



Western Australia

Liquor Control Amendment (Banned Drinkers Register) Act 2023

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Liquor Control Amendment (Banned Drinkers Register) Act 2023

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Western Australia

Liquor Control Amendment (Banned Drinkers Register) Act 2023

No. 25 of 2023

An Act to amend the *Liquor Control Act 1988* and to make consequential amendments to the *Criminal Investigation (Identifying People) Act 2002*.

[Assented to 10 November 2023]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Liquor Control Amendment (Banned Drinkers Register) Act 2023*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) Part 2 (other than Division 3) and Part 3 (other than section 34) — on a day fixed by proclamation, and different days may be fixed for different provisions;
- (c) the rest of the Act — on the day that is 2 years after the day on which section 15 comes into operation.

Part 2 — *Liquor Control Act 1988* amended

Division 1 — Preliminary

3. Act amended

This Part amends the *Liquor Control Act 1988*.

Division 2 — Amendments commencing on proclamation

4. Section 3 amended

In section 3(1) insert in alphabetical order:

banned drinker has the meaning given in section 152YA;

banned drinker area means an area prescribed under section 175(1G);

banned drinker order has the meaning given in section 152YB;

banned drinkers register has the meaning given in section 152Y;

barring notice has the meaning given in section 115AA(2);

5. Section 24 amended

(1) In section 24(1) delete “he or she” and insert:

the Director

(2) After section 24(2)(b) insert:

(ba) the matter or part of a matter relates to the making, extension or revocation of a banned drinker order under Part 5C; or

6. Section 25 amended

(1) In section 25(1A) in the definition of *interested person* paragraph (a):

(a) after “paragraph (a)” insert:

or (aa)

(b) in subparagraph (ii) delete “order or the extended exclusion” and insert:

order, the extended exclusion order or the banned drinker

(2) In section 25(1A) in the definition of *reviewable decision*:

(a) after paragraph (a) insert:

(aa) a decision made by the Director that relates to the making, extension or revocation of a banned drinker order under Part 5C; or

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

paragraph (a) or (aa).

(3) After section 25(2b)(b) insert:

- (ba) the decision relates to the making, extension or revocation of a banned drinker order under Part 5C; or

7. Section 26 amended

In section 26(b) delete “Part 5A or an extended exclusion order under Part 5AA” and insert:

Part 5A, an extended exclusion order under Part 5AA or a banned drinker order under Part 5C

8. Section 115AA amended

(1) In section 115AA(1) in the definition of *specified* delete “notice under this section.” and insert:

barring notice.

(2) In section 115AA(2) after “a notice” insert:

(a *barring notice*)

(3) In section 115AA(3) delete “The notice is to” and insert:

The barring notice must

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Part 2 Liquor Control Act 1988 amended

Division 2 Amendments commencing on proclamation

s. 8

- (4) In section 115AA(4) before “notice” (1st, 2nd, 3rd and 5th occurrences) insert:

barring

- (5) In section 115AA(5) before “notice” insert:

barring

- (6) In section 115AA(6) delete “notice under subsection (2)” and insert:

barring notice

- (7) In section 115AA(6) in the Penalty delete “Penalty:” and insert:

Penalty for this subsection:

- (8) Delete section 115AA(7) and insert:

- (7) The Commissioner of Police may revoke a barring notice by giving a notice of revocation to the person who is the subject of the barring notice.

Note: The heading to amended section 115AA is to read:

Commissioner of Police may bar people from licensed premises

9. Section 115AC amended

(1) In section 115AC(1A) in the definition of *personal particulars*:

(a) delete “notice given to a person under section 115AA(2),” and insert:

barring notice given to a person,

(b) in paragraph (d) after “to which the” insert:

barring

(2) In section 115AC(1):

(a) delete “notice given to a person under section 115AA(2) is in effect,” and insert:

barring notice is in effect for a person,

(b) after “in relation to the” insert:

barring

(3) In section 115AC(1AA):

(a) delete “notice given to a person under section 115AA(2) is in effect,” and insert:

barring notice is in effect for a person,

(b) after “in relation to the” insert:

barring

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Part 2 Liquor Control Act 1988 amended

Division 2 Amendments commencing on proclamation

s. 10

- (c) in paragraph (b)(i) and (ii) delete “notices under section 115AA(2)” and insert:

barring notices

- (4) In section 115AC(2):

- (a) in paragraph (a) delete “to whom the notice is given; or” and insert:

the subject of the barring notice; or

- (b) in paragraph (b) delete “to whom the notice is given” and insert:

the subject of the barring notice

Note: The heading to amended section 115AC is to read:

Publication and disclosure of details of people barred under barring notices

10. Section 115ACA inserted

After section 115AC insert:

115ACA. Barring notice must be registered in banned drinkers register

The Commissioner of Police must ensure that information about a barring notice given to a person is entered in the banned drinkers register.

11. Section 115AD amended

- (1) Delete section 115AD(1).
- (2) In section 115AD(2) before “notice” (each occurrence) insert:

barring

- (3) In section 115AD(3) before “notice,” insert:

barring

- (4) In section 115AD(4) delete “a month after the applicant is served with the notice or such” and insert:

1 month after the applicant is given the barring notice or a

- (5) In section 115AD(8):
 - (a) before “notice” insert:

barring

- (b) before “notice.” insert:

barring

Note: The heading to amended section 115AD is to read:

Review of decision to give barring notice

12. Section 115AE amended

In section 115AE(1):

- (a) in paragraph (a) delete “notice under section 115AA(2) has been given to” and insert:

barring notice is in effect for

- (b) in paragraph (b) after “contrary to the” insert:

barring

Note: The heading to amended section 115AE is to read:

Permitting entry to premises contrary to barring notice

13. Section 152KA inserted

After section 152K insert:

152KA. Prohibition order must be registered in banned drinkers register

The Director must ensure that information about a prohibition order is entered in the banned drinkers register.

