt with under the *Police Administration Act*.

#### **120Q Use of reasonable force to remove banned person**

- (1) A police officer may use reasonable force:
  - (a) to prevent a banned person from entering or remaining in, or from attempting to enter or remain in, a designated area or licensed premises contrary to section 120N; and
  - (b) to remove a banned person from a designated area or licensed premises after the person fails to comply with a direction under section 120P(2).
- (2) This section does not limit any powers of arrest a police officer has under any other law.
- (3) Any action taken under this section in relation to a person does not prevent starting proceedings against the person for an offence.

## 120R Revocation of banning notice by Commissioner of Police

- (1) A banned person may, by written notice given to the Commissioner of Police, request the Commissioner to revoke the banning notice for reasons specified in the notice.
- (2) The request does not affect the operation of the banning notice.
- (3) The Commissioner of Police must consider the request and determine whether there are sufficient grounds for revoking the banning notice or it is otherwise appropriate to do so because of special circumstances.

### *Example of circumstances that may constitute special circumstances*

*A person is given a banning notice the night before his or her wedding. The wedding reception is to take place at the licensed premises from which the person is banned. The Commissioner of Police may decide there are special circumstances because of the number of persons attending the reception, the costs involved or the lack of alternative venues.*

- (4) If the Commissioner of Police revokes a banning notice, it ceases to have effect from the time of the revocation.

## Division 4 Exclusion orders

### 120S Making of exclusion order

- (1) A court that finds a person (an **offender**) guilty of a specified offence may make an exclusion order about the offender if the court:
  - (a) is satisfied the specified offence was committed wholly or partly in a designated area; and
  - (b) does not sentence the offender to a term of imprisonment of 12 months or more in relation to the specified offence; and
  - (c) is satisfied that making the exclusion order would be an effective and reasonable way of preventing the offender from committing a further specified offence in the designated area.
- (2) An exclusion order may be made under subsection (1):
  - (a) on the court's own initiative or on application of the Director of Public Prosecutions or a police officer; and
  - (b) despite any other order the court may make relating to the offender in relation to the specified offence.

- (3) In addition to any power of the court of summary jurisdiction to make an exclusion order under subsection (1), but only on application of the Commissioner of Police, the court may make an exclusion order about a person (also an *offender*) for a designated area if the court:
- (a) is satisfied that on at least 3 separate occasions within any period of not more than 24 months before the date of the application – the offender has been given any of the following:
    - (i) a banning notice for a specified offence committed wholly or partly in the designated area;
    - (ii) an infringement notice for a specified offence committed wholly or partly in the designated area, that was not withdrawn or the subject of an election as mentioned in section 21 of the *Fines and Penalties (Recovery) Act*, and
  - (b) is satisfied that making the exclusion order would be an effective and reasonable way of preventing the offender from committing a further specified offence in the designated area.
- (4) The offender need not be charged with a specified offence in order for the Commissioner of Police to make the application mentioned in subsection (3) and for the court of summary jurisdiction to make an exclusion order under that subsection in relation to the offender.
- (5) An exclusion order must exclude the offender from a relevant place for a period specified in the order (a *specified period*) of not more than 12 months.
- (6) In addition, an exclusion order may:
- (a) exclude the offender from the relevant place as specified in the order at all times, or at times specified in the order, during the specified period; and
  - (b) allow the offender to enter the relevant place as specified in the order for specified purposes during the specified period; and
  - (c) be made subject to other conditions as the court considers appropriate.

- (7) In determining whether it is satisfied as mentioned in subsection (1)(c) or (3)(b) in relation to an offender, the court must consider each of the following to the extent it is relevant:
- (a) the nature and gravity of the specified offence for subsection (1) or the specified offences for subsection (3) for which an infringement notice or banning notice is made;
  - (b) whether the offender has previously been found guilty of an offence committed in an area and, at the time of the offence or a later time, the offence is a specified offence and the area is a designated area;
  - (c) whether the offender is or has previously been the subject of an exclusion order or banning notice, or given an infringement notice, for a specified offence committed in a designated area;
  - (d) the likely impact of the exclusion order, if made, on the offender, any victim of the specified offence and public safety and public order;
  - (e) any other matters the court considers relevant.

- (8) In this section:

***relevant place***, in relation to an exclusion order, means:

- (a) a designated area as specified in the order; or
- (b) all licensed premises in a designated area as specified in the order; or
- (c) licensed premises, or licensed premises of a class, in a designated area as specified in the order.

#### **120T Contravention of exclusion order**

- (1) An excluded person must not do any of the following in contravention of an exclusion order that applies to the person:
- (a) enter a designated area or licensed premises;
  - (b) remain in a designated area or licensed premises;
  - (c) attempt to enter or remain in a designated area or licensed premises.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse.

#### **120U Direction to leave designated area or licensed premises**

- (1) This section applies if a police officer believes an excluded person is in a designated area or licensed premises in contravention of section 120T.
- (2) The police officer may direct the excluded person to leave the designated area or the licensed premises, including by specifying the way in which the person is to leave.
- (3) The excluded person must comply with the direction unless subsection (4) is not complied with.

Maximum penalty: 50 penalty units.

- (3A) An offence against subsection (3) is an offence of strict liability.
- (4) In exercising a power under subsection (2), a police officer must:
- (a) produce his or her police identification unless the officer is in uniform; and
  - (b) inform the person the officer is empowered to direct the person to leave the designated area or licensed premises and it is an offence to fail to comply with the direction; and
  - (c) make all reasonable attempts to ensure the excluded person understands the direction.
- (5) A direction under subsection (2):
- (a) may be given orally or in writing; and
  - (b) must be reasonable in all the circumstances.
- (6) A contravention of subsection (4) by a police officer does not constitute an offence against this Act but may be dealt with under the *Police Administration Act*.

#### **120V Use of reasonable force to remove excluded person**

- (1) A police officer may use reasonable force:
- (a) to prevent an excluded person from entering or remaining in, or from attempting to enter or remain in, a designated area or licensed premises contrary to section 120T; and

- (b) to remove an excluded person from a designated area or licensed premises after the person has failed to comply with a direction under section 120U(2).
- (2) This section does not limit any powers of arrest a police officer has under any other law.
- (3) Any action taken under this section in relation to a person does not prevent starting proceedings against the person for an offence.

#### **120W Variation of exclusion order**

- (1) Any of the following may apply for a variation of an exclusion order to the court that made or varied the exclusion order:
  - (a) the person about whom the order is made;
  - (b) the Director of Public Prosecutions;
  - (c) a police officer.
- (2) After considering the application, the court may vary the exclusion order in any way the court considers appropriate if satisfied circumstances have arisen since the making or variation of the order that make it appropriate to vary the order.
- (3) In this section:

*exclusion order* includes an exclusion order as varied under this section.

### **Division 5 General**

#### **120X Disclosure of information for enforcement purposes**

The Director or a police officer may disclose any of the following information to a licensee or an employee of a licensee if the Director or police officer considers it necessary for the effective and efficient enforcement of a banning notice or exclusion order:

- (a) the fact the banning notice or exclusion order has been given or made that bans or excludes the banned person or excluded person from a designated area or licensed premises;
- (b) the name of the banned person or excluded person and, if available, a photograph of the person;
- (c) the period for which the notice or order applies;

- (d) a copy of the notice or order and of any variation or revocation of the notice or order;
- (e) other information about the notice or order that the Director or officer considers appropriate in the circumstances.

**120Y Offence to permit contravention of banning notice or exclusion order**

- (1) A licensee must not knowingly permit a person to whom a banning notice or an exclusion order applies to enter the licensed premises in contravention of the notice or order.

Maximum penalty: 100 penalty units.

