

NORTHERN TERRITORY OF AUSTRALIA
LIQUOR LEGISLATION AMENDMENT ACT 2010

Act No. 17 of 2010

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 17 of 2010

An Act to amend the *Liquor Act* and *Liquor Regulations*

[Assented to 20 May 2010]
[Second reading 25 February 2010]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Liquor Legislation Amendment Act 2010*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Liquor Act

3 Act amended

This Part amends the *Liquor Act*.

4 Amendment of section 4 (Interpretation)

(1) Section 4(1)

omit

, unless the contrary intention appears

(2) Section 4(1)

insert (in alphabetical order)

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

alcohol-related violence, see section 120A.

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

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

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

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

enter, for Part XAB, see section 120E.

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

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

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

specified offence means an offence against any of the following:

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

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

If a person committed an offence against a provision and subsequently an offence against the provision is prescribed by this Act or by regulation as a specified offence, the previously committed offence is not a specified offence.

- (3) Section 4(1), definition **material alteration**, paragraphs (a) and (b), at the end

insert

or

- (4) Section 4(1), definition **sell**, paragraph (a), at the end

insert

and

5 New sections 106BB to 106BD

After section 106BA

insert

106BB Misrepresentation of minor's age

- (1) A person must not deal with a form of identification if the person knows the form of identification:

- (a) is fictitious or is false in a material particular; and
- (b) will be used to misrepresent the age of a person for a purpose contrary to this Act.

- (2) A person who has not attained the age of 18 years 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 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.

- (3) In this section:

deal with, a form of identification, means assemble, compose, create, make or manufacture a document that could reasonably be taken to be a form of identification of a person.

purpose contrary to this Act includes a person who has not attained the age of 18 years entering or remaining on licensed premises in respect of which the person is not entitled to enter or remain.

106BC Wrongful dealing with genuine form of written identification

- (1) A person (the ***specified person***) must not give a genuine form of identification of the specified person to someone else, if the specified person knows or has reasonable grounds to suspect the form of identification may be used for either of the following:
 - (a) to misrepresent the age of another person for a purpose contrary to this Act;
 - (b) 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.
- (2) A person must not deface or interfere with a genuine form of identification of the person or another person with the intention that the form of identification, as defaced or interfered with, will be used to misrepresent the age of a person for a purpose contrary to this Act.
- (3) In this section:

purpose contrary to this Act includes a person who has not attained the age of 18 years entering or remaining on licensed premises in respect of which the person is not entitled to enter or remain.

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 ***entrant***) entering or remaining on licensed premises in respect of which the entrant would not otherwise be entitled to enter or remain; and
 - (b) the person believes, on reasonable grounds, the form of identification is relevant to a contravention of section 106BA, 106BB or 106BC whether the form of identification is either:
 - (i) a genuine form of identification about someone else other than the entrant; or
 - (ii) a document that is not a genuine form of identification.
- (2) The person does not commit an offence under subsection (1) if the person is not aware of the contravention of section 106BA, 106BB or 106BC involving the production of the form of identification.

- (3) As soon as practicable after seizing a form of identification, the person must tell the entrant that the form of identification is seized and must be given to the Director no later than 72 hours after the time of seizure.
- (4) If a person seizes a form of identification under subsection (1), the person must give it to the Director as soon as is reasonably practicable and no later than 72 hours after the time of seizure.
- (5) A failure to comply with subsection (3) or (4) does not affect the validity of the seizure.
- (6) As soon as the Director is given a form of identification seized under this section, the Director must:
 - (a) consider if it is relevant to a contravention of section 106BA, 106BB or 106BC; and
 - (b) if the Director does not consider it is relevant – take all reasonable steps to return it to the person to whom it relates.