14. Section 152NZF amended

In section 152NZF(1):

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

- (a) a barring notice;

(b) in paragraph (c) delete “order.” and insert:

order;

(c) after paragraph (c) insert:

(d) a banned drinker order.

15. Part 5C inserted

After section 152X insert:

Part 5C — Banned drinkers

Division 1 — Preliminary

152Y. Terms used

In this Part —

alcohol-related infringement notice means an infringement notice given under section 167(2) for an alleged offence against a prescribed provision of this Act;

alcohol-related offence means —

- (a) an offence under any written law that has a maximum penalty that includes a term of imprisonment, if a police officer believes on reasonable grounds that the alleged offender was affected by liquor when committing the offence; or
- (b) an offence against the *Road Traffic Act 1974* for which a disqualification notice can be issued under section 71C of that Act; or

- (c) an offence against section 152ZB(1); or
- (d) another offence under any written law that involves liquor; or
- (e) an offence prescribed as an alcohol-related offence;

Example for this definition:

For the purposes of paragraph (d) — an offence of stealing liquor.

banned drinkers register means the register of banned drinkers kept under section 152ZH;

first police BDO has the meaning given in section 152YD(1);

ID system has the meaning given in section 152ZI;

police FVRO means an order made by a police officer under the *Restraining Orders Act 1997* Part 2A Division 3A;

registered, in relation to a banned drinker order, means information about the order is entered in the banned drinkers register;

second police BDO has the meaning given in section 152YD(2);

self-imposed, in relation to a banned drinker order, has the meaning given in section 152YM(3);

senior officer means a police officer who is of or above the rank of sergeant;

subsequent police BDO has the meaning given in section 152YD(3);

taken into alcohol-related protective custody, in relation to a person, means the person is apprehended and detained under the *Protective Custody Act 2000* Part 3.

152YA. Who is a banned drinker

- (1) A person is a *banned drinker* if 1 or more of the following are in effect for the person —
 - (a) a banned drinker order;
 - (b) a barring notice;
 - (c) a prohibition order under Part 5A.
- (2) In a provision about a banned drinker order, a reference to the banned drinker is a reference to the person who is the subject of the banned drinker order.

152YB. What is a banned drinker order

- (1) A *banned drinker order* is an order, complying with subsection (2), that the person named in the order is prohibited from doing any of the following in a banned drinker area —
 - (a) purchasing packaged liquor, either on licensed premises or using a website maintained by or on behalf of a licensee;
 - (b) consuming liquor, other than consuming liquor on licensed premises that was purchased for consumption at the licensed premises;
 - (c) possessing liquor that was supplied to the person as packaged liquor, whether or not the liquor is still in the container (sealed or open) in which it was supplied.
- (2) A banned drinker order must be in a form approved by the Director and state the following information —
 - (a) the name of the person who is subject to the order;
 - (b) the reason for making the order;

- (c) whether the order is self-imposed, made by a police officer or made on the application of a person under Division 4;
- (d) for an order made by a police officer —
 - (i) the name, rank and place of duty of the officer; and
 - (ii) the date and time the order is made;
- (e) that the order takes effect when the order is registered, regardless of whether the person is given a copy of the order;
- (f) the period for which the order remains in force;
- (g) the consequences of a contravention of the order and a description of what constitutes a contravention;
- (h) whether the person is entitled to apply for the order to be revoked and, if so, how to apply;
- (i) whether the person is entitled to apply for review of the decision to make the order and, if so, how to apply.

152YC. When banned drinker order, or extension or revocation of banned drinker order, takes effect

- (1) A banned drinker order takes effect when the order is registered.
- (2) The extension of a banned drinker order takes effect when information about the extension is entered in the banned drinkers register.
- (3) The revocation of a banned drinker order takes effect immediately after a decision to revoke the order is made under section 152YJ, 152YP or 152YW.

- (4) Subsections (1), (2) and (3) apply regardless of whether the banned drinker is given —
- (a) a copy of the banned drinker order; or
 - (b) notice of the extension or revocation.

Division 2 — Banned drinker orders made by police officers

152YD. First police BDO, second police BDO and subsequent police BDO

- (1) A *first police BDO* is a banned drinker order made by a police officer for a person —
- (a) when no other banned drinker order under this Division or Division 4 is in effect for the person; and
 - (b) whether or not a self-imposed banned drinker order is in effect for the person.
- (2) A *second police BDO* is a banned drinker order made by a police officer for a person when a first police BDO is in effect for the person.
- (3) A *subsequent police BDO* is a banned drinker order made by a police officer for a person when a banned drinker order made by a police officer, other than a first police BDO, is in effect for the person.

152YE. Police officer may make banned drinker order

- (1) A police officer may make a banned drinker order for a person who —
- (a) is charged with an alcohol-related offence; or
 - (b) is named as the person bound by a police FVRO, if the police officer who makes the police FVRO believes on reasonable grounds that the person was affected by liquor at the

time of engaging in the conduct to which the police FVRO relates; or

- (c) if the circumstances referred to in subsection (2) exist —
 - (i) is taken into alcohol-related protective custody; or
 - (ii) is given an alcohol-related infringement notice.
- (2) For the purposes of subsection (1)(c), the circumstances are that, within the previous 2 years, the person was —
 - (a) taken into alcohol-related protective custody at least twice; or
 - (b) given at least 2 alcohol-related infringement notices; or
 - (c) taken into alcohol-related protective custody at least once and given at least 1 alcohol-related infringement notice.
- (3) A police officer who is not a senior officer must not make a banned drinker order under subsection (1) unless the officer has the approval of a senior officer to make the order.

152YF. Police officer may make second police BDO or subsequent police BDO

- (1) If a police officer believes on reasonable grounds that a banned drinker has contravened a first police BDO —
 - (a) the officer may make a second police BDO for the banned drinker; and
 - (b) if the officer does so, the first police BDO stops having effect when the second police BDO takes effect.