- (2) An employee of a licensee must not knowingly permit a person to whom a banning notice or an exclusion order applies to enter the licensed premises in contravention of the notice or order.

Maximum penalty: 50 penalty units.

**120Z Annual report by Commissioner of Police**

- (1) The Commissioner of Police must give a report to the Minister in relation to each financial year that includes:
  - (a) for banning notices, the following information:
    - (i) the number of banning notices given during the year;
    - (ii) the number of persons to whom banning notices were given during the year;
    - (iii) the number of banning notices given during the year to each person who was given more than one banning notice during the year;
    - (iv) the suspected specified offences for which banning notices were given during the 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 the year;
    - (vii) whether any of the persons to whom banning notices were given during the year identified themselves as an Aboriginal person and, if any, the number of persons;

- (viii) the number of banning notices given during the year for each designated area or for licensed premises in each designated area;
  - (ix) the number of persons charged with an offence against section 120N or 120P(3) during the year and the results of those charges;
  - (x) the number of contraventions of section 120N or 120P(3) recorded by police officers during the year for which no charges were laid; and
- (b) for exclusion orders, the following information:
- (i) the number of applications for exclusion orders made by police officers during the year;
  - (ii) the number of exclusion orders made during the year;
  - (iii) the number of persons in relation to whom exclusion orders were made during the year;
  - (iv) the number of exclusion orders made during the year for each person for whom more than one exclusion order was made during the year;
  - (v) the specified offences for which exclusion orders were made during the year;
  - (vi) the designated areas in which those offences were committed;
  - (vii) the ages of the persons for whom exclusion orders were made during the year;
  - (viii) whether any of the persons for whom exclusion orders were made during the year identified themselves as an Aboriginal person and, if any, the number of persons;
  - (ix) the number of exclusion orders made during the year for each designated area or for licensed premises in each designated area;
  - (x) the number of persons charged with an offence against section 120T or 120U(3) during the year and the results of those charges;
  - (xi) the number of contraventions of section 120T or 120U(3) recorded by police officers during the year for which no charges were laid.

- 
- (2) The Commissioner of Police must collect the information necessary to enable reports to be prepared under subsection (1).
  - (3) The Commissioner of Police must give 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 table a copy of the report in the Legislative Assembly within 7 sitting days after the Minister receives the report.
  - (5) In this section:

*Minister* means the Minister administering the *Police Administration Act*.

## Part XI                    Miscellaneous

### 121            Power to exclude or remove persons

- (1) A licensee or employee of the licensee must, or an inspector or police officer may, exclude or remove a person, not being a bona fide resident of the licensee's licensed premises, from the licensed premises if the person is drunk, violent, quarrelsome, disorderly or incapable of controlling his or her behaviour.
- (1AA) A licensee or an employee of a licensee must not contravene subsection (1) in relation to the licensee's licensed premises.  
  
Maximum penalty:        100 penalty units.
- (1AB) An offence against subsection (1AA) is an offence of strict liability.
- (1AC) It is a defence to a prosecution for an offence against subsection (1AA) if the defendant establishes a reasonable excuse.
- (1A) A licensee, an employee of the licensee, an inspector or a police officer may exclude or remove from the licensee's licensed premises:
  - (a) a bona fide resident of the premises, if that resident is drunk, violent, quarrelsome, disorderly or incapable of controlling his or her behaviour; or
  - (b) subject to any other law in force in the Territory, any person (including a bona fide resident), if the presence or continued presence of the person on or at the premises would or might:
    - (i) render the licensee liable to a penalty under this Act or any other law in force in the Territory; or

- 
- (ii) in the opinion of the licensee or employee, disrupt the business of the licensee or unreasonably interfere with the wellbeing of other persons lawfully on the premises; or
  - (c) for or during a period not exceeding 12 months from the time a person was found guilty of an offence relating to the possession or supply of a drug on licensed premises, that person.
- (2) A person to whom subsection (1) or (1A) is applicable must immediately leave licensed premises on being requested to do so by the licensee, an employee of the licensee, an inspector or a police officer.

Maximum penalty: 20 penalty units.

- (2A) An offence against subsection (2) is an offence of strict liability.
- (3) A police officer must, on the demand of the licensee, an employee of the licensee or an inspector remove or assist in removing from licensed premises a person who has been requested by the licensee, an employee of the licensee or an inspector in accordance with subsection (2), to leave the premises.
- (4) A licensee, employee of a licensee, inspector or police officer exercising a power under this section may use such force as is reasonably necessary for the purpose.
- (5) A person may be excluded or removed from licensed premises even if the person is a member of an incorporated association that is the licensee in respect of the licensed premises.

**121A Returning to licensed premises after being excluded or removed from licensed premises**

- (1) If a person is excluded or removed from licensed premises under section 121, the person must not re-enter, or attempt to re-enter, the licensed premises within 12 hours after the time the person left, or was removed from, the licensed premises under that section.

Maximum penalty: 20 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

---

**122 Prohibition notice**

- (1) This section applies if the SMART Court gives the Director a copy of a SMART order under section 23(c) of the *Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act*.
- (2) The Director must give all relevant licensees a prohibition notice relating to the prohibition order.
- (3) The prohibition notice must include the following information:
  - (a) the details of the SMART order relevant to the licensee, including the name of the prohibited person and the period the order is to remain in force;
  - (b) a statement that the licensee must take all reasonable steps to ensure:
    - (i) the prohibited person is not permitted to enter or remain on the licensed premises except in accordance with conditions of the SMART order; and
    - (ii) no liquor is sold or supplied at the licensed premises to the prohibited person except in accordance with conditions of the SMART order;
  - (c) a statement that a contravention of the prohibition notice is a contravention of the condition of the licence imposed by section 31(6);
  - (d) any information the SMART Court has directed in the SMART order must be included in the prohibition notice.
- (4) The prohibition notice may include further information the Director considers appropriate in the circumstances, including information to assist the relevant licensees to comply with the prohibition notice.
- (5) In this section:

***prohibited person*** means the person in respect of whom the SMART order is made.

***relevant licensees*** means the following:

- (a) any licensees the SMART Court has directed in the SMART order must be notified;
- (b) any other licensees the Director considers most likely to be affected by the SMART order.

---

**122A Duplicate licences, special licences and permits**

- (1) The Commission may issue a duplicate licence, special licence or permit to its holder if the Commission is satisfied the licence, special licence or permit has been destroyed, lost or stolen.
- (2) The Commission may do so only on application of the holder of the licence, special licence or permit that is accompanied by a fee of:
  - (a) \$2; or
  - (b) if another amount is prescribed by regulation – that amount.

**123 Return of licence, special licence or permit to Director**

- (1) If the Commission cancels or suspends a licence, or revokes a special licence or permit, its holder must return it to the Director as directed by the Commission.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) If the suspension of a licence is revoked, the Director must return it to its holder.

**123A Prosecution of licensee for actions of employee**

Where the actions of a person employed by a licensee would constitute an offence against this Act, the licensee may be prosecuted for the offence (whether or not the person employed is also prosecuted) as if the licensee had personally performed those actions.

**124 Limitation of power to take disciplinary action or action relating to an offence**

- (1) The Commission cannot take disciplinary action against a licensee for a contravention of this Act if:
  - (a) an infringement notice for an offence against this Act in relation to that contravention has been issued to the licensee; or
  - (b) proceedings for an offence against this Act in relation to that contravention have commenced in a court.
- (2) Subsection (1) does not apply if:
  - (a) the infringement notice has been withdrawn; or

- (b) the proceedings have been discontinued.
- (3) If the Commission has taken disciplinary action against a licensee for a contravention of this Act:
- (a) an infringement notice for an offence against this Act constituted by that contravention must not be issued to the licensee; and
  - (b) proceedings for an offence against this Act constituted by that contravention must not commence or continue in a court.

