

# NORTHERN TERRITORY OF AUSTRALIA

## LIQUOR ACT

As in force at 1 September 2017

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 September 2017

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## 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) A person exercising a power or performing a function under this Act 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:

**affected person**, see section 120ZB.

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

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

**approved form** means a form approved under section 126.

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

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

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

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

**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); or
- (c) a regulated place contravention notice mentioned in section 101Z(1).

**decision notice**, for a decision, means a written notice setting out:

- (a) the decision and the reasons for it; and
- (b) any right the person to whom the notice is to be given has, under this Act or the *Licensing (Director-General) Act*, to apply for a review of, or to appeal, the decision.

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

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

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

**Director-General**, see section 3 of the *Licensing (Director-General) Act*.

**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.

**exemption certificate**, for Part VIII B, means a certificate mentioned in section 101ZF(1).

**exemption notice**, for Part VIII B, means a notice mentioned in section 101ZE(1) or (2).

**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).

**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 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.

**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.

**prescribed fee** means a fee prescribed by regulation.

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

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

**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 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.

**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.

**region** means a local government area constituted as a region under the *Local Government Act*.

**regulated place**, see section 101T.

**relevant offence** means:

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

**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.

**reviewable decision**, see section 120ZA.

**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.

**shire** means a local government area constituted as a shire under the *Local Government Act*.

**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 101V(1), 101W(1), 121(2) or 121A;

- 
- (b) section 43BF (as it relates to section 243(1)), 66, 133, 166, 174C, 174D, 174E, 176A(2), 177, 181, 186, 188, 189A, 192, 200, 212, 213, 215, 241(1) or 243(1) of the Criminal Code;
  - (c) section 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

authorised 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) authorised 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 authorised 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 a person (a **decision maker**) 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 decision maker 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 decision maker must consider:
- (a) any other matter the decision maker 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), 101AE(1) or 101U(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 Director-General, 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 Director-General to seek advice of assessor**

- (1) Subject to subsection (2), if the Director-General 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 Director-General under this Act, the Director-General 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 Director-General to exercise a power, authority or discretion under this Act until such time as the assessor could provide the advice would, in the opinion of the Director-General, cause undue hardship to a person interested in the exercise of that power, authority or discretion,

the Director-General is not required to seek or consider the advice of that assessor.

### **Division 3 Inspectors**

#### **18 Inspectors**

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

#### **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 authorised 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 or container on the premises which he has reasonable grounds to believe is evidence of or otherwise relates to an offence against this Act; and
  - (e) request a person on the premises to answer questions, produce a document or thing kept there under the person's control or give any other assistance the inspector requires to carry out the inspection.
- (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 Director-General 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.

#### **19A Obstruction of inspector**

- (1) A person commits an offence if the person:
  - (a) obstructs the exercise of a power under section 19; or
  - (b) fails to comply with a reasonable request of an inspector under section 19(5)(e).

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 person has a reasonable excuse.
- (3) In this section:

**obstruct** includes hinder and resist.

### **Division 4 General**

#### **20 Assessors not to act if interested in matter**

- (1) This section applies if:
  - (a) the Director-General seeks the advice of an assessor in relation to a matter; and
  - (b) the assessor has a personal interest in the matter.
- (2) The assessor must disclose the following to the Director-General and the Minister:
  - (a) the nature and extent of the interest;
  - (b) how the interest relates to the matter mentioned in subsection (1).
- (3) However, the assessor is not required to disclose a personal interest if it is an interest shared with the public generally or a section of the public.
- (4) If an assessor is required to disclose a personal interest under this section, the assessor must not give advice in relation to the matter without the approval of the Minister.

- (5) For this section, the assessor has a ***personal interest*** in a matter if the assessor:
- (a) has a direct or indirect financial interest in the matter; or
  - (b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the assessor from exercising independent judgment about the matter.

## **22 Delegation by Director-General**

Despite section 7(1) of the *Licensing (Director-General) Act*, the Director-General may delegate the Director-General's powers and functions under section 89A to one or more of the following:

- (a) a public sector employee;
- (b) the chief executive officer of a local government council;
- (c) a police officer who is:
  - (i) of or above the rank of senior sergeant; or
  - (ii) the person in charge of a police station.

## **23 Protection from liability**

- (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 Director-General may issue a licence 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, the body corporate must nominate a person to be its manager of the licensed premises.
- (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) If a licence is granted to a body corporate that has nominated a manager under subsection (2):
  - (a) the name of the manager must, in addition to the name of the body corporate, be endorsed on the licence; and
  - (b) the written approval of the Director-General is necessary before any change of the manager will be recognised for this Act; and
  - (c) for this Act, the manager is taken to be a joint licensee with the body corporate of the licensed premises.
- (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.

## **26 Application for licence**

- (1) An application for the grant of a licence shall be lodged with the Director-General in the approved form 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, 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 Director-General.
- (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, publish in the way specified by the Director-General 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 Director-General; and
  - (d) be not less than a size determined by the Director-General.
- (3) If the application relates to premises within the area of a shire council or a regional council, the Director-General must, as soon as reasonably practicable, inform the CEO of the council that the application has been made.

## **28 Assessment of applications**

- (2) The Director-General 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 Director-General 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 Director-General must have regard to any matters prescribed by the Regulations relevant to that assessment.
- (3A) If an objection to the application is lodged under section 47F, the Director-General must comply with section 47G before making a decision on the application.
- (3B) In considering the application, the Director-General must consider:
- (a) any objection to the application made under section 47F; and
  - (b) any reply provided by the applicant under section 47G.
- (4) The Director-General may require an applicant, a nominee manager of the applicant or an associate of the applicant to provide the Director-General with the additional information or material that the Director-General considers necessary to make a proper assessment of the application.

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

- (1) After considering the application, the Director-General must, having regard to the objects of this Act:
- (a) issue a licence subject to any conditions determined by the Director-General under section 31; or
  - (b) refuse the application.

- (2) As soon as practicable after making a decision under subsection (1), the Director-General must give a decision notice to:
  - (a) the applicant; and
  - (b) each person who lodged an objection to the application under section 47F.
- (3) If the Director-General refuses an application for a licence under subsection (1)(b), the Director-General may refund the whole or any part of the prescribed fee paid 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 Director-General may issue a licence subject to such conditions as the Director-General considers necessary or desirable in the particular circumstances of an application before the Director-General.
- (2) Without limiting the generality of subsection (1), the Director-General 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 Director-General may, in respect of an application for a licence in respect of premises or proposed premises referred to 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 Director-General 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 Director-General, 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 Director-General, 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 Director-General 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 Director-General of guidelines under section 125A relating to the expression of the Director-General's opinion under those paragraphs.

### **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:
- (a) a BDO or court order under the *Alcohol Harm Reduction Act*;
  - (b) a bail condition as defined in the *Bail Act* (otherwise than for a bail granted under Part 3 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-General.
- (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-General 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-General may, by *Gazette* notice, exempt a licence from a requirement in subsection (5) for a specified period.

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

- (1) A licensee may apply to the Director-General in the approved form for a variation of the conditions of the licence held by the licensee.
- (2) If the Director-General considers it to be in the public interest, the Director-General may require the applicant to publish notice of the application in the way, and within the period, specified by the Director-General.
- (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 Director-General; and
  - (e) be not less than a size determined by the Director-General.