- (2) If a police officer believes on reasonable grounds that a banned drinker has contravened a second police BDO —
 - (a) the officer may make a subsequent police BDO for the banned drinker; and
 - (b) if the officer does so, the second police BDO stops having effect when the subsequent police BDO takes effect.
- (3) If a police officer believes on reasonable grounds that a banned drinker has contravened a subsequent police BDO —
 - (a) the officer may make a further subsequent police BDO for the banned drinker; and
 - (b) if the officer does so, the previous subsequent police BDO stops having effect when the further subsequent police BDO takes effect.
- (4) A police officer who is not a senior officer must not make a banned drinker order under subsection (1), (2) or (3) unless the officer has the approval of a senior officer to make the order.

Note for this section:

See section 152YC(1) for when a banned drinker order takes effect.

152YG. Period of banned drinker order

- (1) A first police BDO remains in force for a period of 3 months.
- (2) A second police BDO remains in force for a period of 6 months.
- (3) A subsequent police BDO remains in force for a period of 12 months.

- (4) Subsections (1), (2) and (3) apply unless a banned drinker order made by a police officer —
- (a) stops having effect earlier under section 152YF or because it is revoked under section 152YJ or 152YW; or
 - (b) is extended under section 152YU or 152YV.

Note for this section:

See section 152YC(1) for when a banned drinker order takes effect.

152YH. Notice and registration of banned drinker order

If a police officer makes a banned drinker order for a person under section 152YE or 152YF, the Commissioner of Police must ensure —

- (a) all reasonable steps are taken to give a copy of the order to the banned drinker; and
- (b) the order is registered.

152YI. Police officer may require person to give personal details

- (1) In this section —
- personal details*, in relation to a person, has the meaning given in the *Criminal Investigation (Identifying People) Act 2002* section 16(1).
- (2) This section applies if —
- (a) a police officer requires all or some of a person's personal details for the purposes of making a banned drinker order for the person; or
 - (b) a police officer reasonably suspects that a person in a banned drinker area is a banned drinker.

- (3) The police officer may ask the person to give the officer all or some of the person's personal details.
- (4) If a request is made under subsection (3), the *Criminal Investigation (Identifying People) Act 2002* section 16 applies in relation to the request as if it were a request made under section 16(2) of that Act.

152YJ. Revocation of banned drinker order

- (1) The Commissioner of Police may decide to revoke a banned drinker order made by a police officer —
 - (a) on the application of the banned drinker; or
 - (b) on the Commissioner's own initiative.
- (2) An application referred to in subsection (1)(a) must be —
 - (a) in writing in a form approved by the Commissioner of Police; and
 - (b) made while the banned drinker order is in force.
- (3) The Commissioner of Police must revoke the banned drinker order if satisfied —
 - (a) for a banned drinker order made under section 152YE(1)(a) —
 - (i) the charge was withdrawn, dismissed or not proceeded with; or
 - (ii) the banned drinker was found not guilty of the offence; or
 - (iii) the banned drinker was convicted of the offence and the court sentencing the banned drinker imposed no sentence or made a spent conviction order (as defined in the *Sentencing Act 1995* section 4(1));

or

- (b) for a banned drinker order made under section 152YE(1)(b) — that the banned drinker is no longer a person bound by a family violence restraining order (as defined in the *Restraining Orders Act 1997* section 3(1)); or
 - (c) the revocation is required because of an administrative error.
- (4) If the Commissioner of Police does not decide an application referred to in subsection (1)(a) by revoking the banned drinker order under subsection (3), the Commissioner must refuse the application.
- (5) A reference in subsection (3) to a banned drinker order made under section 152YE(1)(a) or (b) (the ***original order***) includes a reference to a second police BDO or subsequent police BDO made in relation to the same banned drinker that would not have been made if the original order had not been made for the banned drinker.

152YK. Decision to revoke banned drinker order

- (1) If the Commissioner of Police revokes a banned drinker order under section 152YJ(3), the Commissioner must —
 - (a) give the banned drinker a written notice stating that the order is revoked; and
 - (b) ensure information about the revocation is entered in the banned drinkers register.

Note for this subsection:

See section 152YC(3) for when the revocation of a banned drinker order takes effect.

- (2) If the Commissioner of Police decides to refuse an application to revoke a banned drinker order under

section 152YJ, the Commissioner must give the banned drinker written notice stating —

- (a) the decision; and
 - (b) that the banned drinker may apply to the Commission for a review of the decision and how to apply.
- (3) A notice given under subsection (2) may, but need not, include reasons for the decision to refuse the application.
 - (4) If the notice does not include reasons for the decision, the banned drinker may, within 28 days after receiving the notice or a longer period allowed by the Commissioner of Police, ask the Commissioner to provide written reasons.
 - (5) If the banned drinker asks for reasons under subsection (4), the Commissioner of Police must give the banned drinker written reasons for the decision.

Division 3 — Banned drinker order made on person's request

152YL. Person may ask for self-imposed banned drinker order

- (1) A person who is not a banned drinker may ask the Director to make a banned drinker order for the person.
- (2) The request —
 - (a) must be in writing; and
 - (b) may contain a request for the banned drinker order to be in force —
 - (i) for a period of 3, 6 or 12 months; or
 - (ii) indefinitely, unless the order is revoked under section 152YP.

152YM. Director must make self-imposed banned drinker order

- (1) As soon as practicable after receiving a request under section 152YL, the Director must make a banned drinker order for the person who made the request if satisfied —
 - (a) about the person's identity; and
 - (b) that the person is not already a banned drinker; and
 - (c) that the person agrees to be subject to the banned drinker order.
- (2) Otherwise, the Director must refuse the request.
- (3) A banned drinker order made for a person under this section is a *self-imposed* order.