#### **124A Averments in complaints**

In any proceedings for an offence against this Act or the regulations an averment by the prosecutor in a complaint or information that:

- (a) a specified person was or was not, at a specified time, the holder of a licence; or
- (b) specified premises were or were not, at a specified time, licensed premises; or
- (c) a specified liquid is or is not liquor, or is or is not a type of liquor,

is evidence of the facts averred.

#### **124B Results of breath analysis as evidence**

In proceedings for an offence against this Act in which the question of whether a person was or was not drunk is in issue, the result of a breath analysis, by the use of a breath analysis instrument prescribed for the purposes of the *Traffic Act*, is admissible and is prima facie evidence of the person having, at the time the sample of breath to be analysed was taken, a concentration of alcohol in his or her breath not less than the concentration assessed by the analysis.

#### **125 Delivery of documents by post**

Subject to the section 47F(5) and the Regulations, a document that is required or permitted to be given or delivered to, or lodged with a person, may be given, delivered or lodged, as the case may be, by post.

**125A Guidelines**

- (1) The Commission may, with the Minister's approval, make guidelines in relation to the operation and administration of this Act.
- (2) Without limiting subsection (1), the guidelines may relate to any of the following matters:
  - (a) the provision of assistance to licensees, persons who may apply for a licence or special licence and members of the public;
  - (b) complaints and disciplinary actions against licensees;
  - (c) determining whether a person is drunk for this Act.
- (3) The Commission must publish the guidelines in a way decided by the Commission.

**126 Commission may determine on procedures**

Subject to this Act, the Commission may determine the manner in which the business of the Commission will be conducted and the forms or contents of applications, licences, special licences, permits, notices, returns and other documents required by or for the purposes of this Act.

**127 Commission may extend or abridge time**

- (1) Where this Act provides that an act or thing may or is required to be done:
  - (a) within a specified time; or
  - (b) not before the expiration of a specified time,the Commission may, in its discretion, extend or abridge that time.
- (2) The Commission may extend time under subsection (1) notwithstanding that the time prescribed by this Act for the doing of an act or thing has expired.

**127A Licence etc. not personal property**

For section 8(1)(k) of the *Personal Property Securities Act 2009* (Cth), each of the following is not personal property for that Act:

- (a) a licence;
- (b) a special licence;

- (c) a permit.

*Note for section 127A*

*A law of the Commonwealth, a State or a Territory may declare a right, licence or authority granted by or under that law not to be personal property for the Personal Property Securities Act 2009 (Cth).*

## **128 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to this Act.
- (2) Without limiting the generality of subsection (1), the Regulations may make provision for:
  - (a) restriction of the days when and times during which licensed premises may be open for the sale of liquor for consumption away from the premises; and
  - (b) authorizing the Commission to permit a licensee to sell at times other than those prescribed in the Regulations liquor for consumption away from the premises and to endorse that licensee's licence accordingly, where it is satisfied that liquor sold at such times is not likely to be consumed in public or to lead to public drunkenness; and
  - (c) prohibiting or regulating the quantities or kinds of liquor that may be sold at licensed premises, whether at all licensed premises or at specified licensed premises or at specified types of licensed premises; and
  - (d) providing for the Commission, in exercising its powers and performing its functions, to take into account any prescribed general policy directions relating to that exercise or performance; and
  - (e) prohibiting or regulating the giving of credit for the purchase of liquor from licensed premises; and
  - (f) categories of licences and the conditions to which those licenses may be subject; and
  - (g) fees to be charged in relation to applications or permits referred to in or under this Act.

(3) The Regulations may:

- (a) for an offence against the Regulations, prescribe a fine not exceeding:
  - (i) if the offender is a natural person – 100 penalty units; or
  - (ii) if the offender is a body corporate – 500 penalty units; and
- (b) provide for:
  - (i) the payment of a prescribed amount instead of a penalty that may otherwise be imposed for an offence against this Act; and
  - (ii) the service of a notice relating to payment of the amount on a person alleged to have committed the offence; and
  - (iii) the particulars to be included in the notice.

**128A Acquisitions to be on just terms**

Where the application of a provision of this Act or a regulation made under it would, but for this section, result in an acquisition of property otherwise than on just terms, the person from whom the property is acquired shall be entitled to receive just compensation for the acquisition, and a court of competent jurisdiction may determine the amount of the compensation or make such order as, in its opinion, is necessary to ensure that the acquisition is on just terms.

## **Part XII Transitional matters for Liquor Act 1978**

**130 Saving of inspectors' appointments**

An inspector appointed under the repealed Ordinance shall continue in office as if this Act had been in force when he was appointed and as if he were appointed under this Act.

**132 References to repealed Ordinance**

A reference in a law of the Territory to the repealed Ordinance or a provision of the repealed Ordinance shall, unless the context is such that it would be inappropriate or the contrary intention appears, be construed as a reference to this Act or the corresponding provision of this Act, as the case requires.

## Part XIII Transitional matters for Antisocial Behaviour (Miscellaneous Amendments) Act 2006

### 133 Definitions

In this Part:

*amendment Act* means the *Antisocial Behaviour (Miscellaneous Amendments) Act 2006*.

*existing prohibition order* means a prohibition order in force under repealed section 122.

*repealed section 122* means section 122 as in force immediately before the commencement of section 7 of the amendment Act.

### 134 Condition of licence relating to prohibition notice

The condition of a licence imposed by section 31(6) applies even if the licence was in force before the commencement of section 5 of the amendment Act.

### 135 Continued application of existing prohibition order

An existing prohibition order continues in force in accordance with the terms of the order.

### 136 Continued application of repealed section 122

Repealed section 122 continues to apply in relation to a person the subject of a matter or application before a court or the Local Court under the section immediately before the commencement of section 7 of the amendment Act.

## Part XIV Transitional matters for Liquor Amendment Act 2006

### 137 Savings – restricted areas

- (1) A declaration of a restricted area in force immediately before the commencement of the *Liquor Amendment Act 2006* (the *commencement*) has effect as if it were a declaration of a general restricted area.
- (2) Anything done for the declaration has effect as if it had been done for a declaration of a general restricted area.

- (3) An application for a declaration of a restricted area that was not decided immediately before the commencement has effect as if it were an application for a declaration of a general restricted area.
- (4) Anything done for the application has effect as if it had been done for an application for a declaration of a general restricted area.

## **Part XV                    Transitional matters for Liquor Legislation Amendment Act 2007**

### **138            Savings – permit**

- (1) This section applies if:
  - (a) a permit is in force in relation to a general or public restricted area; and
  - (b) the declaration of the restricted area is suspended because of section 101AD.
- (2) The permit has force, during the suspension, as if it had been issued under section 101AJ.

### **139            Savings – licence**

- (1) This section applies if:
  - (a) a licence or special licence is in force in relation to premises in a general or public restricted area; and
  - (b) the declaration of the restricted area is suspended because of section 101AD.
- (2) The licence has force, during the suspension, as if any provisions for the licence relating to the general or public restricted area were related to the special restricted area giving rise to the suspension.

**Part XVI Transitional provisions for Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act 2011**

**140 Definition**

In this Part:

*alcohol intervention order* means an alcohol intervention order to which the *Alcohol Court Act* continues to apply, as mentioned in section 41 of the *Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act*.

*commencement day* means the day on which section 44 of the *Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act* commences.

*prohibition order* means a prohibition order to which the *Alcohol Court Act* continues to apply, as mentioned in section 41 of the *Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act*.