- (5) If the application relates to premises within the area of a shire council or a regional council, the Director-General must, as soon as reasonably practicable, inform the CEO of the council that the application has been made.
- (6) If an objection to the application is lodged under section 47F, the Director-General must comply with section 47G before making a decision on the application.
- (6A) In considering the application, the Director-General must consider:
  - (a) any objection to the application made under section 47F; and
  - (b) any reply provided by the applicant under section 47G.
- (7) After considering the application, the Director-General must, having regard to the objects of this Act:
  - (a) vary the conditions of the licence; or
  - (b) refuse to vary the conditions of the licence.
- (7A) Despite subsection (7), the Director-General cannot vary the conditions of a store licence in a way that would permit the sale of liquor for consumption away from the licensed premises on a day on which that is not permitted under the licence as in force immediately before the application for the variation was made.
- (7B) In addition, the Director-General cannot vary a store licence in a way that would change the licence to a type of licence that would permit the sale of liquor for consumption away from the licensed premises on a day on which that is not permitted under the licence as in force immediately before the application for the variation was made.
- (7C) Subsections (7A) and (7B):
  - (a) apply whether an application was made before the commencement or after; but
  - (b) do not apply to overturn a variation to a licence made before the commencement.
- (8) As soon as practicable after making a decision under subsection (7), the Director-General must give a decision notice to:
  - (a) the applicant; and
  - (b) each person who lodged an objection to the application under section 47F.

- (9) A variation of the conditions of a licence takes effect on the date specified by the Director-General in the decision notice.
- (10) In this section:

**commencement** means the commencement of the *Liquor Amendment Act 2016*.

**condition**, of a licence, does not include a condition determined under Division 2AA.

**store licence** means a licence that authorises the sale of liquor for removal and consumption away from the licensed premises and that is endorsed with the words:

- (a) "AUTHORITY – STORE"; or
- (b) "AUTHORITY – LIQUOR MERCHANT".

### 33 Variation of conditions by Director-General

- (1) The Director-General may vary the conditions of a licence (other than a condition determined under section 33AA) on the Director-General's own initiative.
- (2) Before varying the conditions, the Director-General must give the licensee written notice:
- (a) stating the proposed variation; and
- (b) stating the reasons for the proposed variation; and
- (c) inviting the licensee to submit a response to the proposed variation within 28 days after the date of the notice.
- (3) The Director-General may, having considered any response of the licensee, vary the conditions of the licence as proposed in the notice or in another way the Director-General considers appropriate.
- (4) As soon as practicable after deciding to vary the conditions under subsection (3), the Director-General must give a decision notice to the licensee.
- (5) The variation takes effect on the later of the following:
- (a) the date on which the licensee receives the decision notice;
- (b) the date stated in the decision notice.

- (6) Subsections (2) to (5) do not apply if the variation is for a formal or clerical reason that does not alter the substance of the conditions.

## **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 Director-General (and in doing so, may seek information, advice or a recommendation from the Director-General).
- (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 Director-General.

## Division 2AB Condition applying to certain licences

### 33AB Maximum floor area for store licence

- (1) It is a condition of every store licence that the area in which the public can browse for and purchase liquor is limited to a maximum of 400 m<sup>2</sup>.
- (2) The area mentioned in subsection (1):
  - (a) includes refrigerated display shelving; but
  - (b) does not include the following:
    - (i) driveways or car parking areas;
    - (ii) cool-rooms or storage areas to which the public does not have access.
- (3) The condition imposed under subsection (1) cannot be varied by the Director-General under section 32A or 33.
- (4) In this section:

**store licence**, see section 32A(10).

## 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-General 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 Director-General may, on application made to the Director-General 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 Director-General must have regard to the prescribed factors.
- (2) The Director-General may make the enquiries the Director-General considers appropriate to decide whether to grant the application.
- (3) The Director-General may give an exemption on the conditions the Director-General considers appropriate.
- (4) The conditions must be stated in the exemption.

### **33H Decision notice**

As soon as practicable after deciding whether to grant the application, the Director-General must give a decision notice to the licensee.

**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-General.

(1A) The surrender of a licence shall not have effect until it is accepted by the Director-General.

(1B) The Director-General shall accept the surrender of a licence if the Director-General 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 Director-General 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 licensee to another person.

(2) A transfer of a licence does not take effect until the Director-General authorises the transfer or until such later date as the Director-General specifies.

**41 Application for transfer**

(1) The person to whom a licence is proposed to be transferred must:

(a) lodge with the Director-General an application for the transfer of the licence in the approved form; 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**

- (1) As soon as reasonably practicable after receiving an application, the Director-General must:
  - (a) consider the application; and
  - (b) having regard to the objects of this Act:
    - (i) authorise the transfer of the licence; or
    - (ii) refuse the application.
- (2) If the Director-General refuses the application, as soon as practicable after making the decision, the Director-General must give a decision notice to:
  - (a) the licensee; and
  - (b) the applicant.

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

If the Director-General authorises the transfer of a licence, the Director-General must issue a certificate of transfer 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 Director-General in the approved form 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 the way specified by the Director-General.
- (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 Director-General; and
  - (d) be not less than a size determined by the Director-General.
- (4) If the application relates to premises within the area of a shire council or a regional council, the Director-General must, as soon as reasonably practicable, inform the CEO of the council that the application has been made.
- (5) If an objection to the application is lodged under section 47F, the Director-General must comply with section 47G before making a decision on the application.
- (5A) In considering the application, the Director-General must consider:
  - (a) any objection to the application made under section 47F; and
  - (b) any reply provided by the applicant under section 47G.
- (6) After considering the application, the Director-General 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.
- (7) As soon as practicable after making a decision on the application, the Director-General must give a decision notice to:
  - (a) the applicant; and

- (b) each person who lodged an objection to the application under section 47F.

#### **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 Director-General 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 Director-General may appoint a person to act as the licensee to conduct the licensee's business during that period.
- (4) Unless the Director-General 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 Director-General must cancel that licence at the expiration of that period, unless arrangements which are satisfactory to the Director-General 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 Director-General may vary the period of the licence as the Director-General 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 Director-General is not satisfied that adequate arrangements have been made for the conduct of the business of the licensee, the Director-General 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 the approved form, apply to the Director-General 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 Director-General 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 Director-General 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 the approved form 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 Director-General 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, the Director-General 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 Director-General may authorise 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 under section 27;
  - (b) an application for a variation of the conditions of a licence, notice of which is required to be published under section 32A(2);
  - (c) an application for the substitution of other premises for the premises specified in a licence under section 46A;
  - (d) an application for approval to make a material alteration to licensed premises, notice of which is required to be published under section 119(3).
- (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-General 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-General if it is delivered to an office of Australia Post for transmission to the office of the Director-General 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-General under section 47F, the Director-General 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 *Licensing (Director-General) 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.

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

- (1) The Director-General may, on the Director-General's own initiative, in an emergency or pending the investigation of a complaint or consideration of whether or not to take proposed disciplinary action, but subject to subsection (2), suspend a licence, or impose or vary a condition of a licence, where in the Director-General's opinion it is in the public interest to do so.
- (2) Without derogating from the Director-General's other powers under this Act, action of the Director-General taken under subsection (1) has no effect after the expiration of 7 days after the action is taken.
- (2A) As soon as practicable after making a decision to take action under subsection (1), the Director-General must give a decision notice to the licensee.
- (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 Director-General in the approved form for the suspension of a licence in respect of licensed premises that are drug premises as defined in section 11A of the *Misuse of Drugs Act*.
- (2) Before considering the application, the Director-General must give the licensee a written notice:
  - (a) stating that an application has been made under subsection (1); and
  - (b) inviting the licensee to make a written submission to the Director-General in response to the application by a specified date not earlier than 28 days after the date of the notice.
- (3) In considering the application, the Director-General must have regard to the matters the Director-General 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; and

- (c) any written submission made by the licensee under subsection (2).
- (4) The Director-General may suspend the licence if the Director-General 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 Director-General .
- (6) As soon as practicable after making a decision to suspend a licence under subsection (4), the Director-General must give a decision notice to 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 Director-General specifies in the notice.
- (8) This section does not prevent the Director-General taking any other action that the Director-General is permitted to take under this Act in relation to premises to which a drug premises order relates.

## **Part VI Special licences**

### **57 Special licences**

Subject to this Act, a special licence authorises 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-General no later than 28 days before the date or the first date in respect of which the application is made; and
  - (b) made in the approved form; and
  - (c) accompanied by the prescribed fee.
- (2) The Director-General may, at his discretion, accept an application for the grant of a special licence which does not comply with provisions of subsection (1).

