

Western Australia

Liquor Control Amendment Act 2010

As at 08 Dec 2010

No. 56 of 2010

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Liquor Control Amendment Act 2010

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Western Australia

Liquor Control Amendment Act 2010

No. 56 of 2010

An Act to amend the *Liquor Control Act 1988*.

[Assented to 8 December 2010]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary matters

1. Short title

This is the *Liquor Control Amendment Act 2010*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Act amended

This Act, except Part 6, amends the *Liquor Control Act 1988*.

Part 2 — Amendments relating to managers

4. Section 3 amended

- (1) In section 3(1) delete the definition of *manager*.
- (2) In section 3(1) insert in alphabetical order:

approved restricted manager means a person approved under section 102B(1)(b);

approved unrestricted manager means a person approved under section 102B(1)(a);

manager, in relation to licensed premises, means —

- (a) an approved unrestricted manager or approved restricted manager appointed by the licensee of the premises to supervise and manage the premises; or
 - (b) a person appointed by the licensee of the premises in accordance with section 100(3) to act as a temporary manager of the premises;
- (3) In section 3(1) in the definition of *authorised person*:
 - (a) in paragraph (b) delete “the manager” and insert:

a manager
 - (b) in paragraph (c) delete “licensee, occupier or manager; or” and insert:

licensee or occupier or a manager; or
 - (c) after each of paragraphs (a) and (b) insert:

or

5. Section 30 amended

Delete section 30(3)(a)(iii) and “or” after it and insert:

- (iii) refuses to approve a person as an approved unrestricted manager or approved restricted manager under section 102B(1), or revokes or suspends such an approval; or

6. Section 33 amended

- (1) In section 33(6) delete “a manager or trustee —” and insert:

an approved unrestricted manager, an approved restricted manager or a trustee —

- (2) In section 33(6b):

- (a) in paragraph (b) delete “corporate,” and insert:

corporate; or

- (b) after paragraph (b) insert:

- (ca) is approved as an approved unrestricted manager, an approved restricted manager or a trustee,

7. Section 34 amended

In section 34(1)(c):

- (a) delete “to a” and insert:

of a

(b) delete subparagraph (i) and insert:

(i) as an approved unrestricted manager or
an approved restricted manager; or

8. Section 35B deleted

Delete section 35B.

9. Section 37 amended

Delete section 37(4).

10. Section 37B amended

(1) Delete section 37B(2)(c) and insert:

(c) for approval as an approved unrestricted
manager or an approved restricted manager.

(2) Delete section 37B(3)(c) and insert:

(c) an approved unrestricted manager or an
approved restricted manager,

(3) In section 37B(6):

(a) in paragraph (a)(ii) delete “a manager;” and insert:

an approved unrestricted manager or an
approved restricted manager;

(b) in paragraph (b) delete “a manager.” and insert:

an approved unrestricted manager or an approved restricted manager.

11. Section 48 amended

After section 48(4) insert:

- (5A) Without limiting section 64, the Director may impose a condition on a club licence or club restricted licence requiring that any manager of the licensed premises (other than a person appointed under section 100(3)) be an approved unrestricted manager.

12. Section 59 amended

After section 59(5) insert:

- (6A) Without limiting section 64, the Director may impose a condition on an occasional licence requiring that any manager of premises that are the subject of the licence (other than a person appointed under section 100(3)) be an approved unrestricted manager.

13. Section 60 amended

In section 60(3)(b) delete “a person nominated by the licensee and approved by the Director” and insert:

an approved unrestricted manager or an approved restricted manager

14. Part 4 Division 3 Subdivision 1 heading inserted

At the beginning of Part 4 Division 3 insert:

**Subdivision 1 — Licensed premises to be supervised
and managed**

15. Section 100 amended

(1) In section 100(2):

(a) in paragraph (a) delete “person;” and insert:

person; or

(b) delete paragraphs (b) and (c) and “or” after paragraph (b) and insert:

(b) by a person who is —

(i) unless subparagraph (ii) applies — an approved unrestricted manager; or

(ii) in the case of a club licence, club restricted licence or occasional licence that is not subject to a condition imposed under section 48(5A) or 59(6A) — an approved unrestricted manager or an approved restricted manager;

or

(c) a person appointed by the licensee in accordance with subsection (3) to act as a temporary manager of the premises.

(2) Delete section 100(2a) and insert:

- (2a) Without limiting subsection (2), the licensee is to ensure, unless the Director otherwise approves, that there is present at the licensed premises at any time when business is conducted at the premises —
- (a) a person who is —
 - (i) unless subparagraph (ii) applies — an approved unrestricted manager; or
 - (ii) in the case of a club licence, club restricted licence or occasional licence that is not subject to a condition imposed under section 48(5A) or 59(6A) — an approved unrestricted manager or an approved restricted manager;
 - or
 - (b) a person appointed by the licensee in accordance with subsection (3) to act as a temporary manager of the premises.

Penalty: a fine of \$10 000.

- (3) Delete section 100(3) and (4) and insert:
- (3) Subject to any condition imposed under subsection (4), a licensee may appoint a person to act as a temporary manager of licensed premises for a particular period if —
- (a) unless the Director otherwise approves, at the end of that period the premises will not have been supervised and managed by a temporary manager —
 - (i) for more than 7 consecutive days; nor

- (ii) for more than 7 days in any 28 day period;
 - and
 - (b) the person appointed has not, at any time, been found to be not a fit and proper person to manage licensed premises.
- (4) Without limiting section 64, the Director may impose a condition on a licence prohibiting the licensee from appointing a person under subsection (3) unless the Director has approved the appointment.
- (4) Delete section 100(6).
- (5) In section 100(7) delete “there under a licence or permit,” and insert:

at those premises,

16. Part 4 Division 3 Subdivision 2 inserted

After section 101 insert:

Subdivision 2 — Approval of managers

102A. Terms used

In this Subdivision —

approved manager means an approved unrestricted manager or an approved restricted manager;

manager’s approval means an approval granted under section 102B.