**141 Identification system**

On and after the commencement day, section 31A continues to apply in relation to a prohibition order or alcohol intervention order as if a reference in section 31A(2)(a) to a SMART order were a reference to a prohibition order or alcohol intervention order.

**142 Prohibition notice**

On and after the commencement day, section 122 continues to apply in relation to a prohibition order as if a reference in that section to a SMART order were a reference to a prohibition order.

**Part XVII Transitional matters for Alcohol Reform (Liquor Legislation Amendment) Bill 2011**

**143 Definition**

In this Part:

*amending Act* means the *Alcohol Reform (Liquor Legislation Amendment) Act 2011*.

**144 Application of new Part VII**

Part VII as inserted by the amending Act does not apply to a matter that forms the ground for a complaint or disciplinary action arising before the commencement of this section.

**145 Savings – guidelines**

- (1) The guidelines in force under section 67 immediately before the commencement of this section continue as if they were guidelines made and published under section 125A.
- (2) The date on which the guidelines were published under section 67 is taken to be the date of their publication under 125A.

---

**ENDNOTES**
**1 KEY**

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
<i>Gaz</i> = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

**2 LIST OF LEGISLATION*****Liquor Act 1978 (Act No. 10, 1979)***

Assent date	22 January 1979
Commenced	12 February 1979 ( <i>Gaz</i> No. 6, 9 February 1979, p 4)

***Liquor Act 1979 (Act No. 23, 1979)***

Assent date	27 March 1979
Commenced	27 March 1979

***Remuneration (Statutory Bodies) Act 1979 (Act No. 9, 1980)***

Assent date	14 January 1980
Commenced	8 February 1980 ( <i>Gaz</i> G6, 8 February 1980, p 6)

***Liquor Act 1980 (Act No. 35, 1980)***

Assent date	19 March 1980
Commenced	19 March 1980

***Statute Law Revision Act 1980 (Act No. 6, 1981)***

Assent date	9 January 1981
Commenced	9 January 1981

***Liquor Amendment Act 1981 (Act No. 33, 1981)***

Assent date	30 March 1981
Commenced	30 March 1981

***Liquor Amendment Act (No. 2) 1981 (Act No. 88, 1981)***

Assent date	21 September 1981
Commenced	21 September 1981

***Liquor Amendment Act (No. 3) 1981 (Act No. 110, 1981)***

Assent date	24 December 1981
Commenced	1 January 1982 (s 2)

***Liquor Amendment Act 1982 (Act No. 12, 1982)***

Assent date 8 April 1982  
 Commenced 8 April 1982

***Liquor Amendment Act (No. 2) 1982 (Act No. 93, 1982)***

Assent date 14 December 1982  
 Commenced 17 December 1982 (*Gaz* S35, 17 December 1982)

***Criminal Law (Regulatory Offences) Act 1983 (Act No. 68, 1983)***

Assent date 28 November 1983  
 Commenced 1 January 1984 (s 2, s 2 *Criminal Code Act 1983* (Act No. 47, 1983), *Gaz* G46, 18 November 1983, p 11 and *Gaz* G8, 26 February 1986, p 5)

***Liquor Amendment Act 1984 (Act No. 39, 1984)***

Assent date 25 September 1984  
 Commenced 8 May 1985 (*Gaz* G18, 8 May 1985, p 7)

***Public Service and Statutory Authorities Amendment Act 1985 (Act No. 28, 1985)***

Assent date 26 June 1985  
 Commenced 26 June 1985

***Statute Law Revision Act 1985 (Act No. 49, 1985)***

Assent date 1 October 1985  
 Commenced 1 October 1985

***Liquor Amendment Act 1986 (Act No. 29, 1986)***

Assent date 14 July 1986  
 Commenced 1 October 1986 (*Gaz* G39, 1 October 1986, p 4)

***Liquor Amendment Act (No. 2) 1986 (Act No. 40, 1986)***

Assent date 19 September 1986  
 Commenced 1 October 1986 (s 2, s 2 *Racing, Gaming and Liquor Commission Act 1986* (Act No. 39, 1986) and *Gaz* S70, 1 October 1986, p 1)

***Liquor Amendment Act 1988 (Act No. 47, 1988)***

Assent date 20 October 1988  
 Commenced 20 October 1988

***Liquor Amendment Act (No. 2) 1988 (Act No. 62, 1988)***

Assent date 15 December 1988  
 Commenced 18 January 1989 (*Gaz* G2, 18 January 1989, p 5)

***Liquor Amendment Act 1989 (Act No. 67, 1989)***

Assent date 16 November 1989  
 Commenced 20 December 1989 (*Gaz* G50, 20 December 1989, p 8)

***Liquor Amendment Act 1990 (Act No. 61, 1990)***

Assent date 14 December 1990  
 Commenced 14 December 1990

***Liquor Amendment Act (No. 2) 1990 (Act No. 62, 1990)***

Assent date 14 December 1990  
 Commenced 20 February 1991 (*Gaz* G7, 20 February 1991, p 2)

---

***Liquor Amendment Act 1991 (Act No. 13, 1991)***

Assent date 3 June 1991  
Commenced 1 July 1991 (s 2)

***Liquor Amendment Act 1992 (Act No. 1, 1992)***

Assent date 13 March 1992  
Commenced 1 April 1992 (*Gaz* S19, 30 March 1992)

***Liquor Amendment Act (No. 2) 1992 (Act No. 55, 1992)***

Assent date 24 September 1992  
Commenced 24 September 1992

***Liquor Amendment Act 1993 (Act No. 24, 1993)***

Assent date 24 June 1993  
Commenced 24 June 1993

***Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)***

Assent date 30 June 1993  
Commenced 1 July 1993 (s 2, s 2 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993) and *Gaz* S53, 29 June 1993)

***Liquor Amendment Act (No. 2) 1993 (Act No. 46, 1993)***

Assent date 27 September 1993  
Commenced 27 September 1993

***Statute Law Revision Act (No. 2) 1993 (Act No. 70, 1993)***

Assent date 9 November 1993  
Commenced 9 November 1993

***Liquor Amendment Act (No. 3) 1993 (Act No. 75, 1993)***

Assent date 23 November 1993  
Commenced 6 December 1993 (*Gaz* S97, 6 December 1993)

***Local Government (Consequential Amendments) Act 1993 (Act No. 84, 1993)***

Assent date 31 December 1993  
Commenced 1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and *Gaz* S35, 20 May 1994)

***Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)***

Assent date 21 March 1995  
Commenced 1 April 1995 (s 2, s 2 *Financial Management 1995* (Act No. 4, 1995) and *Gaz* S13, 31 March 1995)

***Liquor Amendment Act 1996 (Act No. 20, 1996)***

Assent date 17 June 1996  
Commenced 17 June 1996

***Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)***

Assent date 19 April 1996  
Commenced 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

***Statute Law Revision Act 1996 (Act No. 42, 1996)***

Assent date 17 September 1996  
Commenced 17 September 1996

***Statute Law Revision Act 1999 (Act No. 27, 1999)***

Assent date 18 June 1999  
 Commenced 18 June 1999

***Liquor Amendment Act 1999 (Act No. 70, 1999)***

Assent date 17 December 1999  
 Commenced 14 February 2000 (s 2, s 2 *Northern Territory Licensing Commission Act 1999* (Act No. 67, 1999) and *Gaz G5*, 9 February 2000, p 6)

***Statute Law Revision Act 2001 (Act No. 3, 2001)***

Assent date 22 March 2001  
 Commenced 22 March 2001

***Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)***

Assent date 29 June 2001  
 Commenced 15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and *Cth Gaz S285*, 13 July 2001)