152YN. Period of self-imposed banned drinker order

- (1) In making a banned drinker order for a person under section 152YM, the Director must —
 - (a) if the person made a request about the period of the order under section 152YL(2)(b), consider the request; and
 - (b) decide whether the order will be in force —
 - (i) for a period of 3, 6 or 12 months; or
 - (ii) if requested by the person — indefinitely, unless it is revoked under section 152YP;and
 - (c) specify the period in the order.
- (2) Subject to subsection (3), the banned drinker order remains in force for the period specified in the order

(including indefinitely) unless it is revoked earlier under section 152YP.

Note for this subsection:

See section 152YC(1) for when a banned drinker order takes effect.

- (3) A self-imposed banned drinker order made for a person —
- (a) has no effect while a banned drinker order made by a police officer or by the Director under Division 4 is in effect for the person; and
 - (b) resumes having effect if, when the person is no longer the subject of a banned drinker order made by a police officer or the Director under Division 4, the period of the self-imposed order has not ended.

152YO. Notice of decision and registration of self-imposed banned drinker order

- (1) If the Director makes a banned drinker order for a person under section 152YM(1), the Director must —
- (a) give a copy of the order to the person; and
 - (b) register the order.
- (2) If the Director decides to refuse a person's request to make a banned drinker order for the person under section 152YM(2), the Director must give the person written notice of the decision.
- (3) A decision to refuse the person's request is not subject to review under section 25.

152YP. Revocation of self-imposed banned drinker order

- (1) A person who is subject to a self-imposed banned drinker order may ask the Director to revoke the order.

- (2) The request must be in writing.
- (3) As soon as practicable after the request is made, the Director must —
 - (a) revoke the banned drinker order; and
 - (b) ensure all reasonable steps are taken to give the person written notice that the order is revoked; and
 - (c) enter information about the revocation in the banned drinkers register.

Note for this subsection:

See section 152YC(3) for when the revocation of a banned drinker order takes effect.

Division 4 — Banned drinker order made on application of certain professionals

152YQ. Application for banned drinker order

- (1) In this section —

medical practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

social worker means a person who is a member, or is eligible for membership, of the Australian Association of Social Workers Limited ACN 008 576 010.
- (2) Any of the following persons may apply to the Director to make a banned drinker order for a person —
 - (a) a medical practitioner;
 - (b) a social worker;
 - (c) another person prescribed as a person who can make an application under this section.

- (3) The application —
- (a) must be in writing in a form approved by the Director; and
 - (b) must contain information to demonstrate that —
 - (i) the person the subject of the application is misusing or has misused liquor; and
 - (ii) the person's misuse of liquor is a serious risk to the health, safety or wellbeing of the person or another person;
- and
- (c) may contain a request for the banned drinker order to be in force for a period of 3, 6 or 12 months.

152YR. Director may make banned drinker order

- (1) This section applies if the Director receives an application for a banned drinker order for a person under section 152YQ.
- (2) The Director may make the banned drinker order for the person if satisfied —
 - (a) about the person's identity; and
 - (b) the person is misusing or has misused liquor; and
 - (c) that the person's misuse of liquor is a serious risk to the health, safety or wellbeing of the person or another person; and
 - (d) it is in the public interest to make the order.
- (3) Otherwise, the Director must decide to refuse the application.

152YS. Period of banned drinker order

- (1) In making a banned drinker order under section 152YR(2), the Director must —
 - (a) if the applicant made a request about the period of the order under section 152YQ(3)(c), consider the request; and
 - (b) decide whether the order will be in force for a period of 3, 6 or 12 months; and
 - (c) specify the period in the order.
- (2) The banned drinker order remains in force for the period specified in the order unless it is —
 - (a) extended under section 152YU or 152YV; or
 - (b) revoked earlier under section 152YW.

152YT. Notice of decision and registration of banned drinker order

- (1) This section applies if, under section 152YR, the Director decides an application for a banned drinker order.
- (2) If the Director decides to make a banned drinker order, the Director must —
 - (a) give the applicant written notice of the decision and the Director's decision under section 152YS(1)(b) about the period for which the order will be in force; and
 - (b) ensure all reasonable steps are taken to give the banned drinker a copy of the order; and
 - (c) register the order.

Note for this subsection:

See section 25 for a banned drinker's right to apply to the Commission for a review of a decision of the Director that relates to the making of a banned drinker order.

- (3) A copy of a banned drinker order given under subsection (2)(b) may, but need not, be accompanied by written reasons for the decision to make the order.
- (4) If the copy of the banned drinker order is not accompanied by reasons for the decision, the banned drinker may, within 28 days after receiving the copy of the order or a longer period allowed by the Director, ask the Director to provide written reasons.
- (5) If the banned drinker asks for reasons under subsection (4), the Director must give the banned drinker written reasons for the decision.
- (6) If the Director decides to refuse the application, the Director must give the applicant written notice of the decision.

152YU. Director may extend banned drinker order

- (1) The Director may decide to extend a banned drinker order made under section 152YR(2) —
 - (a) on the application of a person referred to in section 152YQ(2); or
 - (b) on the Director's own initiative.
- (2) An application referred to in subsection (1)(a) must be —
 - (a) in writing in a form approved by the Director;
and
 - (b) made while the banned drinker order is in force.
- (3) The Director may extend the banned drinker order if the Director believes on reasonable grounds that —
 - (a) the banned drinker has contravened the order;
or

- (b) grounds under this Division for making a banned drinker order for the banned drinker exist.

Note for this subsection:

For the purposes of paragraph (b) — see section 152YR(2) for the grounds on which a banned drinker order may be made under this Division.

- (4) A banned drinker order can only be extended under subsection (3) as follows —
 - (a) a banned drinker order made for a period of 3 months can be extended to a period of 6 months;
 - (b) a banned drinker order made for, or extended to, a period of 6 months can be extended to a period of 12 months;
 - (c) a banned drinker order made for a period of 12 months, or extended to a period of 12 months or more, can be extended for a further period of up to 12 months.
- (5) If the Director decides to extend the banned drinker order, the Director must —
 - (a) ensure all reasonable steps are taken to give the banned drinker written notice stating that —
 - (i) the order has been extended and the period of the extension; and
 - (ii) the banned drinker may apply to the Commission for a review of the decision and how to apply;
 - and
 - (b) enter information about the extension in the banned drinkers register.