102B. Director may approve manager

- (1) The Director may, in writing, approve a natural person as —
 - (a) an approved unrestricted manager; or
 - (b) an approved restricted manager.
- (2) An application for a manager's approval —
 - (a) is to be made in accordance with the regulations; and
 - (b) is to be accompanied by the prescribed fee.
- (3) The Director must not grant a manager's approval unless satisfied that the applicant is a fit and proper person to be approved.
- (4) In determining an application for a manager's approval the Director may have regard to any matters prescribed by the regulations.
- (5) Unless the Director otherwise determines, if a person has applied for a manager's approval the person is to be taken to be an approved unrestricted manager or an approved restricted manager, as the case requires, until the Director determines the application.

102C. Conditions on manager's approval

The Director may, in accordance with the regulations, impose any conditions on a manager's approval that the Director thinks fit and may vary or remove those conditions.

102D. Duration of manager's approval

- (1) A manager's approval —
 - (a) takes effect on the day on which it is granted or any later day specified in it; and

- (b) remains in force for the period prescribed by the regulations, unless before then it is revoked under section 102F.
- (2) A manager's approval may be renewed for consecutive periods of the duration prescribed by the regulations.

102E. Renewal of manager's approval

- (1) An approved manager may apply to the Director to renew his or her manager's approval.
- (2) An application for the renewal of a manager's approval —
 - (a) is to be made in accordance with the regulations; and
 - (b) is to be accompanied by the prescribed fee.

102F. Disciplinary matters

- (1) There are grounds for taking action against an approved manager under this section if —
 - (a) the approved manager has failed to supervise and manage the conduct of business at licensed premises in a proper manner; or
 - (b) the approved manager is no longer fit and proper to be approved; or
 - (c) the approved manager has failed to comply with any condition on his or her manager's approval; or
 - (d) grounds exist under the regulations for taking action under this section.
- (2) If the Director is satisfied that there are grounds for taking action against an approved manager under this section the Director may, by notice in writing —
 - (a) revoke the manager's approval; or

- (b) suspend the manager's approval for a specified period; or
 - (c) impose conditions on the manager's approval.
- (3) The Director must not take action against an approved manager under this section unless the approved manager —
 - (a) has been given, subject to section 30, details of the grounds on which the Director proposes to take that action; and
 - (b) has been afforded a reasonable opportunity to be heard on the matter.
- (4) The Director may revoke a suspension imposed under subsection (2)(b) before the end of the specified period.

102G. Approval may be cancelled on request

The Director may cancel a manager's approval at the request of the manager.

17. Part 4 Division 3 Subdivision 3 heading inserted

Before section 102 insert:

Subdivision 3 — General matters

18. Section 116 amended

- (1) Delete section 116(4) and insert:
 - (4) A licensee shall cause to be displayed in a readily legible condition and in a conspicuous position in the licensed premises —
 - (a) a copy of the licence; and

- (b) if section 100(2a) applies in relation to the premises — a notice displaying the name of each person who is supervising and managing the premises and identifying every such person as a manager.

Penalty: a fine of \$2 000.

- (5A) The notice required by subsection (4)(b) may be combined with the notice required by subsection (5).

- (2) In section 116(5):

- (a) in paragraph (c) delete ““Licensee”; and” and insert:

“Licensee”,

- (b) delete paragraph (d).

19. Section 121 amended

In section 121(1):

- (a) delete paragraph (b) and insert:

- (b) any manager who is supervising and managing the licensed premises at the time the liquor is sold or supplied; and

- (b) after paragraph (a) insert:

and

20. Section 164 amended

- (1) Delete section 164(1)(b) and insert:

- (b) if the offence was committed in respect of licensed premises, any manager who was supervising and managing the premises at the time the offence was committed shall also be deemed to have committed an offence unless it is proved that —
 - (i) such direction had been given; and
 - (ii) such supervision had been exercised or caused to be exercised,by that manager as were reasonably necessary to ensure that an offence against this Act would not be committed,

(2) Delete section 164(1a)(b) and insert:

- (b) the Commission may impose a penalty under section 96 on any manager who was supervising and managing the premises at the time the grounds upon which the complaint was made occurred, as well as on the licensee, unless it is proved that —
 - (i) such direction had been given; and
 - (ii) such supervision had been exercised or caused to be exercised,by that manager as were reasonably necessary to ensure that the grounds upon which the complaint was made would not occur.

21. Section 172 amended

In section 172(1):

- (a) delete paragraph (b)(iv) and insert:

(iv) an approved unrestricted manager or an approved restricted manager;

(b) after each of paragraphs (a) to (na) and (b)(i) and (ii) insert:

or

22. Section 175 amended

In section 175(1):

(a) in paragraph (f) delete “used.” and insert:

used; and

(b) after paragraph (f) insert:

(g) the approval and conduct of managers.

(c) after each of paragraphs (a) to (d) insert:

and

23. Section 177B inserted

After section 177A insert:

177B. Transitional provisions relating to the *Liquor Control Amendment Act 2010*

Schedule 1B sets out transitional provisions relating to amendments made to this Act by the *Liquor Control Amendment Act 2010*.

24. Schedule 1B inserted

After Schedule 1A insert:

Schedule 1B — Transitional provisions relating to the *Liquor Control Amendment Act 2010*

[s. 177B]

1. Terms used

In this Schedule —

approved manager means an approved unrestricted manager or an approved restricted manager;

commencement day means the day on which the *Liquor Control Amendment Act 2010* Part 2 comes into operation;

old section 35B means section 35B as in force immediately before the commencement day.

2. Current managers taken to be licensed

On the commencement day a person who was, immediately before the commencement day, approved as a manager of licensed premises under the old section 35B becomes —

- (a) if the person had, before the commencement day, completed a course of training or an assessment of the kind described in the old section 35B(3)(c)(i) — an approved unrestricted manager; or
- (b) otherwise — an approved restricted manager.