6 New Parts XA and XAB

After section 120

insert

Part XA Local liquor accords

120A Definitions

In this Part:

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

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

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

- (a) affects the supply of liquor, the opening and closing of licensed premises or other aspects of the management of, or conduct of business on, licensed premises; and

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

120B Particular parties may prepare draft local liquor accord

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

120C Terms of local liquor accord

- (1) A local liquor accord may provide for one or more of the following:
 - (a) authorising or requiring any licensee who is a party to the accord to do either of the following from a time of day that is earlier than the time at which, as required by the relevant licence, the selling of liquor must cease:
 - (i) to cease or restrict selling liquor (including take-away liquor) on the licensed premises;
 - (ii) to restrict the public's access to the licensed premises in the way and to the extent provided by the accord;

- (b) authorising or requiring any licensee who is a party to the accord:
- (i) to prohibit or restrict the use of glass containers; or
 - (ii) to maintain an incident register; or
 - (iii) to install and operate closed-circuit television or another security device; or
 - (iv) to provide security staff; or
 - (v) to charge a particular price for liquor; or
 - (vi) to do any other thing prescribed by regulation as a measure that may be taken to prevent or reduce alcohol-related violence.
- (2) Subsection (1) does not limit other matters that may be included in a local liquor accord.
- (3) Any conduct on the part of any person for the purpose of preparing a draft local liquor accord, for approval of a local liquor accord or for promoting or giving effect to the terms of a local liquor accord, is specifically authorised for the purposes of section 51 of the *Trade Practices Act 1974* (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 *Trade Practices Act 1974* (Cth).

120D Approval, variation and termination of local liquor accord

- (1) The Director may approve a local liquor accord and the accord takes effect when so approved.
- (2) As part of approving a local liquor accord, the Director must determine the area to which the accord is to apply by taking into account the area proposed in the draft local liquor accord by the parties to the draft and any other relevant matters.
- (3) The Director may, on the Director's own initiative or on application of the parties to a local liquor accord, determine to vary it at any time by written notice to the coordinator of the accord.

- (4) A determination to vary a local liquor accord includes:
- (a) varying the accord area; and
 - (b) adding or omitting a party to the accord but only if the party added or omitted made a written request to the Director to do so.
- (5) The coordinator of a local liquor accord is to notify the Director if the parties to the accord wish to terminate the accord.
- (6) By written notice to the coordinator of a local liquor accord, the Director may terminate the accord at any time if the Director considers it appropriate to do so, including after considering a notice under subsection (5).

PART XAB Banning notices and exclusion orders

Division 1 Definitions

120E Definitions

In this Part:

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

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

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

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

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

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

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

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

exclusion order means an order made under section 120S.

Division 2 Designated areas**120F Declaration of a designated area**

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

public place includes:

- (a) every place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of the place; and
- (b) every place to which the public are admitted on payment of money, the test of the admittance being the payment of the money only; and
- (c) every road, street, footway, court, alley or thoroughfare that the public are allowed to use, even if the road, street, footway, court, alley or thoroughfare is formed on private property.

120G Court proceedings regarding declaration of a designated area

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

- (b) anything done under this Part in reliance on the banning notice or exclusion order.

120H Variation and revocation of declaration of a designated area

The Minister, by *Gazette* notice:

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

Division 3 Banning notices

120J Police officer may give banning notice

- (1) A police officer who suspects, on reasonable grounds, that a person is committing or has committed a specified offence wholly or partly in a designated area may give the person a notice banning the person, for a period specified in the notice, from:
 - (a) the designated area; or
 - (b) all licensed premises in the designated area.
- (2) The period specified in the banning notice must not exceed 48 hours starting from the time the notice is given to the person.
- (3) The police officer cannot give a banning notice to a person unless the officer:
 - (a) believes, on reasonable grounds, that giving the notice would be an effective and reasonable way of preventing the person from:
 - (i) continuing to commit the specified offence in the designated area; or
 - (ii) committing a further specified offence in the designated area; and
 - (b) considers the continuation of the commission of the specified offence or the commission of a further specified offence may involve or give rise to a risk of alcohol-related violence in the designated area.