**59 Decision on application**

- (1) After considering the application, the Director-General must:
  - (a) issue the special licence subject to any conditions the Director-General thinks fit; or
  - (b) refuse to issue the special licence.
- (2) If the Director-General issues the special licence subject to conditions, or refuses to issue the special licence, as soon as practicable after doing so the Director-General must give a decision notice to the applicant.

**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 Director-General (and in doing so, may seek information, advice or a recommendation from the Director-General).
- (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 Director-General.

### **63 Revocation of special licence**

- (1) A special licence may be revoked by the Director-General at the Director-General's discretion.
- (2) As soon as practicable after deciding to revoke a special licence, the Director-General must give a decision notice to the licence holder.

### **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 the Director-General to do any of the following:
  - (a) deal with a complaint against a licensee;
  - (b) enter into an enforceable undertaking with a licensee;
  - (c) 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 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; 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:
  - (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 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 Director-General 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-General's powers in relation to complaints**

### **68 Complaints**

- (1) A person may make a complaint against a licensee.
- (2) The complaint must:
  - (aa) be made in the approved form; and
  - (a) specify the ground for the complaint; and
  - (b) be signed by the complainant; and
  - (c) be lodged with the Director-General.
- (3) The Director-General 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-General is satisfied it is frivolous or vexatious.
- (4) If the Director-General accepts the complaint, the Director-General 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-General considers appropriate.
- (5) On completing the investigation, the Director-General must decide to take one of the following actions:
- (a) dismiss the complaint if the Director-General 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 in relation to a ground for the complaint:
    - (ia) give the licensee a formal warning in relation to that ground;
    - (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) give the licensee a written notice as mentioned in section 69(1) in relation to that ground.
- (6) As soon as practicable after deciding which action to take under subsection (5), the Director-General must give a decision notice to the complainant.
- (7) As soon as practicable after deciding to take action under subsection (5)(a), the Director-General must give a decision notice to the licensee.
- (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 Director-General's power to take disciplinary action**

### **69 Disciplinary action**

- (1) On completing an investigation into a complaint about a licensee, the Director-General may give the licensee written notice that the Director-General proposes to take disciplinary action against the licensee.
- (2) The notice must:
  - (a) specify the proposed disciplinary action; and
  - (b) specify the ground for the proposed disciplinary action and the factual basis of the ground; and
  - (c) invite the licensee to make a written submission in response to the proposed action within a specified period ending not less than 28 days after the notice is given.
- (3) After considering any written submission received from the licensee in response to the notice, the Director-General may take the disciplinary action against a licensee if satisfied:
  - (a) on the balance of probabilities, that a ground for taking the disciplinary action exists; and
  - (b) having regard to the objects of this Act, that the disciplinary action is appropriate in relation to that ground.
- (4) As soon as practicable after making a decision under subsection (3), the Director-General must give a decision notice to the licensee.
- (8) The operation of this section does 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 Director-General may take disciplinary action against a licensee by imposing a monetary penalty on the licensee only if the Director-General 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 Director-General, after notice for the penalty is given by the Director-General to the licensee.
- (3) To avoid doubt, the monetary penalty is a civil penalty for the purposes of the *Penalty Units Act*.

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

##### **72A Enforceable undertakings**

- (1) The Director-General 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-General must give a copy of the enforceable undertaking to the licensee.
- (3) The licensee may, with the Director-General'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 Director-General 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 Director-General 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 Director-General 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 Director-General may declare a public restricted area that includes private premises that are specified by regulation.
- (2) The Director-General 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.
- (3) The Director-General may make a declaration on application under section 76 or after making a proposal under section 76AA.

## **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 Director-General (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-General, 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-General; 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 Director-General 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;
- (c) if all or part of the relevant area forms all or part of a local government area – the local government council for the local government area.

**76AA      Director-General may propose declaration**

- (1) The Director-General may, on the Director-General's own initiative, propose the making of a declaration of a restricted area without an application having been made.
- (2) The proposal must be in writing and set out:
  - (a) a description of the relevant area; and
  - (b) a statement of the Director-General's reasons for proposing that the relevant area be declared to be a general restricted area or public restricted area; and
  - (c) if the Director-General proposes that the relevant area be declared to be a general restricted area in respect of liquor other than a specified type of liquor – the type of liquor to be specified.

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

**76A      Application of Division**

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

**77      Acceptance of application**

If the Director-General receives an application for the declaration of a general restricted area the Director-General must, as soon as reasonably practicable, decide to:

- (a) refuse the application if the Director-General is of the opinion that the application is of a frivolous, irrelevant or malicious nature; or
- (b) accept the application for consideration.

**78      Interested persons to be notified**

- (1) This section applies if the Director-General:
  - (a) decides under section 77(b) to accept an application; or
  - (b) makes a proposal under section 76AA for the declaration of a general restricted area.

- (2) The Director-General must, for each relevant licensee:
  - (a) give the licensee written notice of the application or proposal; and
  - (b) invite the licensee to make written submissions to the Director-General about the application or proposal by a specified time.
- (3) The Director-General must take all steps the Director-General considers are necessary to ascertain the opinions of the people who reside in the relevant area about the application or proposal.
- (4) If the relevant area forms the whole or part of a local government area, the Director-General must:
  - (a) give the local government council written notice of the application or proposal; and
  - (b) seek the council's advice about the application or proposal.
- (5) In this section:

**relevant licensee**, in relation to an application or proposal, means:

  - (a) a licensee whose licensed premises is in the relevant area; or
  - (b) an applicant for a licence in respect of premises in the relevant area; or
  - (c) a licensee whom the Director-General considers may be affected adversely if the relevant area is declared to be a restricted area.

## **79      Director-General to consider submissions**

In considering the application or proposal, the Director-General must take into account the following:

- (a) submissions made under section 78(2);
- (b) opinions provided under section 78(3);
- (c) advice provided under section 78(4).

## **81      Decision on whether to make declaration**

- (1) After considering the application or proposal, the Director-General must, having regard to the objects of this Act:
  - (a) refuse to declare the relevant area to be a general restricted area; 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.
- (1A) As soon as practicable after making a decision under subsection (1), the Director-General must give a decision notice to the applicant, if any, and each other affected person.
- (2) A declaration by the Director-General 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 Director-General 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 another way specified by the Director-General 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 Director-General.

## **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 otherwise published under that section; or

- (c) such date as is specified in the declaration,  
whichever is the latest.

**84      Revocation of declaration**

- (1) The Director-General may decide to revoke a declaration of an area of land to be a general restricted area.
- (2) If the declaration was made on an application, as soon as practicable after making the decision to revoke the declaration the Director-General must give a decision notice to the applicant.

**85      Director-General to ensure publicity of declaration**

Where an area of land is declared to be a general restricted area, the Director-General must take all steps the Director-General considers 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 of Division**

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

**86B      Consideration of application**

The Director-General must consider an application as soon as practicable after receiving it.

**86C      Inquiry by Director-General**

- (1) The Director-General must conduct an inquiry about the application or proposal.
- (2) The inquiry:
  - (a) must be conducted in or near the relevant area; and
  - (b) may be conducted in any way the Director-General considers appropriate.
- (3) The Director-General 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) by advertising it in a way specified by the Director-General.
- (4) The notice must:
  - (a) specify the area; and
  - (b) invite individuals and bodies to make submissions about the application or proposal by a specified time; and
  - (c) include any other information the Director-General considers appropriate.
- (5) For subsection (4)(b), the submissions may be in writing or made in any other way the Director-General considers appropriate.
- (6) In conjunction with the inquiry, the Director-General may also conduct the investigations and consultations the Director-General considers appropriate.

**86D      Matters the Director-General must take into account**

The Director-General must take into account the following information in considering the application or proposal:

- (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 or proposal that have been given to the Director-General:
  - (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 Director-General considers to have an interest in the area;
- (d) any other information the Director-General considers relevant to the application or proposal.