3. Duration of transitioned approvals

- (1) For the purposes of section 102D, an approval effected by clause 2 (a *transitioned approval*) is taken to have been granted on the commencement day.
- (2) The regulations may modify the operation of section 102D in relation to transitioned approvals.
- (3) Regulations for the purposes of subclause (2) cannot reduce the duration of a transitioned approval unless the approved manager agrees to the reduction.
- (4) Regulations for the purposes of subclause (2) may make different provision for different classes of approvals or different classes of persons.

4. Current applications

- (1) If —
 - (a) an application was made before the commencement day for a person (the *applicant*) to be approved as a manager under the old section 35B; and
 - (b) as at the commencement day the application had not been finally dealt with,

then on the commencement day the application becomes an application under section 102B for approval of the applicant as an approved unrestricted manager.

- (2) If an applicant to whom subclause (1) applies does not satisfy the criteria for approval as an approved unrestricted manager but does satisfy the criteria for approval as an approved restricted manager, the Director may approve the person as an approved restricted manager.

25. Other provisions amended

Amend the provisions listed in the Table as set out in the Table.

s. 25

Table

| Provision | Delete | Insert |
|---|--|---|
| s. 3(7)(a), 125(1)(a)(i) and (c), 126C(2) and (3) | licensee, occupier or manager | licensee or occupier or a manager |
| s. 34(3) | a manager | an approved unrestricted manager or an approved restricted manager |
| s. 35A(4) | be manager of licensed | be a manager of the licensed |
| s. 37A | licensee, or a person approved as a manager under section 35B | licensee, an approved unrestricted manager or an approved restricted manager |
| s. 101(1) | a person appointed as manager, or permitted by the licensee to conduct, supervise or manage the business carried on under the licence on any premises is responsible | a manager of the licensed premises, or a person permitted by the licensee to conduct, supervise or manage the business carried on under the licence, is responsible |
| s. 101(2) | the manager | a manager |

| Provision | Delete | Insert |
|------------------|---|---|
| s. 103A(3) | licensee or an approved manager. | licensee, an approved unrestricted manager or an approved restricted manager. |
| s. 115(3) | an approved manager | a manager |
| s. 115(7)(b) | or manager | or a manager |
| s. 116(2) | A licensee, or a manager, of the business conducted under the licence | The licensee or a manager of the licensed premises |
| s. 119(5)(a) | or the manager or | a manager of, or |
| s. 120(1)(b)(i) | the licensee, manager or occupier of | the licensee or occupier or a manager of |
| s. 154(1)(f) | or manager to | or a manager of the premises to |

Part 3 — Amendments relating to liquor restricted premises

26. Part 5B inserted

After Part 5A insert:

Part 5B — Liquor restricted premises

152N. Terms used

In this Part —

applicant, in relation to a liquor restriction declaration, means the person on whose application the declaration was granted;

liquor restricted premises means premises that are the subject of a liquor restriction declaration that is in force;

liquor restriction declaration means a declaration made under section 152P;

occupier, in relation to premises, means a person who is, or is entitled to be, in occupation or control of the premises, whether exclusively or jointly or in common with other persons.

152O. Liquor prohibited on liquor restricted premises

(1) A person who —

- (a) brings liquor onto; or
- (b) causes liquor to be brought onto; or
- (c) has in his or her possession or control any liquor on; or
- (d) consumes liquor on,

liquor restricted premises commits an offence.

Penalty: a fine of \$2 000.

- (2) Subsection (1)(a), (b) and (c) do not apply if —
 - (a) the person in possession of the liquor is passing through a part of the liquor restricted premises that is open to the public or through which the person has a right of access; and
 - (b) the liquor —
 - (i) is in an unopened container or a container that having been opened is securely re-closed; and
 - (ii) is intended for consumption off the liquor restricted premises.
- (3) It is a defence to a charge of an offence against subsection (1) to show that the person charged —
 - (a) did not know; and
 - (b) could not reasonably have been expected to know,

that the premises were liquor restricted premises.

152P. Declaration of liquor restricted premises

- (1) The Director may, by notice in writing, declare any of, or any part of, the following to be liquor restricted premises —
 - (a) residential premises;
 - (b) non-residential private premises, even if all or part of the premises is open to the public;
 - (c) Crown land that is occupied by a person who has a right to exclusive possession of the land.
- (2) A declaration may be made so as to declare premises to be a liquor restricted premises —
 - (a) at all times; or
 - (b) only during such periods as are specified in the declaration.

- (3) A declaration may be made subject to any exemptions or conditions the Director thinks fit.
- (4) The Director may exercise a power under subsection (1) on the application of —
 - (a) an owner or occupier of the premises; or
 - (b) a person who is, in relation to the premises, in a prescribed class of persons.

152Q. Making of liquor restriction declaration

- (1) The Director may make a liquor restriction declaration if satisfied that making the declaration —
 - (a) either —
 - (i) reflects the wishes of the majority of the occupiers of the premises; or
 - (ii) is in the public interest, despite not reflecting the wishes of the majority of the occupiers of the premises;
 - and
 - (b) is reasonable in the circumstances.
- (2) The Director may make a liquor restriction declaration in relation to all or part of the premises to which the application relates.
- (3) If the applicant is not the sole owner and occupier of premises to which an application relates the Director must not declare the premises to be liquor restricted premises unless the Director is satisfied that each other person who owns or occupies any part of the premises —
 - (a) consents to the declaration being made; or
 - (b) has —
 - (i) been informed of the application; and
 - (ii) had a reasonable opportunity to make submissions to the Director.