***Misuse of Drugs (Consequential Amendments) Act 2002 (Act No. 33, 2002)***

Assent date 16 July 2002  
 Commenced 1 August 2002 (*Gaz G30*, 31 July 2002, p 4)

***Statute Law Revision Act (No. 2) 2002 (Act No. 59, 2002)***

Assent date 7 November 2002  
 Commenced 7 November 2002

***Liquor Amendment Act 2002 (Act No. 76, 2002)***

Assent date 11 December 2002  
 Commenced 24 January 2003 (*Gaz G3*, 22 January 2003, p 4)

***Liquor Amendment Act 2003 (Act No. 8, 2004)***

Assent date 7 January 2004  
 Commenced 1 September 2004 (*Gaz G35*, 1 September 2004, p 2)

***Liquor Amendment Act 2004 (Act No. 14, 2004)***

Assent date 15 March 2004  
 Commenced 5 May 2004 (*Gaz G18*, 5 May 2004, p 5)

***Statute Law Revision Act (No. 2) 2004 (Act No. 54, 2004)***

Assent date 15 September 2004  
 Commenced 27 October 2004 (*Gaz G43*, 27 October 2004, p 3)

***Police Administration Amendment (Powers and Liability) Act 2005 (Act No. 11, 2005)***

Assent date 17 March 2005  
 Commenced 20 April 2005 (*Gaz G16*, 20 April 2005, p. 5)

***Statute Law Revision Act 2005 (Act No. 44, 2005)***

Assent date 14 December 2005  
 Commenced 14 December 2005

***Antisocial Behaviour (Miscellaneous Amendments) Act 2006 (Act No. 2, 2006)***

Assent date 8 March 2006  
 Commenced 14 June 2006 (*Gaz G24*, 14 June 2006, p 3)

***Liquor Amendment Act 2006 (Act No. 27, 2006)***

Assent date 19 September 2006  
Commenced 19 September 2006

***Statute Law Revision Act 2007 (Act No. 4, 2007)***

Assent date 8 March 2007  
Commenced 8 March 2007

***Liquor Legislation Amendment Act 2007 (Act No. 14, 2007)***

Assent date 4 September 2007  
Commenced ss 9 to 11: 15 November 2007 (*Gaz S34*, 15 November 2007); s 20 (to extent it ins s 140): nc; rem: 14 September 2007 (*Gaz S27*, 14 September 2007)

***Liquor Legislation Amendment Act 2008 (Act No. 11, 2008)***

Assent date 23 May 2008  
Commenced s 5: 31 March 2008 (s 2(2), r 2 *Liquor Amendment Regulations 2007* and *Gaz G11*, 19 March 2008, p 3); rem: 23 June 2008 (*Gaz G24*, 18 June 2008, p 6)

***Local Government (Consequential Amendments) Act 2008 (Act No. 28, 2008)***

Assent date 14 November 2008  
Commenced 1 July 2008 (s 2)

***Statute Law Revision Act 2009 (Act No. 25, 2009)***

Assent date 1 September 2009  
Commenced 16 September 2009 (*Gaz G37*, 16 September 2009, p 3)

***Liquor Legislation Amendment Act 2010 (Act No. 17, 2010)***

Assent date 20 May 2010  
Commenced 1 July 2010 (*Gaz G25*, 23 June 2010, p 2)

***Health Practitioner (National Uniform Legislation) Implementation Act 2010 (Act No. 18, 2010)***

Assent date 20 May 2010  
Commenced 1 July 2010 (s 2)

***Personal Property Securities (National Uniform Legislation) Implementation Act 2010 (Act No. 30, 2010)***

Assent date 9 September 2010  
Commenced ss 58 to 60: nc; rem: 25 November 2011 (*Gaz S68*, 25 November 2011)

***Consumer Affairs and Fair Trading Amendment (National Uniform Legislation) Act 2010 (Act No. 41, 2010)***

Assent date 8 December 2010  
Commenced 1 January 2011 (*Gaz S71*, 20 December 2010)

***Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)***

Assent date 18 November 2010  
Commenced 1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz G7*, 16 February 2011, p 4)

***Alcohol Reform (Liquor Legislation Amendment) Act 2011 (Act No. 17, 2011)***

Assent date 20 May 2011  
Commenced 1 July 2011 (*Gaz G23*, 8 June 2011, p 6)

---

***Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act 2011 (Act No. 19, 2011)***

Assent date 20 May 2011  
 Commenced 1 July 2011 (*Gaz* G23, 8 June 2011, p 6)

***Traffic and Other Legislation Amendment Act 2011 (Act No. 22, 2011)***

Assent date 22 August 2011  
 Commenced 1 September 2011 (*Gaz* G35, 31 August 2011, p 9)

***Statute Law (Miscellaneous Provisions) Act 2011 (Act No. 44, 2011)***

Assent date 21 December 2011  
 Commenced 27 January 2012 ((other than amdts to *Darwin Port Corporation Act* and *Marine Act* listed in the Sch to Act) *Gaz* S3, 27 January 2012))

**3 SAVINGS AND TRANSITIONAL PROVISIONS**

s 5 *Liquor Amendment Act 1982* (Act No. 12, 1982)  
 s 10 *Liquor Amendment Act 1984* (Act No. 39, 1984)  
 s 28 *Liquor Amendment Act 1989* (Act No. 67, 1989)  
 s 3 *Liquor Amendment Act 1990* (Act No. 61, 1990)  
 s 7 *Liquor Amendment Act 1999* (Act No. 70, 1999)  
 s 11 *Liquor Amendment Act 2002* (Act No. 76, 2002)  
 sch 2 *Liquor Amendment Act 2004* (Act No. 14, 2004)

**4 LIST OF AMENDMENTS**

It amd No. 14, 2004, s 4  
 s 3 sub No. 14, 2004, s 5  
 s 4 amd No. 39, 1984, s 4; No. 40, 1986, s 4; No. 67, 1989, s 4; No. 13, 1991, s 4; No. 84, 1993, s 6; No. 42, 1996, s 3; No. 70, 1999, s 4; No. 14, 2004, s 6; No. 2, 2006, s 4; No. 27, 2006, s 3; No. 14, 2007, s 4; No. 28, 2008, s 3; No. 17, 2010, s 4; No. 17, 2011, s 4  
 s 5 amd No. 35, 1980, s 3; No. 33, 1981, s 3; No. 44, 2005, s 22; No. 18, 2010, s 89; No. 17, 2010, s 13  
 pt II  
 div 1 hdg rep No. 40, 1986, s 5  
 ins No. 13, 1991, s 5  
 rep No. 70, 1999, s 5  
 s 6 rep No. 40, 1986, s 5  
 ins No. 13, 1991, s 5  
 amd No. 28, 1993, s 3; No. 5, 1995, s 19  
 rep No. 70, 1999, s 5  
 ins No. 14, 2004, s 7  
 s 7 amd No. 35, 1980, s 4; No. 93, 1982, s 4  
 rep No. 40, 1986, s 5  
 ins No. 13, 1991, s 5  
 amd No. 28, 1993, s 3  
 rep No. 70, 1999, s 5  
 ins No. 17, 2011, s 5