**86E      Decision of Director-General**

- (1) Having considered the application or proposal, the Director-General 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 Director-General 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 to declare the relevant area to be a public restricted area.
- (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) As soon as practicable after making a decision under subsection (1), the Director-General must give a decision notice to the applicant, if any, and each other affected person.

**86F      Notice of declaration**

- (1) The Director-General must, within 28 days after declaring a public restricted area, publish a notice of the declaration in a way specified by the Director-General.
- (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 Director-General considers appropriate.
- (3) The Director-General:
  - (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 Director-General 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 local government area, the Director-General may enter into an arrangement with the local government council for the local government area for the doing of a thing mentioned in subsection (3).

**86G      Revocation or amendment of declaration**

- (1) The Director-General may revoke or amend a declaration of a public restricted area.
- (2) The Director-General may do so:
  - (a) on application by a person who could have applied for the declaration; or
  - (b) on a proposal made by the Director-General on the Director-General's own initiative.
- (3) Sections 86B to 86F apply in relation to a proposal or application under subsection (2) (an ***amendment proposal***) as if:
  - (a) a reference in those sections to an application or proposal as mentioned in section 86A were a reference to the amendment proposal under subsection (2); and
  - (b) a reference in those sections to a declaration were a reference to a decision to revoke or amend the declaration; and
  - (c) sections 86C(4) and 86F(2) each required the notice mentioned in that section to specify such a decision; and
  - (d) if the application or proposal is to revoke the declaration – section 86F(3)(a) and (b) and (4) were omitted.

**Division 2      Permits**

**87      Permit for general restricted area**

- (1) Subject to this Part, the Director-General 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 Director-General may issue a permit subject to such conditions as the Director-General 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 Director-General 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 Director-General 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 Director-General 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 local government area – the local government council for the local government area; and
  - (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-General; 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 Director-General must:
  - (a) consider the application; and
  - (b) take all steps the Director-General considers are 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 the application, the Director-General must consider the opinions ascertained pursuant to subsection (1)(b).

**92      Decision after consideration**

- (1) Subject to section 91(2), after considering an application for a permit, the Director-General must:
  - (a) issue a permit subject to any conditions imposed under section 87(3) or 89A(4); or
  - (b) refuse the application.
- (2) As soon as practicable after making a decision under subsection (1), the Director-General must give a decision notice 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 Director-General**

A permit may be revoked by the Director-General at the Director-General's 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-General 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-General.
- (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)).
- (12) In this section:  
**obstruct** includes hinder and resist.

#### **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**

#### **101 A D 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 Director-General (and in doing so, may seek information, advice or a recommendation from the Director-General).
- (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-General 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 way specified by the Minister.

- (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 local government area, the Minister may enter into an arrangement with the local government council for the local government 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 Director-General.

## **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 local government area – the local government council for the local government area; and
  - (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-General 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-General.
  - (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)).
- (12) In this section:

**obstruct** includes hinder and resist.

#### **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 Local Court 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 Local Court.

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

- (1) The person may apply to the Local Court 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, a registrar 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 registrar 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 Local Court 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 VIIIA      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 Director-General 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 Director-General for a declaration that the premises, or a specified part of the premises, are restricted premises.
- (2) An interested person may apply to the Director-General 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:
  - (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 Director-General 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-General may request additional information from the applicant or applicant's representative.

**101D      Director-General to consult regarding application**

- (1) As soon as practicable after the Director-General receives an application for a declaration of restricted premises, the Director-General 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 Director-General considers appropriate in the circumstances.

**101E      Decision after consultation**

- (1) The Director-General may make a declaration of restricted premises if the Director-General 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 Director-General must refuse to make the declaration if the Director-General is not satisfied about the matters in subsection (1) or is satisfied the application is of a frivolous, irrelevant or malicious nature.
- (4) As soon as practicable after making a decision on the application, the Director-General must give a decision notice to the applicant.

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

- (1) Within 14 days after making a declaration of restricted premises, the Director-General 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 Director-General 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 Director-General 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 Director-General 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 Director-General 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 Director-General of the transfer or termination.

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

- (1) The Director-General may revoke a declaration of restricted premises on the written application of the applicant for the declaration or the applicant's representative.
- (1A) As soon as practicable after deciding an application under subsection (1), the Director-General must give a decision notice to the applicant.
- (2) The Director-General may revoke a declaration of restricted premises, or part of a declaration, in other circumstances at the Director-General's discretion.
- (3) As soon as practicable after revoking a declaration under subsection (2), the Director-General must give a decision notice to the person who was the applicant for the declaration.

## **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 Local Court 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 Local Court.

### **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 Local Court 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 Local Court 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, a registrar 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 registrar 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 VIII B      Regulated places**

### **Division 1      Consumption of liquor in regulated place**

#### **101T      Regulated place**

- (1) A place is a **regulated place** for the consumption of liquor if the place is within 2 km of licensed premises and is:
  - (a) in a public place; or
  - (b) on private premises from which the lawful occupier is absent at the time of the consumption.
- (2) However, a place that would otherwise be a regulated place because of subsection (1) is not a regulated place for the consumption of liquor during a period when the consumption is permitted or authorised under:
  - (a) a special licence issued for the place; or
  - (b) an exemption certificate issued for the place; or
  - (c) an exemption notice for the place.

*Note for section 101T*

*A place mentioned in subsection (2) is a regulated place during any period when the consumption of liquor is not permitted or authorised under the special licence, exemption certificate or exemption notice.*

#### **101U      Consumption of liquor at regulated place**

- (1) A person commits an offence if the person consumes liquor at a regulated place.
- (2) The penalty for an offence against subsection (1) is the forfeiture of any liquor seized under section 101Y(1)(b).
- (3) Subsections (1) and (2) do not apply if:
  - (a) the regulated place is in a designated area; or

- (b) the person consuming the liquor is an adult and has the express permission of the following person to consume liquor at the regulated place:
  - (i) in relation to a public place – the owner of the place;
  - (ii) in relation to private premises from which the lawful occupier is absent at the time of the consumption – the lawful occupier.

*Note for subsection (3)(a)*

*See section 101W(1) for an offence relating to the consumption of liquor at a regulated place in a designated area.*

### **101V      Consumption of liquor at regulated place causing nuisance**

- (1) A person commits an offence if the person:
  - (a) consumes liquor at a regulated place; and
  - (b) while consuming the liquor, causes a nuisance to other people.

Maximum penalty:      5 penalty units.

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

### **101W      Consumption of liquor at regulated place in designated area**

- (1) A person commits an offence if the person consumes liquor at a regulated place in a designated area.

Maximum penalty:      5 penalty units.

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

## **Division 2      Police powers of search, seizure and forfeiture**

### **101X      Application**

This Division applies to an offence (a **relevant offence**) mentioned in:

- (a) section 101U(1), 101V(1) or 101W(1); and
- (b) section 101ZE(4) if the contravention involves the consumption of liquor.

### **101Y Search and seizure**

- (1) If a police officer believes on reasonable grounds that a relevant offence is being committed by a person, the officer may, without a warrant:
  - (a) search the person; and
  - (b) seize any opened or unopened container in the person's possession or immediate vicinity that the officer has reason to believe contains liquor.
- (2) A person may be searched under subsection (1)(a) only by a police officer 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 police officer must ensure that any opened containers that are not emptied under subsection (3)(a), and any unopened containers that are not destroyed under subsection (3)(b), are taken to a police station, where they must be destroyed.

### **101Z When contravention notice to be given**

- (1) A police officer may give a regulated place contravention notice to a person if the officer:
  - (a) believes on reasonable grounds the person has committed an offence against section 101U(1) (the ***alleged offence***); and
  - (b) has seized one or more unopened containers of liquor under section 101Y(1)(b) in relation to 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 101U(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 officer is attached;
  - (f) a statement that the alleged offender may choose to have the matter dealt with by the Local Court by making an application under section 101ZB(1).
- (3) The police officer in charge of the police station mentioned in the contravention notice must send a copy of the notice to the Local Court.