- (4) For the purposes of deciding whether to declare premises to be liquor restricted premises the Director may consult with all or any of the following persons —
 - (a) owners or occupiers of the premises the subject of the application;
 - (b) owners or occupiers of premises near the premises the subject of the application;
 - (c) the Commissioner of Police;
 - (d) the relevant local government;
 - (e) any other person, body or authority the Director considers may be able to provide information relevant to the application.
- (5) If the Director refuses to make a liquor restriction declaration the Director must notify the applicant of the refusal and the grounds on which it was made.

152R. Director to notify persons of declaration

- (1) On making a liquor restriction declaration the Director must give a copy of the declaration to —
 - (a) the applicant; and
 - (b) the Commissioner of Police.
- (2) On making a liquor restriction declaration the Director must give notice of the declaration to each other person who owns or occupies any part of the liquor restricted premises.
- (3) A notice under subsection (2) —
 - (a) must comply with section 152S(3)(a); and
 - (b) may be given in person or by post.
- (4) A failure to give notice as required by subsection (2) does not affect the validity of the declaration.

152S. Notice of declaration to be displayed at premises

- (1) As soon as practicable after a liquor restriction declaration is made the applicant must cause a notice about the declaration to be displayed at the liquor restricted premises.
Penalty: a fine of \$2 000.
- (2) The applicant must ensure that the notice remains on display at all times while the declaration is in force.
Penalty: a fine of \$2 000.
- (3) The notice must —
 - (a) include —
 - (i) a statement that the premises are liquor restricted premises; and
 - (ii) a description or diagram of the area that is subject to the declaration in sufficient detail for it to be clearly identified; and
 - (iii) a copy of the declaration; and
 - (iv) a statement as to the effect of section 152O;and
 - (b) be displayed in a conspicuous position on the premises; and
 - (c) be in a readily legible condition; and
 - (d) comply with any requirements prescribed in the regulations.
- (4) If the declaration is varied under section 152U, the notice must be changed accordingly.
- (5) A person must not remove, deface or otherwise interfere with a notice displayed as required by this section.
Penalty: a fine of \$2 000.

152T. Duration of declaration

- (1) A liquor restriction declaration comes into force when it is made or at any later time specified in the declaration.
- (2) A liquor restriction declaration ceases to be in force when the first of the following occurs —
 - (a) if the declaration was granted for a specified period — that period expires;
 - (b) the Director revokes the declaration;
 - (c) the applicant ceases to be a person who could apply for the declaration.
- (3) The applicant for a declaration must give written notice to the Director if the person ceases to be a person who could apply for the declaration, unless the declaration has already ceased to be in force under subsection (2)(a) or (b).

Penalty: a fine of \$2 000.

152U. Variation of declaration

- (1) The Director may vary a liquor restriction declaration if the Director is satisfied that varying the declaration —
 - (a) either —
 - (i) reflects the wishes of the majority of the occupiers of the premises; or
 - (ii) is in the public interest, despite not reflecting the wishes of the majority of the occupiers of the premises;
 - and
 - (b) is reasonable in the circumstances.

- (2) Without limiting the variations that may be made under subsection (1) a declaration may be varied to do any or all of following —
 - (a) change the area to which the declaration relates;
 - (b) change the periods during which the premises is a liquor restricted premises;
 - (c) create or change exemptions to, or conditions on, the declaration;
 - (d) change the duration of the declaration.
- (3) The Director may exercise a power under subsection (1) —
 - (a) at any time on the Director's own initiative; or
 - (b) on the application of —
 - (i) the applicant for the declaration; or
 - (ii) any other person who owns or occupies any part of the premises; or
 - (iii) the Commissioner of Police.
- (4) The Director must not vary a liquor restriction declaration unless the Director is satisfied that each person who owns or occupies any part of the premises —
 - (a) consents to the variation being made; or
 - (b) has —
 - (i) been informed of the proposed variation; and
 - (ii) had a reasonable opportunity to make submissions to the Director.
- (5) Section 152Q(4) and (5) apply, with any necessary modifications, to the exercise by the Director of a power under subsection (1).

152V. Revocation of declaration

- (1) The Director may revoke a liquor restriction declaration if the Director is satisfied that the continuation of the declaration —
 - (a) does not reflect the wishes of the majority of the occupiers of the premises; or
 - (b) is not in the public interest; or
 - (c) is not reasonable in the circumstances.
- (2) The Director may exercise a power under subsection (1) —
 - (a) at any time on the Director's own initiative; or
 - (b) on the application of —
 - (i) the applicant for the declaration; or
 - (ii) any other person who owns or occupies any part of the premises; or
 - (iii) the Commissioner of Police.
- (3) The Director must not revoke a liquor restriction declaration unless the Director is satisfied that each person who owns or occupies any part of the premises —
 - (a) consents to the revocation being made; or
 - (b) has —
 - (i) been informed of the proposed revocation; and
 - (ii) had a reasonable opportunity to make submissions to the Director.
- (4) Section 152Q(4) and (5) apply, with any necessary modifications, to the exercise by the Director of a power under subsection (1).

152W. Applications generally

- (1) In this section —
application means any application for the purposes of this Part.
- (2) An application must be made to the Director in the form and manner approved by the Director.
- (3) An application must be accompanied by the prescribed fee.
- (4) An applicant must provide the Director with any information or document that the Director reasonably requires.
- (5) If an applicant does not comply with the requirements of this Part for the making of the application the Director —
 - (a) may accept the application if the Director considers it appropriate to do so; or
 - (b) may decline to deal with the application and, if so, must advise the applicant accordingly.

152X. Decisions under Part 5B not subject to review

A decision made by the Director under this Part is not subject to review under section 25.

Part 4 — Amendments relating to regulating behaviour in licensed premises

27. Section 3 amended

- (1) In section 3(1) insert in alphabetical order:

responsible person, in relation to licensed premises, means —

- (a) the licensee or occupier of the premises; or
- (b) a manager of the premises; or
- (c) an employee or agent of the licensee or occupier or a manager;

- (2) In section 3(7) delete “definition of *authorised person*” and insert:

definitions of *authorised person* and *responsible person*

28. Section 61A deleted

Delete section 61A.