## ENDNOTES

---

- s 8           amd No. 93, 1982, s 5  
              rep No. 40, 1986, s 5  
              ins No. 13, 1991, s 5  
              amd No. 28, 1993, s 3  
              rep No. 70, 1999, s 5  
              ins No. 17, 2011, s 5
- s 9           amd No. 9, 1980, s 6; No. 28, 1985, s 9  
              rep No. 40, 1986, s 5  
              ins No. 13, 1991, s 5  
              rep No. 70, 1999, s 5
- s 10          rep No. 40, 1986, s 5  
              ins No. 13, 1991, s 5  
              rep No. 70, 1999, s 5
- s 11          amd No. 28, 1985, s 9  
              rep No. 40, 1986, s 5  
              ins No. 13, 1991, s 5  
              rep No. 70, 1999, s 5
- ss 12 – 13   rep No. 40, 1986, s 5  
              ins No. 13, 1991, s 5  
              rep No. 70, 1999, s 5
- ss 13A – 13C ins No. 13, 1991, s 5  
              rep No. 70, 1999, s 5
- ss 14 – 16   rep No. 70, 1999, s 5
- s 17          amd No. 23, 1979, s 3  
              rep No. 70, 1999, s 5
- pt II
- div 3 hdg   sub No. 67, 1989, s 13  
              amd No. 70, 1999, s 6
- s 18          amd No. 70, 1999, s 6
- s 19          amd No. 35, 1980, s 5; No. 67, 1989, s 5; No. 62, 1990, s 4; No. 17, 2010,  
              s 13
- s 20          amd No. 40, 1986, s 6
- s 21          amd No. 35, 1980, s 6  
              rep No. 40, 1986, s 7
- s 22          amd No. 70, 1999, s 6; No. 27, 2006, s 4
- s 23          amd No. 40, 1986, s 8; No. 11, 2005, s 23
- s 23A        ins No. 14, 2004, s 8
- s 25          amd No. 88, 1981, s 3; No. 67, 1989, s 6; No. 17, 2001, s 11; No. 76, 2002,  
              s 4
- s 26          amd No. 67, 1989, s 7; No. 70, 1999, s 6; No. 14, 2004, s 9
- s 26A        ins No. 1, 1992, s 4  
              amd No. 17, 2001, s 11  
              sub No. 14, 2004, s 10  
              amd No. 17, 2010, s 13
- s 27          amd No. 93, 1982, s 6; No. 67, 1989, s 8; No. 70, 1999, s 6; No. 28, 2008, s 3
- s 28          sub No. 14, 2004, s 11
- s 29          amd No. 67, 1989, s 9; No. 70, 1999, s 6; No. 76, 2002, s 5; No. 14, 2004,  
              s 23
- s 30          amd No. 39, 1984, s 5  
              sub No. 67, 1989, s 10  
              amd No. 24, 1993, s 2
- pt III
- div 2 hdg   amd No. 67, 1989, s 13  
              sub No. 14, 2007, s 5
- s 31          amd No. 12, 1982, s 3; No. 67, 1989, s 11; No. 1, 1992, s 5; No. 14, 2004,  
              s 23; No. 2, 2006, s 5; No. 17, 2010, s 13; No. 17, 2011, s 6
- s 31A        ins No. 11, 2008, s 4  
              amd No. 17, 2011, s 7; No. 19, 2011, s 44

## ENDNOTES

---

s 32	amd No. 67, 1989, s 12 sub No. 14, 2004, s 12 amd No. 14, 2007, s 6
s 32A	ins No. 14, 2004, s 12 amd No. 54, 2004, s 7; No. 28, 2008, s 3; No. 17, 2010, s 13
s 33	amd No. 70, 1999, s 6; No. 14, 2007, s 7
pt III	
div 2AA hdg	ins No. 14, 2007, s 8
s 33AA	ins No. 14, 2007, s 8
pt III	
div 2A hdg	ins No. 8, 2004, s 4 amd No. 14, 2007, s 9
s 33A	ins No. 8, 2004, s 4 amd No. 41, 2010, s 30
s 33B	ins No. 8, 2004, s 4
s 33C	ins No. 8, 2004, s 4 amd No. 14, 2007, s 10
s 33D	ins No. 8, 2004, s 4 amd No. 17, 2011, s 8
s 33E	ins No. 8, 2004, s 4 amd No. 14, 2007, s 11; No. 17, 2011, s 9
ss 33F – 33H	ins No. 8, 2004, s 4
s 33I	ins No. 8, 2004, s 4 amd No. 17, 2011, s 10
pt III	
div 3 hdg	rep No. 14, 2004, s 13
s 34	amd No. 35, 1980, s 7; No. 93, 1982, s 7 rep No. 67, 1989, s 14
s 35	amd No. 23, 1979, s 4; No. 35, 1980, s 8; No. 88, 1981, s 4; No. 110, 1981, s 4; No. 93, 1982, s 8; No. 39, 1984, s 6; No. 67, 1989, s 15; No. 61, 1990, s 2; No. 1, 1992, s 6; No. 27, 1999, s 15; No. 70, 1999, s 6 rep No. 14, 2004, s 13
s 36	sub No. 67, 1989, s 16 rep No. 14, 2004, s 13
s 37	amd No. 93, 1982, s 9 sub No. 67, 1989, s 16 rep No. 14, 2004, s 13
s 38	rep No. 67, 1989, s 16 ins No. 75, 1993, s 3 rep No. 14, 2004, s 13
s 39	amd No. 33, 1981, s 4; No. 70, 1999, s 6
s 41	amd No. 70, 1999, s 6; No. 14, 2004, s 23; No. 17, 2011, s 11
s 42	rep No. 67, 1989, s 17
s 44	amd No. 70, 1999, s 6; No. 14, 2004, s 23
s 44	amd No. 70, 1999, s 6; No. 14, 2004, s 23 rep No. 17, 2011, s 12
s 45	amd No. 70, 1999, s 6
s 46A	ins No. 35, 1980, s 9 sub No. 14, 2004, s 14 amd No. 28, 2008, s 3; No. 17, 2010, s 13
s 47	amd No. 88, 1981, s 5; No. 70, 1999, s 6; No. 17, 2011, s 13
ss 47A – 47B	ins No. 88, 1981, s 6
s 47C	ins No. 88, 1981, s 6 amd No. 17, 2010, s 13
s 47D	ins No. 88, 1981, s 6 amd No. 17, 2011, s 14
s 47E	ins No. 88, 1981, s 6

## ENDNOTES

---

s 47F	ins No. 76, 2002, s 6 amd No. 14, 2004, s 15; No. 17, 2010, s 13
ss 47G – 47H	ins No. 76, 2002, s 6
s 47I	ins No. 76, 2002, s 6 amd No. 14, 2004, s 16; No. 17, 2010, s 13
s 47J	ins No. 76, 2002, s 6 amd No. 17, 2010, s 13
s 48	amd No. 67, 1989, s 18; No. 70, 1999, s 6; No. 76, 2002, s 7; No. 17, 2010, s 13 rep No. 17, 2011, s 15
s 48A	ins No. 67, 1989, s 19 amd No. 14, 2007, s 12; No. 17, 2011, s 16
s 49	amd No. 67, 1989, s 20; No. 1, 1992, s 7; No. 70, 1999, s 6; No. 3, 2001, s 8; No. 76, 2002, s 8; No. 14, 2007, s 13; No. 17, 2010, s 13 rep No. 17, 2011, s 17
s 49A	ins No. 33, 2002, s 5
s 50	amd No. 14, 2004, s 17; No. 17, 2010, s 13
s 51	amd No. 35, 1980, s 10; No. 33, 1981, s 5; No. 67, 1989, s 21; No. 13, 1991, s 5; No. 70, 1999, s 6; No. 76, 2002, s 9; No. 17, 2010, s 13; No. 40, 2010, s 72; No. 17, 2011, s 18
s 52	amd No. 70, 1999, s 6; No. 17, 2010, s 13; No. 17, 2011, s 19
s 53	amd No. 27, 2006, s 34 sub No. 17, 2011, s 20
s 54	amd No. 27, 2006, s 34; No. 40, 2010, s 73; No. 17, 2011, s 21
s 55	amd No. 17, 2011, s 22
s 56	amd No. 35, 1980, s 11; No. 17, 2011, s 23; No. 44, 2011, s 27
s 57	amd No. 17, 2010, s 13
s 58	amd No. 70, 1999, s 6; No. 17, 2010, s 13
s 59A	ins No. 14, 2007, s 14
s 60	amd No. 70, 1999, s 6; No. 17, 2011, s 24
ss 61 – 62	amd No. 70, 1999, s 6
s 64	amd No. 67, 1989, s 22
pt VII hdg	sub No. 17, 2011, s 25
pt VII	
div 1 hdg	sub No. 17, 2011, s 25
s 65	amd No. 17, 2010, s 13 sub No. 17, 2011, s 25
s 66	amd No. 35, 1980, s 12; No. 1, 1992, s 8; No. 24, 1993, s 3; No. 17, 2010, s 13 sub No. 17, 2011, s 25
s 67	amd No. 17, 2010, s 13 sub No. 17, 2011, s 25
pt VII	
div 2 hdg	sub No. 17, 2011, s 25
s 68	amd No. 17, 1996, s 6; No. 70, 1999, s 6 sub No. 17, 2011, s 25
pt VII	
div 3 hdg	sub No. 17, 2011, s 25
ss 69 – 71	amd No. 70, 1999, s 6 sub No. 17, 2011, s 25
s 72	amd No. 67, 1989, s 23; No. 1, 1992, s 9; No. 17, 1996, s 6; No. 17, 2010, s 13 sub No. 17, 2011, s 25
pt VII	
div 4 hdg	ins No. 17, 2011, s 25
ss 72A – 72B	ins No. 17, 2011, s 25
pt VIII hdg	sub No. 14, 2007, s 15