- (4) In determining whether there are reasonable grounds for his or her belief as mentioned in subsection (3)(a), the police officer must consider each of the following:
- (a) the apparent state of health of the person to whom the notice is to apply;
 - (b) whether the person is likely to continue to commit the specified offence, or to commit a further specified offence, in the designated area;
 - (c) whether the person should be arrested or held in custody pending the hearing of any charges against the person in relation to the specified offence;
 - (d) whether the person is capable of comprehending the nature and effect of the notice;
 - (e) any other matter the officer considers is relevant.
- (5) Despite anything to the contrary in a banning notice, it does not operate to prevent the banned person from entering or remaining in, or attempting to enter or remain in:
- (a) for a banning notice that bans the person from a designated area – the designated area or licensed premises in the specified designated area for the purpose of the banned person residing in or attending his or her usual place of residence or work in the designated area; or
 - (b) for a banning notice that bans the person from all licensed premises in a designated area – licensed premises in the designated area for the purpose of the banned person residing in or attending his or her usual place of residence or work in the licensed premises.
- (6) No more than one banning notice may be given to a person banning the person from a designated area, or all licensed premises in a designated area, in relation to the same specified offence.
- (7) However, a banning notice banning the person from a designated area or all licensed premises in a designated area may be given to a person who is already a banned person under a banning notice for the same designated area or for all licensed premises in the designated area, if the subsequent notice is given in relation to a separate specified offence.

120K Particulars to be included in banning notice

A banning notice must state each of the following:

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

- (i) a copy of the notice and, if available, a photograph of the banned person may be provided to licensees of licensed premises in the designated area and persons employed in those premises for the enforcement of the notice;
- (j) the notice may be varied by a police officer, or revoked by the police officer who gave the notice, under section 120M;
- (k) the notice may be revoked under section 120R but only if a request is made under that section to the Commissioner of Police.

120L Requirements before giving banning notice

- (1) If a police officer intends to give a banning notice to a person, the officer:
 - (a) must produce his or her police identification unless the officer is in uniform; and
 - (b) must inform the person of the officer's intention of giving the notice; and
 - (c) may ask the person to state the person's name and address.
- (2) The person must not:
 - (a) fail to comply with the request without a reasonable excuse; or
 - (b) state a name that is false in a material particular; or
 - (c) state an address other than the full and correct address of his or her usual place of residence or work.
- (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 unless he or she has a reasonable excuse for not doing so.
- (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

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.

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.

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

120Q Use of reasonable force to remove banned person

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

licensed premises after the person fails to comply with a direction under section 120P(2).

- (2) This section does not limit any powers of arrest a police officer has under any other law.
- (3) Any action taken under this section in relation to a person does not prevent starting proceedings against the person for an offence.

120R Revocation of banning notice by Commissioner of Police

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

Example of circumstances that may constitute special circumstances

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

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

Division 4 Exclusion orders

120S Making of exclusion order

- (1) A court that finds a person (an **offender**) guilty of a specified offence may make an exclusion order about the offender if the court:
 - (a) is satisfied the specified offence was committed wholly or partly in a designated area; and
 - (b) does not sentence the offender to a term of imprisonment of 12 months or more in relation to the specified offence; and
 - (c) is satisfied that making the exclusion order would be an effective and reasonable way of preventing the offender from committing a further specified offence in the designated area.

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

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

120T Contravention of exclusion order

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.

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

120V Use of reasonable force to remove excluded person

- (1) A police officer may use reasonable force:
 - (a) to prevent an excluded person from entering or remaining in, or from attempting to enter or remain in, a designated area or licensed premises contrary to section 120T; and
 - (b) to remove an excluded person from a designated area or licensed premises after the person has failed to comply with a direction under section 120U(2).
- (2) This section does not limit any powers of arrest a police officer has under any other law.

- (3) Any action taken under this section in relation to a person does not prevent starting proceedings against the person for an offence.

120W Variation of exclusion order

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

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

Division 5 General

120X Disclosure of information for enforcement purposes

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

- (a) the fact the banning notice or exclusion order has been given or made that bans or excludes the banned person or excluded person from a designated area or licensed premises;
- (b) the name of the banned person or excluded person and, if available, a photograph of the person;
- (c) the period for which the notice or order applies;
- (d) a copy of the notice or order and of any variation or revocation of the notice or order;
- (e) other information about the notice or order that the Director or officer considers appropriate in the circumstances.

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

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

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*.