29. Section 69 amended

In section 69(6)(c):

- (a) in subparagraph (i) delete “person; and” and insert:

person; or

- (b) in subparagraph (ii) delete “result, or as to any other matter relevant to the public interest; and” and insert:

result; or

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(c) in subparagraph (iii) delete “licence.” and insert:

licence; or

(d) after subparagraph (iii) insert:

(iv) any other matter relevant to the public interest.

30. Sections 115AA to 115AE inserted

After section 115 insert:

115AA. Barring notices by Commissioner of Police

- (1) In this section —
specified means specified in a notice under this section.
- (2) The Commissioner of Police may give a notice to a person prohibiting the person from entering specified licensed premises, or a specified class of licensed premises, if the Commissioner believes, on reasonable grounds, that the person has, on licensed premises —
 - (a) been violent or disorderly; or
 - (b) engaged in indecent behaviour; or
 - (c) contravened a provision of any written law.
- (3) The notice is to be in a form approved by the Director.
- (4) The notice has effect from the day the notice is given to the person until the earliest of —
 - (a) a specified day; or
 - (b) if the notice is revoked under subsection (7) — the day that the notice of revocation is given to the person; or

- (c) if the decision to give the notice is quashed by the Commission under section 115AD — the day that a copy of the Commission’s decision is given to the person.
- (5) The specified day cannot be more than 12 months after the day on which the notice is served.
- (6) Except as provided in subsection (7A), a person who enters premises contrary to a notice under subsection (2) commits an offence.
Penalty: a fine of \$10 000.
- (7A) A person does not commit an offence under subsection (6) if the person enters the premises solely for the purpose of performing duties relating to the person’s work.
- (7) The Commissioner of Police may revoke a notice under subsection (2) by giving to the person a notice of revocation.
- (8) The notice of revocation is to be in a form approved by the Director.

115AB. Delegation by the Commissioner of Police

- (1) The Commissioner of Police may delegate the Commissioner’s functions under section 115AA to a member of the Police Force of or above the rank of Inspector.
- (2) The delegation must be in writing signed by the Commissioner of Police.
- (3) A person to whom the duty is delegated under this section cannot delegate that duty.

- (4) A person performing the duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Commissioner of Police to perform the duty through an officer or agent.

115AC. Publication of details of people subject to barring notices

- (1A) In this section —
secure webpage means a page on a website that is accessible only by —
 - (a) the licensee or occupier of licensed premises; or
 - (b) a manager of licensed premises; or
 - (c) a prescribed person or class of persons or a person in a prescribed circumstance.
- (1) The Commissioner of Police must publish on a secure webpage all of the following in relation to a person to whom a notice under section 115AA is given —
 - (a) the name of the person;
 - (b) a photograph of the person (if any is in the possession of the Commissioner);
 - (c) the town or suburb where the person lives;
 - (d) the licensed premises, or class of licensed premises, in relation to which the notice relates.
- (2) Subsection (1) does not permit the publication of anything that identifies, or is capable of identifying —
 - (a) a child other than the person to whom the notice is given; or
 - (b) the details of any offence of which the person was convicted in the Children’s Court.

- (3) Except as provided in subsection (4), a person who discloses something that has been published under subsection (1) commits an offence.
Penalty: a fine of \$10 000.
- (4) A licensee or manager of licensed premises does not commit an offence under subsection (3) if —
- (a) he or she discloses information published under subsection (1) to a responsible person in relation to those premises; and
 - (b) the disclosure is made for the purposes of enabling the responsible person to perform duties relating to the person's work on the licensed premises.

115AD. Application for review

- (1) In this section —
notice means a notice under section 115AA(2).
- (2) This section applies if —
- (a) a notice is given to a person in respect of licensed premises; and
 - (b) the notice —
 - (i) has effect for one month or more; or
 - (ii) has effect for any shorter period that, when added to the period of any notice previously given to the person in respect of the premises or premises of the particular class (as the case requires), results in the person being prohibited from those premises or that class of premises for a period of more than one month in any 12 month period.

- (3) Subject to subsection (4), where the person is dissatisfied with the decision of the Commissioner of Police to give the notice, the person may apply to the Commission for a review of that decision.
- (4) An application under subsection (3) must be made within a month after the applicant is served with the notice or such longer period as the Commission may allow.
- (5) The application must be —
 - (a) made in a manner and form approved by the Commission; and
 - (b) accompanied by the prescribed fee, if any.
- (6) When conducting a review of the decision, the Commission may have regard to —
 - (a) the material that was before the Commissioner of Police when making the decision; and
 - (b) any information or document provided by the applicant.
- (7) On a review under this section, the Commission may affirm, vary or quash the decision subject to the review.
- (8) The notice remains in force during the period of the review of the decision to give that notice.

115AE. Permitting entry to premises contrary to barring notice

A responsible person in relation to licensed premises commits an offence if the responsible person —

- (a) knows that a notice under section 115AA(2) has been given to a person in respect of the premises; and

- (b) permits the person to enter or remain on the premises contrary to the notice.

Penalty: a fine of \$10 000.

31. Section 128 amended

Delete section 128(2)(a) and “or” after it and insert:

- (a) all or any of the following —
 - (i) the class of licence;
 - (ii) any restrictions or conditions imposed in relation to the licence;
 - (iii) the type of premises;
 - (iv) the location of the premises;
 - (v) the capacity of the premises;
 - (vi) the trading hours;
 - (vii) the convictions for offences under this Act, if any, of the applicant for the licence;
 - (viii) the disciplinary action under Part 3 Division 13, if any, taken against the applicant for the licence;
 - (ix) any other criteria prescribed in the regulations;

or

32. Section 152K amended

After section 152K(1) insert:

- (2A) If the Director makes a prohibition order, the Director may publish all or any of the following information or material in relation to the relevant person if that

information or material was provided with the application of the Commissioner of Police under section 152B —

- (a) the name of the relevant person;
 - (b) a photograph of the relevant person;
 - (c) the town or suburb where the relevant person lives;
 - (d) the licensed premises, or class of licensed premises, in relation to which the order relates.
- (2B) Subsection (2A) does not permit the publication of anything that identifies, or is capable of identifying —
- (a) a child other than the relevant person; or
 - (c) the details of any offence of which the relevant person was convicted in the Children’s Court.
- (2C) A person may republish in any manner something that has been published under subsection (2A).