---

pt VIII	
div 1 hdg	sub No. 14, 2007, s 16
s 73	amd No. 35, 1980, s 13; No. 27, 2006, s 5; No. 14, 2007, s 17
s 74	amd No. 35, 1980, s 14; No. 27, 2006, s 6
s 75	amd No. 35, 1980, s 15; No. 67, 1989, s 24; No. 62, 1990, s 5; No. 70, 1999, s 6; No. 27, 2006, s 7; No. 17, 2010, s 13; No. 17, 2011, s 26
s 76	amd No. 35, 1980, s 16; No. 70, 1999, s 6; No. 27, 2006, s 8
pt VIII	
div 1A hdg	ins No. 27, 2006, s 9
s 76A	ins No. 27, 2006, s 10
s 77	amd No. 70, 1999, s 6; No. 27, 2006, s 11; No. 28, 2008, s 3; No. 17, 2010, s 13
s 78	amd No. 70, 1999, s 6; No. 27, 2006, s 12
s 79	amd No. 70, 1999, s 6; No. 28, 2008, s 3; No. 17, 2010, s 13
s 80	amd No. 27, 2006, s 13; No. 25, 2009, s 10
s 81	amd No. 35, 1980, s 17; No. 70, 1999, s 6; No. 14, 2004, s 23; No. 27, 2006, s 14
s 82	amd No. 35, 1980, s 18; No. 27, 2006, s 34; No. 17, 2010, s 13
s 83	amd No. 27, 2006, s 34; No. 17, 2010, s 13
ss 84 – 85	amd No. 27, 2006, s 34
s 86	amd No. 27, 2006, s 15
pt VIII	
div 1B hdg	ins No. 27, 2006, s 16
ss 86A – 86G	ins No. 27, 2006, s 16
s 87	amd No. 35, 1980, s 19; No. 27, 2006, s 17; No. 17, 2010, s 13
s 88	amd No. 27, 2006, s 18
s 89	amd No. 27, 2006, s 19
s 89A	ins No. 27, 2006, s 20 amd No. 17, 2011, s 27
s 90	amd No. 35, 1980, s 20; No. 70, 1999, s 6; No. 27, 2006, s 21
s 92	amd No. 70, 1999, s 6; No. 27, 2006, s 22
s 93	amd No. 33, 1981, s 6; No. 27, 2006, s 23; No. 17, 2010, s 13 sub No. 17, 2011, s 28
pt VIII	
div 3 hdg	sub No. 27, 2006, s 24
s 94A	ins No. 27, 2006, s 25
s 95	amd No. 27, 2006, s 26 sub No. 14, 2007, s 18 amd No. 17, 2011, s 29
s 96	amd No. 93, 1982, s 10; No. 62, 1988, s 3; No. 17, 1996, s 6 sub No. 14, 2004, s 18 amd No. 4, 2007, s 5 sub No. 14, 2007, s 18
ss 97 – 98	amd No. 70, 1999, s 6 sub No. 14, 2007, s 18
s 99	sub No. 14, 2007, s 18
s 100	amd No. 70, 1999, s 6 rep No. 14, 2007, s 18
s 100A	ins No. 62, 1988, s 4 amd No. 70, 1999, s 6 rep No. 14, 2007, s 18
s 101	amd No. 62, 1988, s 5; No. 70, 1999, s 6 rep No. 14, 2007, s 18
pt VIII	
div 4 hdg	ins No. 27, 2006, s 27
ss 101AA – 101AC	ins No. 27, 2006, s 27
pt VIII A hdg	ins No. 14, 2007, s 19

## ENDNOTES

---

pt VIII AA	
div 1 hdg	ins No. 14, 2007, s 19
s 101AD	ins No. 14, 2007, s 19
s 101AE	ins No. 14, 2007, s 19 amd No. 17, 2011, s 30
ss 101AF –	
101AH	ins No. 14, 2007, s 19
pt VIII AA	
div 2 hdg	ins No. 14, 2007, s 19
ss 101AI –	
101AJ	ins No. 14, 2007, s 19
s 101AK	ins No. 14, 2007, s 19 amd No. 17, 2011, s 31
s101AL	ins No. 14, 2007, s 19 amd No. 17, 2011, s 32
pt VIII AA	
div 3 hdg	ins No. 14, 2007, s 19
s 101AM	ins No. 14, 2007, s 19
s 101AN	ins No. 14, 2007, s 19 amd No. 17, 2011, s 33
ss 101AO –	
101AW	ins No. 14, 2007, s 19
pt VIII A hdg	ins No. 2, 2006, s 6
pt VIII A	
div 1 hdg	ins No. 2, 2006, s 6
ss 101A –	
101E	ins No. 2, 2006, s 6
s 101F	ins No. 2, 2006, s 6 amd No. 27, 2006, s 34; No. 17, 2011, s 34
ss 101G –	
101K	ins No. 2, 2006, s 6
pt VIII A	
div 2 hdg	ins No. 2, 2006, s 6
s 101L	ins No. 2, 2006, s 6 amd No. 27, 2006, s 34; No. 17, 2011, s 35
s 101M	ins No. 2, 2006, s 6 amd No. 27, 2006, s 28
s 101N	ins No. 2, 2006, s 6 amd No. 27, 2006, s 29; No. 14, 2007, s 21
s 101P	ins No. 2, 2006, s 6 amd No. 27, 2006, s 30; No. 14, 2007, s 21
s 101Q	ins No. 2, 2006, s 6 amd No. 14, 2007, s 21
s 101R	ins No. 2, 2006, s 6
s 101S	ins No. 2, 2006, s 6 sub No. 27, 2006, s 31
s 102	amd No. 35, 1980, s 21 sub No. 20, 1996, s 2; No. 17, 2011, s 36
s 103	amd No. 35, 1980, s 21 sub No. 17, 2011, s 36
s 104	amd No. 35, 1980, s 22; No. 17, 2010, s 13; No. 17, 2011, s 37
s 105	amd No. 17, 2011, s 38
s 106	amd No. 35, 1980, s 23 sub No. 47, 1988, s 2; No. 67, 1989, s 25; No. 62, 1990, s 6 amd No. 17, 2011, s 39