**101ZA Court order if no application under section 101ZB(1)**

If the alleged offender served with a contravention notice does not make an application under section 101ZB(1), the Local Court may make an order that the alleged offender committed the alleged offence described in the notice on the date specified in the notice.

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

- (1) The alleged offender served with a contravention notice may apply to the Local Court 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, a registrar 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 mentioned in the contravention notice.
- (4) The date fixed by the registrar 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.

### **101ZC    How court deals with offence alleged in contravention notice**

- (1) When the Local 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 the Local Court receives more than one application under section 101ZB(1) and is satisfied the alleged offences described in the accompanying contravention notices arise out of the same facts, the court may:
  - (a) try the matters together; and
  - (b) adjourn the hearing of the matters.

### **101ZD    Interest in destroyed liquor**

- (1) The interest that a person had in any liquor destroyed because of section 101Y(3) 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 101ZA for an offence against section 101U(1) 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 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.

## **Division 3      Exemption notice and exemption certificate**

### **101ZE    Exemption notice**

- (1) If the Director-General is satisfied that the consumption of liquor should be permitted at a public place within 2 km of licensed premises, the Director-General may publish in the *Gazette* an exemption notice for the place.

- (2) If the Minister is satisfied that the consumption of liquor should be permitted at a public place within 2 km of licensed premises:
- (a) the Minister may require the Director-General to publish in the *Gazette* an exemption notice for the place; and
  - (b) the Director-General must comply with such a requirement.
- (3) An exemption notice:
- (a) must:
    - (i) describe the public place to which the notice relates; and
    - (ii) state that the consumption of liquor is permitted at the place; and
  - (b) may specify any conditions the Director-General considers appropriate, including conditions about any of the following:
    - (i) the type of liquor that may be consumed at the place;
    - (ii) the periods when the liquor may be consumed;
    - (iii) the persons who may, or may not, enter the place.
- (4) A person must not contravene a condition of an exemption notice.
- Maximum penalty: 5 penalty units.
- (5) An offence against subsection (4) is an offence of strict liability.

#### **101ZF Exemption certificate for public place**

- (1) The Director-General may, on application under section 101ZG(1), issue to a person a certificate authorising the consumption of liquor at a public place within 2 km of licensed premises.
- (2) An exemption certificate:
- (a) must:
    - (i) describe the public place to which it relates; and
    - (ii) state that the consumption of liquor is authorised at the place; and
  - (b) may specify the conditions the Director-General considers appropriate, including conditions about any of the following:
    - (i) the type of liquor that may be consumed at the place;

- (ii) the periods when the liquor may be consumed;
  - (iii) the persons who may, or may not, enter the place.
- (3) As soon as practicable after making a decision on the application, the Director-General must give a decision notice to the applicant.

#### **101ZG Application for exemption certificate**

- (1) Any of the following persons may apply to the Director-General for an exemption certificate for all or part of a public place within 2 km of licensed premises:
- (a) an owner of the place;
  - (b) a person responsible for the management of the place.
- (2) The Director-General may require the person to publish, in a way specified by the Director-General, a notice stating that the person has applied for an exemption certificate.
- (3) The Director-General may also require the person to do any of the following:
- (a) publish the notice 2 or more times, at intervals specified by the Director-General;
  - (b) give the notice in a particular form;
  - (c) include particular information in the notice.
- (4) In considering the application, the Director-General must take into account the following matters:
- (a) the general nature of the use of the public place specified in the application;
  - (b) provision made for the disposal of litter at the public place;
  - (c) any representations received in response to a notice published under this section.

#### **101ZI Variation, suspension or cancellation of exemption certificate**

- (1) The Director-General may vary, suspend or cancel an exemption certificate if the Director-General is satisfied the person who holds the certificate has:
- (a) contravened a condition of the certificate; or

- (b) allowed the consumption of liquor permitted under the certificate to cause a nuisance to people using the public place to which the certificate relates.
- (2) A variation, suspension or cancellation under subsection (1) must be by written notice to the person who holds the exemption certificate.
- (3) A person who holds an exemption certificate may apply to the Director-General for:
  - (a) the cancellation of the certificate; or
  - (b) the variation of any conditions specified in the certificate.
- (4) Section 101ZG applies (with the necessary changes) in relation to an application under subsection (3) as if the application were for the issue of an exemption certificate.

## **Part IX                    General obligations and offences**

### **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 authorised by the Director-General, either on application or on the motion of the Director-General, 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 Director-General may declare licensed premises prohibited areas for children**

- (1) The Director-General 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) As soon as practicable after making a declaration under subsection (1), the Director-General must give a copy of the declaration and a decision notice to 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 the approved form 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 Director-General 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 permitted to enter or remain on the licensee's premises was at least 16 years of age; and
  - (b) the defendant was provided with a form of identification that may reasonably be accepted as a form of identification in relation to the person indicating he or she 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-General 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-General 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-General is given a form of identification seized under this section, the Director-General must:
- (a) consider if it is relevant to a contravention of section 106BA or 106BB; and
  - (b) if the Director-General 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-General, 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-General; 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-General; 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 approved form 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 Director-General'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.

**113 Licensee to lodge return**

- (1) A licensee must, except as otherwise provided by the licensee's licence, within 28 days after the end of each quarter during which the licence is in force, lodge with the Director-General 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 application must:
  - (a) be in the approved form; and
  - (b) specify details about all purchases made during the quarter of liquor for disposal under the licence.

**113A Wholesaler of liquor**

- (1) A person must not sell liquor to a licensee unless the person:
  - (a) is registered as a wholesaler of liquor for this Act; or
  - (b) is a licensee.

Maximum penalty: 250 penalty units or imprisonment for 12 months

- (2) The Director-General must keep a register of wholesalers of liquor in a way decided by the Director-General.
- (3) A person may lodge with the Director-General an application for registration as a wholesaler of liquor.
- (4) The person's application must:
  - (a) be in the approved form; and
  - (b) specify a registration period of 1 year, 3 years or 5 years; and

- (c) be accompanied by:
  - (i) any other documents, samples or things the Director-General requires; and
  - (ii) the prescribed fee for the registration period specified in the application.
- (4A) On receipt of the person's application, the Director-General must record the following in the register of wholesalers of liquor:
  - (a) the person's details;
  - (b) the registration period, as specified in the application, that starts on the date of registration.
- (5) A certificate signed by the Director-General 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-General 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 approved form; and
  - (b) specify details about all purchases and sales of liquor made by the person during the quarter.

#### **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 Director-General to sell or otherwise supply liquor on licensed premises as:

- (a) an employee of the licensee; or  
(b) someone undergoing employment training.

- (3) The Director-General 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 Director-General'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-General; 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) If the Director-General considers it to be in the public interest, the Director-General may require the applicant to publish notice of the application in the way, and within the period, specified by the Director-General.
- (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 Director-General; and
  - (e) be not less than a size determined by the Director-General.
- (5) If the application relates to premises within the area of a shire council or a regional council, the Director-General must, as soon as reasonably practicable, inform the CEO of the council that the application has been made.
- (6) If an objection to the application is lodged under section 47F, the Director-General must comply with section 47G before making a decision on the application.
- (7) In considering the application, the Director-General must consider:
  - (a) any objection to the application made under section 47F; and
  - (b) any reply provided by the applicant under section 47G.

- (8) After considering the application, the Director-General must, having regard to the objects of this Act:
  - (a) approve the material alteration; or
  - (b) refuse to approve the material alteration.
- (9) As soon as practicable after making a decision on the application, the Director-General must give a decision notice to:
  - (a) the applicant; and
  - (b) each person who lodged an objection to the application under section 47F.
- (10) Where the Director-General 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 Director-General.