33. Section 152M inserted

After section 152L insert:

152M. Permitting entry to premises contrary to prohibition order

A responsible person in relation to licensed premises commits an offence if the responsible person —

- (a) knows that a prohibition order has been made against a person in respect of the premises; and
- (b) permits the person to enter or remain on the premises contrary to the order.

Penalty: a fine of \$10 000.

34. Section 175 amended

After section 175(1)(cc) insert:

- (cd) limiting the permitted opening hours that may be authorised by an extended trading permit issued for the purpose referred to in section 60(4)(g); and
- (ce) regulating entry to licensed premises after a time of the day or night specified in the regulations; and

Part 5 — Other amendments

35. Section 3 amended

- (1) In section 3(1) insert in alphabetical order:

prescribed means prescribed in regulations under section 175;

tavern restricted licence means a hotel licence of the kind referred to in section 41(1)(c);

- (2) In section 3(1) in the definition of *hotel licence* after “tavern licence” insert:

or tavern restricted licence

- (3) In section 3(1) in the definition of *meal* delete “by the regulations”.

- (4) In section 3(4)(d) delete “by the regulations”.

36. Section 6 amended

In section 6(1)(o) delete “sale” and insert:

sale or supply of liquor is to, or the consumption of liquor is by, a person who is at least 18 years of age and that sale, supply or consumption

37. Section 16 amended

In section 16(2)(b) delete “Commission except the hearing of applications for a new licence, or for a removal, where an objection is lodged and not withdrawn.” and insert:

Commission.

38. Section 33 amended

(1) In section 33(6):

(a) delete “shall be taken to be” and insert:

are

(b) delete “should” and insert:

may

(2) After section 33(6c) insert:

(6D) For the purposes of subsection (6)(b), the licensing authority may rely on any document issued by the Police Force of Western Australia, the Australian Federal Police or the police force of another State or a Territory that —

(a) sets out the criminal convictions (if any) of the person for offences under the law of the State, the Commonwealth or the other State or a Territory; and

(b) was issued not more than 30 days, or such other prescribed period, before the material time.

39. Section 37 amended

(1) At the beginning of section 37 insert:

(1A) In this section —

public body means —

(a) an agency or an organisation as those terms are defined in the *Public Sector Management Act 1994* section 3(1); or

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- (b) a body, whether incorporated or not, or the holder of an office, that is established or continued for a public purpose under a written law and that, under the authority of a written law, performs a statutory function on behalf of the State; or
 - (c) a local government or regional local government; or
 - (d) any other body, or the holder of an office, post or position, that is prescribed as a public body for the purposes of this definition.
- (2) In section 37(1):
- (a) in paragraph (a) delete “person or a body corporate — that the person” and insert:

person — that the applicant
 - (b) in paragraph (b) delete “corporate —” and insert:

corporate or a public body —
- (3) After section 37(1) insert:
- (2A) Where the licensing authority is to determine whether a person is a fit and proper person to occupy a position of authority in an association incorporated under the *Associations Incorporation Act 1987* or a public body, the licensing authority may, in the absence of evidence to the contrary, assume that the person is a fit and proper person to occupy that position.

40. Section 38 amended

In section 38(3) delete “purpose” and insert:

purposes

41. Section 41 amended

(1) In section 41(1):

(a) in paragraph (b)(ii) delete “other sales to liquor sold for consumption” and insert:

the sale of liquor to be consumed

(b) in paragraph (b) delete “licence,” and insert:

licence; and

(c) after paragraph (b) insert:

(c) where a tavern licence is subject to a condition —

(i) prohibiting the sale of packaged liquor;
and

(ii) restricting the sale of liquor to be
consumed on the licensed premises,

it shall be referred to as a tavern restricted
licence,

(d) after “for a tavern licence” insert:

or a tavern restricted licence

- (2) In section 41(6) delete “licence.” and insert:

licence or a tavern restricted licence.

42. Section 55 amended

In section 55(1)(a):

- (a) after “from the licensed premises” insert:

all or any of the following

- (b) in each of subparagraphs (i), (ii) and (iii) delete “being”;

- (c) after subparagraph (ii) delete “or”.

43. Section 57 amended

- (1) At the beginning of section 57 insert:

- (1) In this section —

relevant liquor means liquor of the kind sought to be authorised for sale under the licence;

relevant period means the period of 12 months from the date on which the licence, if granted, will come into force.

- (2) In section 57:

- (a) delete “An applicant” and insert:

- (2) An applicant

- (b) delete paragraphs (a) and (b) and insert:
 - (a) that the applicant is, or within the relevant period will become, a genuine producer of the relevant liquor; and
 - (b) that the applicant carries on, or within the relevant period will commence to carry on, a genuine business of the sale of the relevant liquor; and
 - (ca) that the applicant produces, or within the relevant period will commence production of, a sufficient quantity of the relevant liquor to be able to carry on the business referred to in paragraph (b); and

(3) At the end of section 57 insert:

- (3) Every producer's licence is subject to the condition that, unless the Director approves otherwise, the licensee must produce a sufficient quantity of the relevant liquor to be able to carry on the business referred to in subsection (2)(b).