Notes for this subsection:

1. For the purposes of paragraph (a)(ii) — see section 25 for a banned drinker's right to apply to the Commission for a review of a decision of the Director that relates to the extension of a banned drinker order.
 2. See section 152YC(2) for when the extension of a banned drinker order takes effect.
- (6) A notice given under subsection (5)(a) may, but need not, include reasons for the decision to extend the banned drinker order.
- (7) If the notice does not include reasons for the decision, the banned drinker may, within 28 days after receiving the notice or a longer period allowed by the Director, ask the Director to provide written reasons.
- (8) If the banned drinker asks for reasons under subsection (7), the Director must give the banned drinker written reasons for the decision.
- (9) If the Director decides to extend a banned drinker order on an application referred to in subsection (1)(a), or to refuse the application, the Director must give the applicant written notice of the decision.

152YV. Police officer may extend banned drinker order

- (1) A police officer may extend a banned drinker order made under section 152YR(2) if any of the following happen —
 - (a) the officer believes on reasonable grounds that the banned drinker contravened the order;
 - (b) the banned drinker is charged with an alcohol-related offence;

- (c) the banned drinker is named as the person bound by a police FVRO, if the police officer who makes the police FVRO believes on reasonable grounds that the banned drinker was affected by liquor at the time of engaging in the conduct to which the police FVRO relates;
 - (d) the banned drinker is taken into alcohol-related protective custody;
 - (e) the banned drinker is given an alcohol-related infringement notice.
- (2) The banned drinker order can only be extended as follows —
 - (a) a banned drinker order made for a period of 3 months can be extended to a period of 6 months;
 - (b) a banned drinker order made for, or extended to, a period of 6 months can be extended to a period of 12 months;
 - (c) a banned drinker order made for a period of 12 months, or extended to a period of 12 months or more, can be extended for a further period of up to 12 months.
- (3) A police officer who is not a senior officer must not extend a banned drinker order under subsection (1) unless the officer has the approval of a senior officer to extend the order.
- (4) If a police officer decides to extend the banned drinker order under this section, the Commissioner of Police must ensure —
 - (a) all reasonable steps are taken to give the banned drinker written notice stating that —
 - (i) the order has been extended and the period of the extension; and

- (ii) the banned drinker may apply to the Commission for a review of the decision and how to apply;
- and
- (b) information about the extension is entered in the banned drinkers register.

Note for this subsection:

See section 152YC(2) for when the extension of a banned drinker order takes effect.

- (5) A notice given under subsection (4)(a) may, but need not, include reasons for the decision to extend the banned drinker order.
- (6) If the notice does not include reasons for the decision, the banned drinker may, within 28 days after receiving the notice or a longer period allowed by the Commissioner of Police, ask the Commissioner to provide written reasons.
- (7) If the banned drinker asks for reasons under subsection (6), the Commissioner must give the banned drinker written reasons for the decision.

152YW. Revocation of banned drinker order

- (1) The Director may decide to revoke a banned drinker order made under section 152YR(2) —
 - (a) on the application of the banned drinker; or
 - (b) on the Director's own initiative.
- (2) An application referred to in subsection (1)(a) must be —
 - (a) in writing in a form approved by the Director; and
 - (b) made while the banned drinker order is in force.

- (3) The Director must revoke the banned drinker order if satisfied —
- (a) the grounds for making the order under section 152YR(2) no longer exist; or
 - (b) for a banned drinker order extended under section 152YV(1)(b) —
 - (i) the charge was withdrawn, dismissed or not proceeded with; or
 - (ii) the banned drinker was found not guilty of the offence; or
 - (iii) the banned drinker was convicted of the offence and the court sentencing the banned drinker imposed no sentence or made a spent conviction order (as defined in the *Sentencing Act 1995* section 4(1));
- or
- (c) for a banned drinker order extended under section 152YV(1)(c) — the banned drinker is no longer a person bound by a family violence restraining order (as defined in the *Restraining Orders Act 1997* section 3(1)); or
 - (d) the revocation is required because of an administrative error.
- (4) The Director may revoke a banned drinker order if satisfied that the banned drinker has participated in and completed a therapeutic support program.
- (5) If the Director does not decide an application referred to in subsection (1)(a) by revoking the banned drinker order under subsection (3) or (4), the Director must refuse the application.

- (6) A reference in subsection (3) to a banned drinker order extended under section 152YV(1)(b) or (c) (the *original order*) includes a reference to a second police BDO or subsequent police BDO made in relation to the same banned drinker that would not have been made if the original order had not been made for the banned drinker.
- (7) This section applies in addition to, and does not limit, sections 152YJ and 152YP.

152YX. Decision to revoke banned drinker order

- (1) If the Director decides to revoke a banned drinker order under section 152YW, the Director must —
 - (a) give the banned drinker written notice stating that the order is revoked; and
 - (b) enter information about the revocation in the banned drinkers register.
- (2) If the Director decides to refuse an application to revoke a banned drinker order under section 152YW, the Director must give the banned drinker written notice stating —
 - (a) the decision; and
 - (b) that the banned drinker may apply to the Commission for a review of the decision and how to apply.

Note for this subsection:

For the purposes of paragraph (b) — see section 25 for a banned drinker's right to apply to the Commission for a review of a decision of the Director that relates to the revocation of a banned drinker order.

- (3) A notice given under subsection (2) may, but need not, include reasons for the decision to refuse the application.

- (4) If the notice does not include reasons for the decision, the banned drinker may, within 28 days after receiving the notice or a longer period allowed by the Director, ask the Director to provide written reasons.
- (5) If the banned drinker asks for reasons under subsection (4), the Director must give the banned drinker written reasons for the decision.