Maximum penalty: 100 penalty units.
- (11) An offence against subsection (10) is an offence of strict liability.

## **120 Unauthorised alterations**

- (1) Where, without the approval of the Director-General, a licensee makes a material alteration to the premises to which the licence relates, the Director-General may, after giving to the licensee notice of the Director-General's 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 Director-General .
- (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-General for approval:
  - (a) the Director-General;
  - (b) the Commissioner of Police;
  - (c) a local government council;
  - (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-General 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-General 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-General may, on the Director-General'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-General to do so.
- (5) The coordinator of a local liquor accord is to notify the Director-General if the parties to the accord wish to terminate the accord.
- (6) The Director-General may terminate a local liquor accord at any time if the Director-General considers it appropriate to do so.
- (7) As soon as practicable after making a decision under this section, the Director-General must give a decision notice to each party to the local liquor accord.

**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.

### **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 Local Court 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 Local Court 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-General or a police officer may disclose any of the following information to a licensee or an employee of a licensee if the Director-General 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-General 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 XAC      Review of decisions**

### **120ZA      Meaning of *reviewable decision***

A ***reviewable decision*** is:

- (a) a decision specified in the Schedule, unless the decision was made by a delegate of the Director-General; or
- (b) a decision made on the review, under Part 3 of the *Licensing (Director-General) Act*, of a decision that:
  - (i) is specified in the Schedule; and
  - (ii) was made by a delegate of the Director-General.

*Note for section 120ZA*

*A decision made under this Act by a delegate of the Director-General is not a reviewable decision but may be a delegate decision under the Licensing (Director-General) Act. Part 3 of that Act sets out procedures for applying for a review of a delegate decision.*

### **120ZB      Meaning of *affected person***

- (1) A person is an ***affected person*** for a reviewable decision mentioned in section 120ZA(a) if any of the following apply:
  - (a) for a decision that relates to disciplinary action relating to a licence – the person is the licensee;
  - (b) for a decision that was made in relation to an application – the person is the applicant;
  - (c) the person made a submission, complaint or objection (however described) during the process that resulted in the decision being made.
- (2) In addition, a person is an ***affected person*** for a reviewable decision made under section 106 if the person is the licensee of the licensed premises.
- (3) A person is an ***affected person*** for a reviewable decision mentioned in section 120ZA(b) if the person was an affected person under the *Licensing (Director-General) Act* for the decision that was reviewed under Part 3 of that Act.

### **120ZC      Jurisdiction of Civil and Administrative Tribunal**

- (1) An affected person for a reviewable decision may apply to the Civil and Administrative Tribunal for a review of the decision.

- (2) For a reviewable decision that was made under the *Licensing (Director-General) Act*, that Act and this Act are together taken to be the relevant Act for the *Northern Territory Civil and Administrative Tribunal Act*.

#### **120ZD Delegate decisions**

- (1) For section 9(a) of the *Licensing (Director-General) Act*, the licensee of the licensed premises is an affected person for a delegate decision made under section 106.
- (2) The regulations may declare that a decision made under this Act by a delegate of the Director-General, other than a decision specified in the Schedule, is not a delegate decision for the *Licensing (Director-General) Act*.

### **Part XI Miscellaneous**

#### **120ZE Access to information**

- (1) For the purpose of performing functions and exercising powers under this Act, a decision maker may:
- (a) make the inquiries or investigations the decision maker considers necessary; and
  - (b) by written notice, request a person to give specified information or documents to the decision maker within a reasonable time specified in the notice.
- (2) A person must comply with a request under subsection (1)(b).

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

- (3) It is a defence to a prosecution for an offence against subsection (2) if the defendant has a reasonable excuse.
- (4) In this section:

***decision maker*** means the Director-General or a delegate of the Director-General.

#### **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

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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

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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.

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

- (1) The Director-General may issue a duplicate licence, special licence or permit to its holder if the Director-General is satisfied the licence, special licence or permit has been destroyed, lost or stolen.
- (2) The Director-General 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**

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

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-General must return it to its holder.

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**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.

**123B Criminal liability of executive officer of body corporate – evidential burden of proof on defence**

- (1) An executive officer of a body corporate commits an offence if the body corporate commits an offence by contravening a declared provision (a **relevant offence**).

Maximum penalty: The maximum penalty that may be imposed on an individual for the relevant offence.

- (2) An offence against subsection (1) is an offence of absolute liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant:
- (a) was not in a position to influence the conduct of the body corporate in relation to the contravention; or
  - (b) took reasonable steps to prevent the contravention; or
  - (c) did not know, and could not reasonably have been expected to know, that the contravention would happen.
- (4) In deciding whether the defendant took (or failed to take) reasonable steps to prevent the contravention, a court must consider the following:
- (a) any action the defendant took directed towards ensuring the following (to the extent the action is relevant to the contravention):
    - (i) the body corporate arranged regular professional assessments of the body corporate's compliance with the declared provision;
    - (ii) the body corporate implemented any appropriate recommendation arising from an assessment under subparagraph (i);
    - (iii) the body corporate's employees, agents and contractors had a reasonable knowledge and understanding of the requirement to comply with the declared provision;

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- (b) any action the defendant took when the defendant became aware that the contravention was, or could be, about to happen.
- (5) Subsection (4) does not limit the matters the court may consider.
- (6) This section does not affect the liability of the body corporate.
- (7) This section applies whether or not the body corporate is prosecuted for, or found guilty of, the relevant offence.
- (8) This section does not apply if the body corporate would have a defence to a prosecution for the relevant offence.
- (9) In this section:

**declared provision** means:

- (a) section 31A(6), 33I, 113A(1) or 115; or
- (b) a provision of the Regulations prescribed by regulation.

**executive officer**, of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

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

- (1) The Director-General 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 Director-General 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 Director-General 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 Director-General must publish the guidelines in a way decided by the Director-General.

**126 Approved forms**

The Director-General may approve forms for this Act.

**127 Director-General 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 Director-General may, in the Director-General's discretion, extend or abridge that time.

- (2) The Director-General 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) authorising the Director-General 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 the Director-General 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 Director-General, in exercising powers and performing 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 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 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.

**Part XVIII Transitional matters for Liquor and Other Legislation Amendment Act 2012**

**146 Definitions**

In this Part:

**amending Act** means the *Liquor and Other Legislation Amendment Act 2012*.

**commencement day** means the day on which the amending Act commences.

**repealed**, in relation to a specified section, means that section of the *Summary Offences Act* as in force immediately before the commencement day.

**Commission** means the Northern Territory Licensing Commission established by section 4 of the *Northern Territory Licensing Commission Act*, as in force immediately before the commencement of section 29 of the *Licensing (Director-General) Act 2014*.

**147 Continuation of exemptions under repealed provisions**

- (1) A Certificate of Exemption issued under repealed section 45E(1) and in force immediately before the commencement day continues in force, and has effect, as if it were an exemption certificate issued under section 101ZF(1).
- (2) A declaration of an exempt area in force under repealed section 45EA(1) immediately before the commencement day continues in force, and has effect, as if it were an exemption notice published under section 101ZE(1) or (2)(b).

(3) However, if a person is alleged to have committed an offence against repealed section 45EA(2) but was not charged with the offence before the commencement day:

- (a) Part VIII B does not apply in relation to the person; and
- (b) the person may be charged and dealt with as if Part VI A of the *Summary Offences Act* had not been repealed.

#### 148 Applications and hearing relating to Certificate of Exemption

If immediately before the commencement day the Commission was considering an application made under repealed section 45E(1) or (6), the Commission must continue dealing with the application as if it had been made under section 101ZG(1) or 101ZI(3) respectively.