## ENDNOTES

---

s 106A	ins No. 47, 1988, s 2 amd No. 67, 1989, s 26 sub No. 62, 1990, s 6 amd No. 17, 2011, s 40
s 106B	ins No. 62, 1990, s 6 amd No. 1, 1992, s 10 sub No. 17, 2011, s 41
s 106BA	ins No. 1, 1992, s 11 amd No. 17, 2010, s 13 sub No. 17, 2011, s 41
s 106BB	ins No. 17, 2010, s 5 sub No. 17, 2011, s 41
s 106BC	ins No. 17, 2010, s 5 rep No. 17, 2011, s 41
s106BD	ins No. 17, 2010, s 5 amd No. 17, 2011, s 42; No. 44, 2011, s 27
s 106C	ins No. 62, 1990, s 6 amd No. 17, 2010, s 13 sub No. 17, 2011, s 43
s 106CA	ins No. 17, 2011, s 43
s 106D	ins No. 62, 1990, s 6
s 106E	ins No. 62, 1990, s 6 amd No. 70, 1999, s 6
s 107	amd No. 70, 1999, s 6; No. 17, 2011, s 44
s 108	amd No. 17, 2010, s 13; No. 17, 2011, s 45
s 109	amd No. 17, 1996, s 6; No. 59, 2002, s 5; No. 17, 2011, s 46
s 110	sub No. 17, 2011, s 47
s 111	amd No. 93, 1982, s 11; No. 39, 1984, s 7; No. 14, 2004, s 19; No. 17, 2010, s 13; No. 17, 2011, s 48
s 112	sub No. 17, 2011, s 49
s 113	amd No. 39, 1984, s 8; No. 70, 1999, s 6; No. 17, 2010, s 13 sub No. 17, 2011, s 49
ss 113AA – 113AB	ins No. 39, 1984, s 9 rep No. 17, 2011, s 49
s 113A	ins No. 88, 1981, s 7 amd No. 70, 1999, s 6 sub No. 17, 2011, s 49
s 114	sub No. 67, 1989, s 27 amd No. 70, 1999, s 6 sub No. 17, 2011, s 49
pt IX div 2 hdg	amd No. 17, 2011, s 50
ss 115 – 116	sub No. 17, 2011, s 51
s 116A	ins No. 29, 1986, s 3 amd No. 62, 1990, s 7 rep No. 17, 2011, s 51
s 117	amd No. 62, 1990, s 8 sub No. 17, 2011, s 51
s 118	amd No. 35, 1980, s 24; No. 47, 1988, s 3 sub No. 62, 1990, s 9 amd No. 70, 1999, s 6; No. 17, 2010, s 13 sub No. 17, 2011, s 51
s 119	amd No. 70, 1999, s 6; No. 14, 2004, s 20; No. 28, 2008, s 3; No. 17, 2010, s 13; No. 17, 2011, s 52
pt XA hdg ss 120A – 120B	ins No. 17, 2010, s 6 ins No. 17, 2010, s 6

## ENDNOTES

---

s 120C	ins No. 17, 2010, s 6 amd No. 41, 2010, s 30
s 120D	ins No. 17, 2010, s 6
pt XAB hdg	ins No. 17, 2010, s 6
pt XAB	
div 1 hdg	ins No. 17, 2010, s 6
s 120E	ins No. 17, 2010, s 6
pt XAB	
div 2 hdg	ins No. 17, 2010, s 6
ss 120F –	
120H	ins No. 17, 2010, s 6
pt XAB	
div 3 hdg	ins No. 17, 2010, s 6
ss 120J –	
120K	ins No. 17, 2010, s 6
s 120L	ins No. 17, 2010, s 6 amd No. 17, 2011, s 53
s 120M	ins No. 17, 2010, s 6
s 120N	ins No. 17, 2010, s 6 amd No. 17, 2011, s 54
s 120P	ins No. 17, 2010, s 6 amd No. 17, 2011, s 55
ss 120Q –	
120R	ins No. 17, 2010, s 6
pt XAB	
div 4 hdg	ins No. 17, 2010, s 6
s 120S	ins No. 17, 2010, s 6
s 120T	ins No. 17, 2010, s 6 amd No. 17, 2011, s 56
s 120U	ins No. 17, 2010, s 6 amd No. 17, 2011, s 57
ss 120V –	
120W	ins No. 17, 2010, s 6
pt XAB	
div 5 hdg	ins No. 17, 2010, s 6
s 120X	ins No. 17, 2010, s 6
s 120Y	ins No. 17, 2010, s 6 amd No. 17, 2011, s 58
s 120Z	ins No. 17, 2010, s 6
s 121	amd No. 35, 1980, s 25; No. 6, 1981, s 4; No. 33, 1981, s 7; No. 55, 1992, s 2; No. 17, 1996, s 6; No. 17, 2010, s 7; No. 17, 2011, s 59
s 121A	ins No. 17, 2010, s 8 amd No. 17, 2011, s 60
s 122	sub No. 1, 1992, s 12 amd No. 46, 1993, s 2; No. 70, 1993, s 8; No. 17, 1996, s 6; No. 70, 1999, s 6; No. 14, 2004, s 23 sub No. 2, 2006, s 7 amd No. 19, 2011, s 44
s 122A	ins No. 33, 1981, s 8 sub No. 17, 2011, s 61
s 123	amd No. 70, 1999, s 6; No. 17, 2010, s 13 sub No. 17, 2011, s 61
s 123A	ins No. 20, 1996, s 4
s 124	amd No. 35, 1980, s 26; No. 1, 1992, s 13; No. 24, 1993, s 4; No. 17, 1996, s 6 sub No. 17, 2011, s 62

## ENDNOTES

---

s 124AAA	ins No. 24, 1993, s 5 amd No. 17, 1996, s 6; No. 17, 2010, s 13 rep No. 17, 2011, s 62
s 124AA	ins No. 68, 1983, s 119 amd No. 49, 1985, s 4; No. 62, 1990, s 10; No. 1, 1992, s 14; No. 20, 1996, s 3; No. 14, 2004, s 23; No. 27, 2006, s 32; No. 17, 2010, ss 9 and 13 rep No. 17, 2011, s 62
s 124A	ins No. 35, 1980, s 27 amd No. 17, 2010, s 13
s 124B	ins No. 20, 1996, s 5 amd No. 17, 2011, s 63; No. 22, 2011, s 48
s 125	amd No. 76, 2002, s 10
s 125A	ins No. 17, 2011, s 64
s 127A	ins No. 30, 2010, s 38
s 128	amd No. 12, 1982, s 4; No. 1, 1992, s 15; No. 14, 2004, s 21; No. 2, 2006, s 8; No. 17, 2010, s 13
s 128A	ins No. 1, 1992, s 15
pt XII hdg	amd No. 2, 2006, s 9
s 129	amd No. 23, 1979, s 5 rep No. 110, 1981, s 5
s 131	rep No. 12, 1982, s 5
pt XIII hdg	ins No. 2, 2006, s 10
ss 133 – 136	ins No. 2, 2006, s 10
pt XIV hdg	ins No. 27, 2006, s 33
s 137	ins No. 27, 2006, s 33
pt XV hdg	ins No. 14, 2007, s 20
ss 138 – 139	ins No. 14, 2007, s 20
pt XVI hdg	ins No. 19, 2011, s 44
ss 140 – 142	ins No. 19, 2011, s 44
pt XVII hdg	ins No. 17, 2011, s 65
ss 143 – 145	ins No. 17, 2011, s 65
sch	rep No. 14, 2004, s 22