Division 5 — Other provisions about banned drinker orders

152YY. Review of decisions

- (1) A person who is a banned drinker may apply to the Commission for a review of any of the following decisions —
 - (a) a decision of a police officer to make a banned drinker order for the person under section 152YE or 152YF;
 - (b) a decision of a police officer to extend a banned drinker order for the person under section 152YV;
 - (c) a decision of the Commissioner of Police to refuse the person's application to revoke a banned drinker order for the person under section 152YJ.

Note for this subsection:

See section 25 for the person's right to apply to the Commission for a review of a decision of the Director that relates to the making, extension or revocation of a banned drinker order.

- (2) The application must be —
 - (a) in writing in a form approved by the Commission; and

- (b) made within 1 month after the decision takes effect or a longer period allowed by the Commission.
- (3) When reviewing the decision, the Commission may consider —
 - (a) the material that was before the police officer or the Commissioner of Police when making the decision; and
 - (b) information or a document provided by the banned drinker.
- (4) On a review under this section, the Commission may —
 - (a) affirm, vary or quash the decision being reviewed; and
 - (b) substitute another decision for the decision being reviewed; and
 - (c) give the directions to the Commissioner of Police that are necessary to give effect to the Commission's decisions under paragraph (a) or (b); and
 - (d) make any incidental or ancillary order.
- (5) A banned drinker order or an extension of a banned drinker order remains in force while the decision to make or extend the order is reviewed.

152YZ. Decision of Commission on review

- (1) This section applies if the Commission —
 - (a) reviews, under section 152YY, a decision of a police officer or the Commissioner of Police; or
 - (b) reviews, under section 25, a decision of the Director that relates to the making, extension or revocation of a banned drinker order; or

- (c) hears an appeal under section 28 against a decision of the Commission on a review referred to in paragraph (a).
- (2) If the Commission's decision on the review or appeal is to extend or revoke the banned drinker order —
 - (a) the extension or revocation takes effect at the time specified by the Commission; and
 - (b) the Commission must specify how the banned drinker is to be notified of the extension or revocation.
- (3) If the effect of the Commission's decision on the review or appeal is that a new banned drinker order is made —
 - (a) the new order is to be regarded as and given effect as —
 - (i) for a review or appeal referred to in subsection (1)(a) or (c) — an order made by a police officer under section 152YE; or
 - (ii) for a review referred to in subsection (1)(b) — an order made by the Director under section 152YR;
 - and
 - (b) the police officer or the Director (as the case requires) must ensure —
 - (i) all reasonable steps are taken to give a copy of the new order to the banned drinker; and
 - (ii) the new order is registered.
- (4) Despite subsection (3)(a), the decision to make the new banned drinker order is not subject to review by the Commission under this section or section 25.

Division 6 — Offences

152Z. When packaged liquor is sold, or authorised by licence to be sold, in banned drinker area

For the purposes of this Division and Division 7, packaged liquor is sold, or authorised by a licence to be sold, in a banned drinker area if the packaged liquor is sold or authorised to be sold —

- (a) from licensed premises in the banned drinker area for consumption off the licensed premises; or
- (b) to be consigned from licensed premises, whether or not the licensed premises are in the banned drinker area, for delivery to a purchaser in a banned drinker area.

152ZA. Offence of knowingly selling packaged liquor to banned drinker

- (1) This section applies if a licence for licensed premises authorises the sale of packaged liquor in a banned drinker area.
- (2) A responsible person in relation to the licensed premises must not sell packaged liquor to a person who the responsible person knows, or ought reasonably to know, is a banned drinker.

Penalty for this subsection: a fine of \$10 000.

- (3) It is a defence to a charge of an offence against subsection (2) for the accused person to prove that —
 - (a) the person used the ID system in relation to the sale of the packaged liquor to the banned drinker and the ID system did not identify the person as a banned drinker; or

- (b) the ID system did not operate properly or was not otherwise able to be used.

152ZB. Offence of supplying packaged liquor to banned drinker

- (1) A person who supplies packaged liquor to a banned drinker in a banned drinker area commits an offence.
Penalty for this subsection: a fine of \$10 000.
- (2) It is a defence to a charge of an offence against subsection (1) for the accused person to prove that —
 - (a) the person is a responsible person in relation to the licensed premises from which the liquor was supplied; and
 - (b) either of the following apply —
 - (i) the person used the ID system in relation to the supply of the packaged liquor and the ID system did not identify the person as a banned drinker; or
 - (ii) the ID system did not operate properly or was not otherwise able to be used.
- (3) It is also a defence to a charge of an offence against subsection (1) for an accused person, other than a person referred to in subsection (2)(a), to prove that the person did not know, and could not reasonably be expected to know, the person was a banned drinker.

Division 7 — Disclosure and use of information

152ZC. Disclosure of information about banned drinker order or banned drinker

- (1) A person who applies to the Director for a banned drinker order for a person, or to extend a banned drinker order for a person, under Division 4 may give the Director information about the person who is the subject of the application or order.
- (2) A police officer or the Director may give information about a banned drinker order, and the banned drinker who is the subject of the order, to —
 - (a) a public service officer who is acting under a written law in relation to the banned drinker; or
 - (b) a responsible person in relation to licensed premises; or
 - (c) a legal representative of the banned drinker; or
 - (d) a prescribed person in relation to the banned drinker.
- (3) A police officer or the Director may give information under subsection (2) only if —
 - (a) the police officer or Director mentions the banned drinker order when giving the information; and
 - (b) the police officer or Director believes on reasonable grounds that the information —
 - (i) will assist the recipient of the information to provide a service to, or perform a function relating to, the banned drinker; or
 - (ii) will ensure the effective and efficient enforcement of the banned drinker order; or

- (iii) is required for a purpose related to the administration or enforcement of this Act or another written law.

152ZD. Restriction on use or disclosure of information

- (1) A person who is given information under section 152ZC(1) or (2) must not use or disclose the information for a purpose other than the purpose for which it was given.