7 Amendment of section 121 (Power to exclude or remove persons)

(1) Section 121(1), after "an inspector"

insert

or police officer

(2) Section 121(1A)

omit

or an inspector

substitute

, an inspector or a police officer

(3) Section 121(1A)(a), at the end

insert

or

(4) Section 121(2) and (3)

omit

member of the Police Force

substitute

police officer

(5) Section 121(4)

omit

a member of the Police Force

substitute

police officer

(6) After section 121(4)

insert

- (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.

8 New section 121A

After section 121

insert

121A Returning to licensed premises after request to leave etc.

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.

9 Amendment of section 124AA (Regulatory offences)

(1) Section 124AA(1), after "119(1) or (10),"

insert

120N, 120T,

(2) After section 124AA(2)

insert

- (3) It is a defence to a prosecution for an offence against section 75(1) if the defendant proves on the balance of probabilities that he or she engaged in the conduct mentioned in that subsection in a general restricted area but the conduct was authorised by a licence.
- (4) It is a defence to a prosecution for an offence against section 120N or 120T if the defendant proves on the balance of probabilities that:
- (a) the defendant was under a mistaken but honest and reasonable belief about facts that, had they existed, would have meant that the defendant's conduct would not have constituted an offence; or
 - (b) the conduct constituting the offence was caused by circumstances beyond the control of the defendant and the defendant had taken reasonable precautions to avoid committing an offence.

Part 3 Amendment of Liquor Regulations

10 Regulations amended

This Part amends the *Liquor Regulations*.

11 Amendment of regulation 3 (Definitions)

Regulation 3, definition *infringement notice*

omit

or 101L(1)

substitute

, 101L(1), 120N, 120P(3), 120T, 120U(3), 120Y, 121(2) or 121A

12 Amendment of regulation 7 (Prescribed amount for infringement offence)

Regulation 7

omit

\$100

substitute

1 penalty unit

Part 4 Further amendments and expiry provision

13 Further amendments

The Schedule has effect.

14 Expiry

This Act expires on the day after it commences.

Schedule Further amendments of Liquor Act

section 13

Provision	Amendment	
	<i>omit</i>	<i>substitute</i>
section 5(4)	member of the Police Force in the execution of his duty	police officer in the execution of the inspector's or officer's duty
section 19(5)(a) to (c) and (7)(a)(i)	;	; and
section 19(10)	member of the Police Force as if the member	police officer as if the officer
sections 26A(3)(e)(i), 31(2)(a) to (i) and (4)(a), 32A(4)(a) to (c) and 46A(3)(a) and (b)	;	; and
sections 46A(6)(a) and 47C(a)	;	; or
sections 47F(4)(a) and (b), 47I(3)(a), 47J(2)(a) and (b) and 48(3)(a) and (6)(a)	;	; and
sections 49(2)(a) and (4)(a) and 50(1)(a) to (c)	;	; or
section 51(3)(a) to (c)	;	; and
sections 51(11)(a) and (b) and 52(2)(a)	;	; or
sections 57(a) and 58(1)(a)	;	; and
sections 65(a), 66(1)(a)(ii), 67(a), 72(1)(a) and (b) and (5)(a) and 75(1)(a)	;	; or

section 77(2)	inform:	inform all of the following:
sections 79(1)(a) to (c) and 82(2)(a) and (aa)	;	; and
sections 83(a) and 87(2)(a)	;	; or
section 93(b)	whole paragraph	(b) the holder of that permit must surrender it to an inspector or police officer on demand made by the inspector or officer.
sections 104(3)(a) to (e) and 106BA(a)	;	; or
section 106C(a)	;	; and
section 108	member of the Police Force upon demand being made by the inspector or the member of the Police Force	police officer on demand made by the inspector or officer
section 111(2)(a) and (b)	;	; and
section 113(2)(a)	;	; or
sections 118(1)(a) and 119(2)(a) and (4)(a) to (c)	;	; and
sections 119(7)(a) and 123(1)(a)	;	; or
section 124AAA(2)(a)	; and	;
sections 124AA(2)(a) and 124A(a)	;	; or
section 128(2)(a) to (e)	;	; and