44. Section 64 amended

- (1) In section 64(3):
 - (a) in paragraph (ba) delete "authority" and insert:

government
 - (b) after paragraph (j) insert:
 - (ka) require the keeping of records and provision of information to the Director; or

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- (2) In section 64(7) delete “\$500” and insert:

\$1 000

45. Section 67 amended

In section 67(5)(a) delete “application, endorsed with the date of its lodgement with the Director,” and insert:

application

46. Section 69 amended

- (1) Delete section 69(2) and insert:

(2) The Director must give to the applicant sufficient directions to enable the application to be advertised in accordance with any requirement under section 67(1).

- (2) In section 69(4):

(a) delete “shall —” and insert:

may —

(b) in paragraph (b) delete “it,” and insert:

it.

(c) delete “as soon as may be practicable.”.

47. Section 96 amended

In section 96(1)(m) delete “\$30 000; or” and insert:

\$60 000; or

48. Section 98A amended

In section 98A(1):

(a) in paragraph (b) delete “6 a.m.” and insert:

5 a.m.

(b) in paragraph (d) delete “6 a.m.” and insert:

5 a.m.

49. Section 99 amended

In section 99(7) delete “\$500” and insert:

\$1 000

50. Section 103A amended

In section 103A(1)(b) after “maintain a register” insert:

on the licensed premises

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51. Section 106 amended

- (1) In section 106(1) delete the Penalty and insert:

Penalty:

- (a) for the licensee or a manager, a fine of \$10 000;
- (b) for an employee or agent, a fine of \$4 000;
- (c) for a lodger, a fine of \$2 000.

- (2) In section 106(3) delete the Penalty and insert:

Penalty:

- (a) for the licensee or a manager, a fine of \$10 000;
- (b) for an employee or agent, a fine of \$4 000;
- (c) for a lodger, a fine of \$2 000.

52. Section 109 amended

- (1) In section 109(1) delete the Penalty and insert:

Penalty: a fine of \$20 000 and imprisonment for 2 years, but the minimum penalty is a fine of \$2 000.

- (2) In section 109(3) delete the Penalty and insert:

Penalty: a fine of \$10 000, but the minimum penalty is a fine of \$1 000.

(3) After section 109(3) insert:

- (4A) A licensee, or an employee or agent of a licensee (the *seller*), commits an offence if —
- (a) the seller sells liquor to another person (the *buyer*) whom the seller reasonably believes, or ought reasonably to believe, intends to sell the liquor in contravention of subsection (1); and
 - (b) the buyer sells the liquor in contravention of subsection (1).

Penalty: a fine of \$20 000 and imprisonment for 2 years, but the minimum penalty is a fine of \$2 000.

53. Section 110 amended

(1) In section 110(1) delete the Penalty and insert:

Penalty:

- (a) for the licensee or a manager, a fine of \$10 000;
- (b) for an employee or agent, a fine of \$4 000;
- (c) for anyone else, a fine of \$2 000.

(2) In section 110(2) delete the Penalty and insert:

Penalty:

- (a) for the licensee or a manager, a fine of \$10 000;
- (b) for an employee or agent, a fine of \$4 000.

- (3) In section 110(3) delete the Penalty and insert:

Penalty:

- (a) for the licensee or a manager, a fine of \$10 000;
- (b) for an employee or agent, a fine of \$4 000;
- (c) for anyone else, a fine of \$2 000.

- (4) After section 110(3) insert:

- (4A) A person attending a public event at a sports arena commits an offence if, without the consent of the licensee, the person —

- (a) brings into the sports arena; or
- (b) attempts to bring into the sports arena; or
- (c) has in his or her possession or control; or
- (d) consumes,

any liquor that was not purchased in the sports arena while it was open for the purpose of holding or conducting that public event.

Penalty: a fine of \$2 000.

- (4B) In subsection (4A) —

public event means —

- (a) any event, including any game or sport, that is held or conducted for public exhibition; or
- (b) any —
 - (i) training session, practice or rehearsal; or

- (ii) promotional or advertising event, press conference, preview or similar activity, that is held or conducted for purposes other than public exhibition but which is open to the public;

sports arena means a sports arena, ground or stadium —

- (a) all or part of which is licensed premises; and
- (b) that is prescribed for the purposes of this definition.

54. Section 111 amended

In section 111(1) delete the Penalty and insert:

Penalty:

- (a) for the licensee or a manager, a fine of \$10 000;
- (b) for an employee or agent, a fine of \$4 000.

55. Section 114 amended

In section 114(1) delete the Penalty and insert:

Penalty:

- (a) for the licensee or a manager, a fine of \$10 000;
- (b) for an employee or agent, a fine of \$4 000.

56. Section 115 amended

(1) In section 115(1) delete the Penalty and insert:

Penalty:

- (a) for the licensee or a manager, a fine of \$10 000;
- (b) for an employee or agent, a fine of \$4 000.

(2) In section 115(2) delete the Penalty and insert:

Penalty:

- (a) for an offence on licensed premises —
 - (i) for the licensee or a manager, a fine of \$10 000;
 - (ii) for an employee or agent, a fine of \$4 000;
 - (iii) for anyone else, a fine of \$2 000;
- (b) for an offence on regulated premises —
 - (i) for the owner of the regulated premises, a fine of \$10 000;
 - (ii) for anyone else, a fine of \$2 000.

57. Section 115A amended

In section 115A(2) delete the Penalty and insert:

Penalty:

- (a) for the licensee, a fine of \$10 000;
- (b) for a manager, a fine of \$4 000.

58. Section 116 amended

- (1) At the end of section 116(1) insert:

Penalty: a fine of \$2 000.

- (2) At the end of section 116(2) insert:

Penalty: a fine of \$2 000.

- (3) At the end of section 116(3) insert:

Penalty: a fine of \$2 000.