Penalty for this subsection: a fine of \$10 000.

- (2) However, the person may disclose the information —
 - (a) in a statistical form that does not identify the person to whom the information relates; or
 - (b) if authorised or required by another provision of this Act or another written law; or
 - (c) with the consent of the person to whom the information relates.

152ZE. Protection for disclosure in good faith

- (1) Information may be disclosed under this Division despite any written law relating to confidentiality or secrecy.
- (2) If information is disclosed under this Division in good faith —
 - (a) no civil or criminal liability is incurred in respect of the disclosure; and
 - (b) the disclosure is not to be regarded as a breach of a duty of confidentiality or secrecy imposed by law; and
 - (c) the disclosure is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.

Division 8 — Miscellaneous

152ZF. Condition relating to sale of packaged liquor in banned drinker areas

- (1) In this section —
approved form of identification means a form of identification referred to in section 152ZI(4).
- (2) A licence for licensed premises that authorises the sale of packaged liquor in a banned drinker area is subject to the following conditions —
 - (a) a responsible person in relation to the licensed premises must not sell packaged liquor to a person (the *purchaser*) unless the responsible person uses the ID system in the way stated in subsection (3) to check whether the purchaser is a banned drinker;
 - (b) a responsible person in relation to the licensed premises must not sell packaged liquor to a banned drinker.
- (3) A responsible person uses the ID system to check whether a purchaser is a banned drinker if —
 - (a) the purchaser provides either —
 - (i) an approved form of identification; or
 - (ii) in the case of a purchase not made in person — details of an approved form of identification;and
 - (b) the responsible person uses the ID system to check the purchaser's identification or identification details; and

- (c) the ID system indicates whether or not the purchaser is a banned drinker.
- (4) The Director must ensure that the licensee of the licence is provided with a way to access and use the ID system.
- (5) Subsection (2) does not apply if —
 - (a) the Director has not provided the licensee with a way to access and use the ID system; or
 - (b) the ID system does not operate properly or is not otherwise able to be used.

152ZG. Banned drinker order or written notice may be given electronically

- (1) This section applies if, under this Part, a copy of a banned drinker order or a written notice must or may be given to a person (the *recipient*).
- (2) With the recipient's consent, the copy or notice may be given to the recipient electronically to an electronic address provided by the recipient.

152ZH. Director must keep banned drinkers register

- (1) The Director must keep a register of banned drinkers.
- (2) The register must include the following information about a banned drinker —
 - (a) the banned drinker's name;
 - (b) whether the banned drinker is the subject of —
 - (i) a banned drinker order; or
 - (ii) a barring notice; or
 - (iii) a prohibition order under Part 5A;
 - (c) the period for which the order or notice referred to in paragraph (b) is in force;

- (d) other information about the order or notice, including, for example —
 - (i) for a banned drinker order, whether the banned drinker order is self-imposed, made by a police officer, or made on the application of another person; and
 - (ii) for a banned drinker order made by a police officer, whether it is a first police BDO, second police BDO or subsequent police BDO.

152ZI. Director must establish ID system

- (1) The Director must establish a system (an *ID system*) for checking whether a person is a banned drinker in relation to the sale of packaged liquor from licensed premises.
- (2) The ID system must be designed to —
 - (a) enable a responsible person in relation to licensed premises to check whether a person is a banned drinker before selling packaged liquor to the person; and
 - (b) for the purposes of carrying out the check, access information stored in the banned drinkers register or a copy of the information; and
 - (c) for the purposes of carrying out the check, verify the person's identity using —
 - (i) an approved form of identification presented by the person; or
 - (ii) in the case of a sale not made in person — details of an approved form of identification provided by the person.

- (3) The ID system may provide for different ways to check whether a person is a banned drinker, including, for example, the following ways —
- (a) using a device that scans approved forms of identification;
 - (b) using a secure webpage referred to in section 115AC (in relation to banned drinkers who are persons given barring notices) or 152K (in relation to banned drinkers who are subject to prohibition orders).
- (4) Only the following forms of identification are approved for the ID system —
- (a) a current passport;
 - (b) an Australian driver licence, as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1), that is current;
 - (c) a photo card, as defined in the *Western Australian Photo Card Act 2014* section 3, that is current;
 - (d) another form of identification approved by the Director.

152ZJ. Offence to use or disclose information obtained from banned drinkers register or using ID system

- (1) A person must not use or disclose information, including a photograph, that the person obtains from the banned drinkers register or by using the ID system. Penalty for this subsection: a fine of \$10 000.
- (2) Subsection (1) does not apply if the use or disclosure is permitted under Division 7.

- (3) A responsible person in relation to licensed premises does not commit an offence under subsection (1) if the person —
- (a) uses or discloses the information in performing duties relating to the person's work on the licensed premises; or
 - (b) discloses the information to another responsible person in relation to the licensed premises for the purpose of enabling the other responsible person to perform duties relating to that person's work on the licensed premises.

152ZK. Delegation by Commissioner of Police

- (1) The Commissioner of Police may delegate any power or duty of the Commissioner under this Part to a police officer 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 a function, power or duty is delegated under this section cannot delegate the function, power or duty.
- (4) A person exercising a power, or performing a function or duty, that has been delegated to the person under this section is 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 a function through an agent or officer.

16. Section 155 amended

(1) After section 155(8) insert:

- (8A) In a banned drinker area, a police officer may seize from a person who is a banned drinker —
- (a) if the person is on licensed premises — liquor that the person purchased as packaged liquor;
or
 - (b) otherwise — an opened or unopened container of liquor in the person’s possession.

(2) In section 155(9) delete “(8)” and insert:

(8), (8A)

Note: The heading to amended section 155 is to read:

Powers of police to enter premises and seize liquor etc.