## Part XIX Transitional matters for Licensing (Director-General) Act 2014

### Division 1 Definitions

#### 149 Definitions

In this Part:

**2014 Acts** means the *Licensing (Director-General) Act 2014* and 2014 Amending Act.

**2014 Amending Act** means the *Licensing (Repeals and Consequential Amendments) Act 2014*.

**commencement** means the commencement of section 22 of the *Licensing (Director-General) Act 2014*.

**Commission** means the Commission as defined in section 3 of the NTLC Act.

**NTLC Act** means the *Northern Territory Licensing Commission Act* as in force immediately before the commencement.

**NTLC Director** means the Director as defined in section 3 of the NTLC Act.

**old legislation** means the NTLC Act and this Act as in force immediately before the commencement.

## **Division 2      Applications**

### **150      Application to NTLC Director – pending decision**

- (1) This section applies if, before the commencement:
  - (a) an application had been made under this Act for a decision to be made by the NTLC Director; but
  - (b) the NTLC Director had not made a decision on the application.
- (2) The application:
  - (a) is taken to be an application made on the commencement for the decision to be made by the Director-General; and
  - (b) must be dealt with and determined in accordance with this Act as amended by the 2014 Amending Act.

*Note for section 150*

*The Director-General's decision on the application will be a decision made after the commencement and may therefore be a reviewable decision or a decision to which Part 3 of the Licensing (Director-General) Act applies.*

### **151      Application to Commission – not yet considered**

- (1) This section applies if, before the commencement:
  - (a) an application had been made under this Act for a decision to be made by the Commission; but
  - (b) the Commission had not commenced active consideration of the application.
- (2) The application:
  - (a) is taken to be an application made on the commencement for the decision to be made by the Director-General; and
  - (b) must be dealt with and determined in accordance with this Act as amended by the 2014 Amending Act.

*Note for section 151*

*The Director-General's decision on the application will be a decision made after the commencement and may therefore be a reviewable decision or a decision to which Part 3 of the Licensing (Director-General) Act applies.*

**152 Application to Commission – under active consideration**

- (1) This section applies if, before the commencement:
  - (a) an application had been made under this Act for a decision to be made by the Commission and the Commission had commenced active consideration of the application; but
  - (b) the Commission had not made a decision.
- (2) The Commission must deal with and determine the application in accordance with the old legislation as if the 2014 Acts had not commenced.
- (3) However, the Commission's decision is then taken to have been made by the Director-General.

*Note for section 152(3)*

*As the decision will be made after the commencement and will be taken to be a decision of the Director-General, it may be a reviewable decision.*

**153 Active consideration**

Regulations may make provision for determining when active consideration of an application commences for this Division.

**Division 3 Review of decisions**

**154 New review regime applies to post-commencement decisions**

Part XAC applies only in relation to decisions made after the commencement.

**155 Review of pre-commencement decision – application not yet made**

- (1) This section applies if, before the commencement:
  - (a) a decision had been made under this Act and the period for applying for a review of the decision under Part 4 of the NTLC Act or under this Act had not expired; but
  - (b) an application for a review had not been made.
- (2) A person who would have been entitled to apply for a review of the decision under the old legislation may do so under the old legislation, as if the 2014 Acts had not commenced.
- (3) The Commission must review the decision in accordance with the old legislation as if the 2014 Acts had not commenced.

**156 Review of pre-commencement decision – application made**

- (1) This section applies if, before the commencement:
  - (a) an application had been made under the old legislation for a review of a decision made under this Act; but
  - (b) the Commission had not completed the review.
- (2) The Commission must complete the review in accordance with the old legislation as if the 2014 Acts had not commenced.

**Division 4 Complaints**

**157 New complaints regime applies to post-commencement complaints**

Subject to section 158, Part VII as amended by the 2014 Amending Act applies only in relation to complaints made after the commencement.

**158 Complaint made before commencement – pending action**

- (1) This section applies if, before the commencement:
  - (a) a complaint had been made under section 68, as then in force; but
  - (b) the NTLC Director had not taken action under section 68(5), as then in force, in relation to the complaint.
- (2) The complaint:
  - (a) is taken to have been made to the Director-General on the commencement; and
  - (b) must be dealt with and determined in accordance with this Act as amended by the 2014 Amending Act.

*Note for section 158*

*The Director-General's decision on the complaint will be a decision made after the commencement and may therefore be a reviewable decision or a decision to which Part 3 of the Licensing (Director-General Act) applies.*

**159 Application for disciplinary action made before commencement**

- (1) This section applies if, before the commencement:
  - (a) the NTLC Director had applied to the Commission under section 69, as then in force, for disciplinary action to be taken against a licensee; but
  - (b) the Commission had not made a decision on the application.
- (2) The Commission must deal with and decide the application in accordance with the old legislation as if the 2014 Acts had not commenced.
- (3) If the Commission decides an application as mentioned in subsection (2):
  - (a) section 160 applies in relation to the Commission's decision as if it had been made before the commencement; and
  - (b) Part XAC does not apply in relation to the decision.

**160 Appeal against pre-commencement disciplinary decision – appeal not yet commenced**

- (1) This section applies if, before the commencement:
  - (a) a decision had been made under Part VII, Division 3, as then in force, and the period for commencing an appeal against the decision with the Supreme Court had not expired; but
  - (b) an appeal had not been commenced.
- (2) A person who would have been entitled to appeal against the decision under the old legislation may do so under the old legislation as if the 2014 Acts had not commenced.
- (3) The Supreme Court must hear and determine the appeal in accordance with the old legislation as if the 2014 Acts had not commenced.

**161 Appeal against pre-commencement disciplinary decision – appeal commenced**

- (1) This section applies if, before the commencement:
  - (a) an appeal against a decision made under Part VII, Division 3, as then in force, had been commenced with the Supreme Court; but

- (b) the Supreme Court had not determined the appeal.
- (2) The Supreme Court must hear and determine the appeal in accordance with the old legislation as if the 2014 Acts had not commenced.

## **Division 5          General matters**

### **162          Continuation of ongoing documents and things**

- (1) This section applies if:
  - (a) before the commencement, a power or function was conferred by this Act on an NTLC entity; and
  - (b) on the commencement, the power or function (or a substantially similar power or function) is conferred on the Director-General.
- (2) On the commencement, an ongoing document continues with the same force and effect as if it had been issued by, or given to, the Director-General.
- (3) On the commencement, an ongoing thing continues with the same force and effect as if it had been done by, or in relation to, the Director-General.
- (4) This section applies subject to the other provisions of this Part and Part 5, Division 2 of the *Licensing (Director-General) Act*.
- (5) In this section, a reference to something done before the commencement includes a reference to something done after the commencement in accordance with this Part as if it had been done before the commencement.
- (6) In this section:

**NTLC entity** means the Commission, the NTLC Director or the Chairperson (as defined in section 3 of the NTLC Act).

**ongoing document** means a document that:

- (a) was issued by, or given to, the NTLC entity before the commencement in or for the exercise of the power or performance of the function; and
- (b) immediately before the commencement, had ongoing effect.

**ongoing thing** means a thing that:

- (a) was done by, or in relation to, the NTLC entity before the commencement in or for the exercise of the power or performance of the function; and
- (b) immediately before the commencement, had ongoing effect.

## **Part XX Transitional matters for Gaming and Liquor Legislation Amendment Act 2015**

### **163 Application not determined**

- (1) This section applies in relation to an application for a variation of the conditions of a store licence that would have the effect of permitting the sale of liquor for consumption away from the premises on a day on which that is not permitted under the licence as in force immediately before the commencement.
- (2) If the application has not been decided as at the commencement, it is taken to have been rejected.
- (3) Part XAC does not apply to give a right of review in a matter that is taken under this section to have been rejected.
- (4) In this section:

**commencement** means the commencement of the *Gaming and Liquor Legislation Amendment Act 2015*.

**store licence**, see section 32A(10) of the Act.

## **Part XXI Transitional matters for Statute Law Amendment (Directors' Liability) Act 2015**

### **164 Offences**

Section 123B applies in relation to a relevant offence committed by a body corporate after the commencement of that section (the **commencement**) only if:

- (a) all the conduct constituting the relevant offence occurred after the commencement; and
- (b) all the conduct of the executive officer constituting the offence against that section occurred after the commencement.