59. Section 116A amended

In section 116A(1) after “maintain a register” insert:

on the licensed premises

60. Section 119 amended

- (1) In section 119(4) after “Except” insert:

where exempted in regulations under section 6(1)(o) or

- (2) In section 119(5):

(a) after paragraph (a) insert:

(ba) is in charge of a vehicle on a road referred to in subsection (4)(a); or

- (b) in paragraph (b) delete “such a person,” and insert:
a person referred to in paragraph (a) or (ba),

61. Section 119A replaced

Delete section 119A and insert:

119A. Conduct of unapproved businesses on or from licensed premises

- (1) In this section —
non-liquor business on licensed premises means a business, other than a business conducted under a licence or a prescribed business, conducted on or from licensed premises.
- (2) The licensing authority may, on an application by a person under subsection (3), give approval to the person to conduct a non-liquor business on licensed premises.
- (3) The application for the approval must —
- (a) be made in a form approved by the licensing authority; and
 - (b) be accompanied by the prescribed fee; and
 - (c) be supported by any further or other documentation or information that the licensing authority may require.
- (4) A person who conducts a non-liquor business on licensed premises without the approval commits an offence.
- Penalty:
- (a) for the licensee, a fine of \$10 000;
 - (b) for anyone else, a fine of \$4 000.

- (5) A licensee who causes or permits another person to conduct a non-liquor business on licensed premises without the approval commits an offence.

Penalty: a fine of \$10 000.

62. Section 121 amended

- (1) In section 121(1) delete the Penalty and insert:

Penalty:

- (a) for the licensee or a manager, a fine of \$10 000;
- (b) for the sale or supply by any other person, a fine of \$4 000;
- (c) for anyone else, a fine of \$2 000.

- (2) In section 121(2) delete the Penalty and insert:

Penalty:

- (a) for the licensee or a manager, a fine of \$10 000;
- (b) for anyone else, a fine of \$4 000.

- (3) In section 121(4) delete the Penalty and insert:

Penalty:

- (a) for the licensee or a manager, a fine of \$10 000;
- (b) for an employee or agent, a fine of \$4 000;
- (c) for a juvenile, a fine of \$2 000.

(4) Delete section 121(11)(c) and insert:

- (c) the work carried out by the juvenile is supervised at all times; and
- (d) either —
 - (i) the work carried out by the juvenile will be assessed for the purposes of a prescribed training course being undertaken by the juvenile; or
 - (ii) the juvenile has successfully completed a prescribed training course the assessment for which included an assessment of the juvenile's work while employed or engaged to serve liquor ancillary to a meal.

63. Section 122 amended

In section 122(3) delete the Penalty and insert:

Penalty:

- (a) for a juvenile, a fine of \$2 000;
- (b) for anyone else, a fine of \$4 000.

64. Section 126D amended

In section 126D(2) delete the Penalty and insert:

Penalty:

- (a) for the licensee or a manager, a fine of \$10 000;
- (b) for an employee or agent, a fine of \$4 000.

65. Section 155 amended

Delete section 155(6) and insert:

- (6) If a person is contravening section 110(4A) a member of the Police Force may seize an opened or unopened container of liquor involved in the contravention.
- (7) If a person is contravening section 119 a member of the Police Force may seize a container of liquor in the person's possession if —
 - (a) the container is opened; or
 - (b) the container is unopened and either —
 - (i) the person is consuming liquor during a period, and in an area, specified in a special event notice under section 126E; or
 - (ii) the member of the Police Force believes on reasonable grounds that the person has caused, is causing or is likely to cause, undue offence, annoyance, disturbance or inconvenience to other persons in the vicinity.
- (8) If a person is contravening section 152O(1) a member of the Police Force may seize an opened or unopened container of liquor involved in the contravention.
- (9) Despite subsection (5), a member of the Police Force who seizes a container of liquor under subsection (6), (7) or (8) must dispose of it as soon as is practicable after it is seized.

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66. Section 166 amended

In section 166(2) after “penalty” (second occurrence) insert:

of a fine

67. Section 169 amended

Delete section 169(1) and insert:

- (1) A court of summary jurisdiction hearing and determining a charge of an offence under this Act is to be constituted by a magistrate if —
 - (a) the penalty for the offence is a fine of more than \$2 000; or
 - (b) the person charged with the offence is a licensee, a manager or an employee or agent of a licensee.

68. Section 174A amended

In section 174A(1) delete “Act.” and insert:

Act except any thing that is seized and disposed of in accordance with section 155(9).

69. Various penalties amended

In the provisions listed in the Table after “Penalty:” insert:

a fine of

Table

| | |
|------------|------------|
| s. 20(3) | s. 37A |
| s. 51(2) | s. 51(4) |
| s. 65(1) | s. 77(1) |
| s. 100(2) | s. 100(5) |
| s. 100(8) | s. 101(3) |
| s. 102(1) | s. 103(3) |
| s. 104(1) | s. 108 |
| s. 110(5) | s. 110(7) |
| s. 111(2) | s. 113A |
| s. 115(5) | s. 115(6) |
| s. 115(7) | s. 116(5) |
| s. 116A(1) | s. 116A(3) |
| s. 117(7) | s. 118(3) |
| s. 119(1) | s. 119(2) |
| s. 119(4) | s. 119(5) |
| s. 119(7) | s. 119(11) |
| s. 121(3) | s. 121(7) |
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| | |
|------------|------------|
| s. 121(10) | s. 122(2) |
| s. 123(1) | s. 123(2) |
| s. 124 | s. 126(2) |
| s. 126(4) | s. 126(5) |
| s. 135(3) | s. 145(4) |
| s. 146(1) | s. 150(2) |
| s. 152(2) | s. 152L(1) |
| s. 152L(2) | s. 154(3) |
| s. 157 | s. 158(1) |
| s. 159(1) | s. 159(3) |
| s. 160(4) | s. 161(7) |

**Part 6 — *Criminal Investigation (Identifying People)*
Act 2002 amended**

70. Act amended

This Part amends the *Criminal Investigation (Identifying People) Act 2002*.

71. Section 73 amended

Before section 73(1)(n) insert:

- (nb) for the purposes of the *Liquor Control Act 1988* section 115AC or 152K;

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