## **Part XXII            Transitional matters for Liquor Amendment Act 2016**

### **165            Application not determined**

- (1) This section applies in relation to an application for a variation of the conditions of a store licence that would have the effect of permitting the sale of liquor for consumption away from the premises on a day on which that is not permitted under the licence as in force immediately before the application was made.
- (2) If the application has not been decided as at the commencement, it is taken to have been rejected.
- (3) Part XAC does not apply to give a right of review in a matter that is taken under this section to have been rejected.
- (4) In this section:

**commencement** means the commencement of the *Liquor Amendment Act 2016*.

**store licence**, see section 32A(10).

## **Part XXIII           Transitional matters for Liquor Legislation Amendment Act 2017**

### **166            Condition applies to pre-existing licences**

- (1) Section 33AB applies to every store licence, whether the licence was granted before, or after, the commencement of the *Liquor Legislation Amendment Act 2017*.
- (2) In this section:

**store licence**, see section 32A(10).

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**Schedule Reviewable decisions**

sections 120ZA, 120ZB and 120ZD

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<b>Section</b>	<b>Decision</b>
29	Decision to issue licence or refuse application
31	Decision to issue licence subject to condition
32A	Decision to vary, or refuse to vary, conditions of licence
33	Decision to vary conditions of licence
33F	Decision to grant, or refuse to grant, exemption
43	Decision to refuse application for transfer of licence
46A	Decision to approve or refuse application for substitution of premises
49A	Decision to suspend licence
59	Decision to issue special licence subject to condition or refuse to issue special licence
63	Decision to revoke special licence
68	Decision to dismiss complaint
69(3)	Decision to take disciplinary action against licensee
81	Decision to declare, or refuse to declare, general restricted area
84	Decision to revoke declaration of general restricted area
86E	Decision to declare, or refuse to declare, public restricted area
86G	Decision to revoke or amend declaration of public restricted area or to refuse application
92	Decision to issue permit or refuse application
101E	Decision to declare, or refuse to declare, restricted premises
101H	Decision to vary, or refuse to vary, declaration of restricted premises
101K(1)	Decision on application to revoke declaration of restricted premises
101K(2)	Decision to revoke declaration of restricted premises

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**Section    Decision**

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101ZF    Decision to issue, or refuse to issue, exemption certificate

106      Decision to declare licensed premises or part of premises to be prohibited area for children

119(8)    Decision to approve, or refuse to approve, material alteration

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**ENDNOTES**
**1****KEY**

Key to abbreviations

**amd = amended**  
**app = appendix**  
**bl = by-law**  
**ch = Chapter**  
**cl = clause**  
**div = Division**  
**exp = expires/expired**  
**f = forms**  
**Gaz = Gazette**  
**hdg = heading**  
**ins = inserted**  
**lt = long title**  
**nc = not commenced**

**od = order**  
**om = omitted**  
**pt = Part**  
**r = regulation/rule**  
**rem = remainder**  
**renum = renumbered**  
**rep = repealed**  
**s = section**  
**sch = Schedule**  
**sdiv = Subdivision**  
**SL = Subordinate Legislation**  
**sub = substituted**

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

Assent date            22 January 1979  
 Commenced            12 February 1979 (*Gaz* 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 (*Gaz* 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)

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**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: 30 January 2012 (*Gaz, S2*, 24 January 2012); 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)

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**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))

**Justice and Other Legislation Amendment Act 2012 (Act No. 2, 2012)**

Assent date 21 March 2012  
Commenced pts 2, 3 and 5 to 7: 1 August 2012; rem: 1 September 2012 (*Gaz* G29, 18 July 2012, p 7)

**Liquor and Other Legislation Amendment Act 2012 (Act No. 18, 2012)**

Assent date 22 May 2012  
Commenced pts 1 to 3, ss 15 and 29 and pts 5 and 6: 30 May 2012 (*Gaz* S25, 30 May 2012); rem: 27 July 2012 (*Gaz* S39, 24 July 2012)

**Alcohol Mandatory Treatment Act 2013 (Act No. 17, 2013)**

Assent date 28 June 2013  
Commenced 1 July 2013 (s 2)

**Local Government Amendment Act 2013 (Act No. 28, 2013)**

Assent date 8 November 2013  
Commenced 8 November 2013

**Local Government Amendment Act 2014 (Act No. 19, 2014)**

Assent date 2 June 2014  
Commenced s 16: 1 July 2014; s 18: 1 December 2014; rem: 2 June 2014 (s 2)

**Licensing (Repeals and Consequential Amendments) Act 2014 (Act No. 44, 2014)**

Assent date 5 December 2014  
Commenced 1 January 2015 (*Gaz* S130, 19 December 2014, p 2)

**Gaming and Liquor Legislation Amendment Act 2015 (Act No. 19, 2015)**

Assent date 23 June 2015  
Commenced 1 July 2015 (*Gaz* S75, 1 July 2015)

**Statute Law Amendment (Directors' Liability) Act 2015 (Act No. 26, 2015)**

Assent date 18 September 2015  
Commenced 14 October 2015 (*Gaz* G41, 14 October 2015, p 3)

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**Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)**

Assent date 6 April 2016  
 Commenced 1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and Gaz S34, 29 April 2016)

**Red Tape Reduction (Miscellaneous Amendments) Act 2016 (Act No. 12, 2016)**

Assent date 10 May 2016  
 Commenced 1 July 2016 (Gaz G26, 29 June 2016, p 2)

**Liquor Amendment Act 2016 (Act No. 32, 2016)**

Assent date 7 December 2016  
 Commenced 30 November 2016 (s 2)

**Statute Law Revision Act 2017 (Act No. 4, 2017)**

Assent date 10 March 2017  
 Commenced 12 April 2017 (Gaz G15, 12 April 2017, p 3)

**Liquor Legislation Amendment Act 2017 (Act No. 14, 2017)**

Assent date 27 June 2017  
 Commenced 27 June 2017

**Alcohol Harm Reduction Act 2017 (Act No. 16, 2017)**

Assent date 30 August 2017  
 Commenced 1 September 2017 (Gaz S61, 31 August 2017)

**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  
 amd No. 44, 2014, s 89  
 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; No. 18, 2012, s 4; No. 28, 2013, s 61; No. 19, 2014, s 26; No. 44, 2014, s 44  
 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; No. 44, 2014, s 89; No. 4, 2017, s 34  
 pt II  
 div 1 hdg rep No. 40, 1986, s 5  
 ins No. 13, 1991, s 5  
 rep No. 70, 1999, s 5

## ENDNOTES

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- s 6 rep No. 40, 1986, s 5  
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s 120P	ins No. 17, 2010, s 6 amd No. 17, 2011, s 55
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120R	ins No. 17, 2010, s 6
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s 120S	ins No. 17, 2010, s 6 amd No. 8, 2016, s 45
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s 120U	ins No. 17, 2010, s 6 amd No. 17, 2011, s 57
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120W	ins No. 17, 2010, s 6
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div 5 hdg	ins No. 17, 2010, s 6
s 120X	ins No. 17, 2010, s 6 amd No. 44, 2014, s 89
s 120Y	ins No. 17, 2010, s 6 amd No. 17, 2011, s 58
s 120Z	ins No. 17, 2010, s 6
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s 120ZE	ins No. 44, 2014, s 83
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; No. 17, 2013, s 160 rep No. 44, 2014, s 84
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s 123B	ins No. 26, 2015, s 65
s 124	amd No. 35, 1980, s 26; No. 1, 1992, s 13; No. 24, 1993, s 4; No. 17, 1996, s 6; No. 44, 2014, s 89 sub No. 17, 2011, s 62
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
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s 125A	ins No. 17, 2011, s 64 amd No. 44, 2014, s 89
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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; No. 44, 2014, s 89
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