17. Section 175 amended

After section 175(1F) insert:

- (1G) The Governor, on the recommendation of the Minister, may make regulations prescribing an area of the State to be a banned drinker area.
- (1H) The Minister can make a recommendation for the purposes of subsection (1G) only if, after consultation with each of the following, the Minister is satisfied that the proposed regulations are in the public interest —
- (a) the Commissioner of Police;

- (b) each local government in the district of which any part of the banned drinker area is to be situated;
- (c) if the Minister considers it appropriate to consult another person — that person.

18. Section 177E inserted

After section 177D insert:

177E. Transitional provisions for *Liquor Control Amendment (Banned Drinkers Register) Act 2023* (Sch. 1E)

Schedule 1E sets out transitional provisions relating to amendments made to this Act by the *Liquor Control Amendment (Banned Drinkers Register) Act 2023*.

19. Section 178 amended

In section 178(1) delete “2022)” and insert:

2022 or the *Liquor Control Amendment (Banned Drinkers Register) Act 2023*)

20. Schedule 1E inserted

After Schedule 1D insert:

**Schedule 1E — Transitional provisions relating to
*Liquor Control Amendment (Banned Drinkers
Register) Act 2023***

[s. 177E]

1. Application of s. 115ACA to existing barring notices

Section 115ACA applies to a notice given to a person under section 115AA(2) that was in force immediately before the day on which the *Liquor Control Amendment (Banned Drinkers Register) Act 2023* section 10 comes into operation.

2. Application of s. 152KA to existing prohibition orders

Section 152KA applies to a prohibition order that was in force immediately before the day on which the *Liquor Control Amendment (Banned Drinkers Register) Act 2023* section 13 comes into operation.

3. Existing circumstances for police officer making banned drinker order under s. 152YE

Section 152YE applies in relation to a circumstance referred to in subsection (2) of that section, whether the circumstance happened before, on or after the day on which the *Liquor Control Amendment (Banned Drinkers Register) Act 2023* section 15 comes into operation.

4. Banned drinker orders stop having effect when Part 5C repealed

A banned drinker order in force under Part 5C stops having effect when the *Liquor Control Amendment (Banned*

Drinkers Register) Act 2023 section 29 comes into operation.

21. Other provisions amended

(1) In the provisions listed in the Table:

(a) delete “member of the Police Force” (each occurrence) and insert:

police officer

(b) delete “members of the Police Force” and insert:

police officers

Table

s. 3(1) def. of <i>authorised officer</i> par. (d)	s. 3(1) def. of <i>authorised person</i> par. (d)
s. 6(1)(g)(iii)	s. 17(2)
s. 30(6)(b)	s. 37B(1)
s. 60(6)(a)	s. 114(1) and (3)
s. 115(8)	s. 115AB(1)
s. 119(11)	s. 152ND(1), (2), (3) and (4)
s. 152NH(2)(a) and (4)(a)	s. 152NZG(1)
s. 152NZH(1)(a)(i) and (3)(a)	s. 152NZM(2)(b) and (3)
s. 152NZQ(3)(b)	s. 154(9)

Liquor Control Amendment (Banned Drinkers Register) Act 2023

Part 2 Liquor Control Act 1988 amended

Division 2 Amendments commencing on proclamation

s. 21

s. 155(2), (3), (4), (5A), (6), (7), (8), (9A) and (9)	s. 160(3)
s. 161(3)(a)	s. 168(1)(b)
s. 170(da)	s. 172(1)(o) and (p)
s. 175(1a)(c)	

(2) Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
s. 60(6)(b) s. 115(5)(a) s. 119(9) and (12) s. 159(2)	he or she	the person
s. 61A(2)(a) s. 64(1C)(d)	licencing	licensing
s. 119(12)	accused	accused person
s. 152D(1)(c)	informs the relevant person that he or she	states that the relevant person
s. 152I(1)(c)	informs the respondent that he or she	states that the respondent
s. 152ND(2)	member is	officer is
s. 152ND(3)	member making	officer making

Provision	Delete	Insert
s. 152ND(4)	member thinks	officer thinks
s. 152NZM(3)	member any	officer any
s. 155(9A)	the member (each occurrence)	the officer

Notes:

1. The heading to amended section 152ND is to read:
Police officer may make short-term exclusion order
2. The heading to amended section 152NZM is to read:
Police officer may require person to give personal details in certain circumstances

Division 3 — Amendments commencing 2 years after proclamation

22. Section 3 amended

In section 3(1) delete the definitions of:

banned drinker
banned drinker area
banned drinker order
banned drinkers register

23. Section 24 amended

Delete section 24(2)(ba).

24. Section 25 amended

- (1) In section 25(1A) in the definition of *interested person* paragraph (a):
 - (a) delete “or (aa)”;

- (b) in subparagraph (ii) delete “order, the extended exclusion order or the banned drinker” and insert:

order or the extended exclusion

- (2) In section 25(1A) in the definition of *reviewable decision*:

- (a) delete paragraph (aa);
(b) in paragraph (b) delete “paragraph (a) or (aa).” and insert:

paragraph (a).

- (3) Delete section 25(2b)(ba).

25. Section 26 amended

In section 26(b) delete “Part 5A, an extended exclusion order under Part 5AA or a banned drinker order under Part 5C” and insert:

Part 5A or an extended exclusion order under Part 5AA

26. Section 115ACA deleted

Delete section 115ACA.

27. Section 152KA deleted

Delete section 152KA.

28. Section 152NZF amended

In section 152NZF(1):

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

order.

(b) delete paragraph (d).

29. Part 5C deleted

Delete Part 5C.

30. Section 155 amended

(1) Delete section 155(8A).

(2) In section 155(9) delete “(8), (8A)” and insert:

(8)

31. Section 175 amended

Delete section 175(1G) and (1H).

**Part 3 — *Criminal Investigation (Identifying People)*
Act 2002 amended**

32. Act amended

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

33. Section 73 amended

In section 73(1)(nb) delete “152NZT or 152NZU;” and insert:

152NZT, 152NZU, 152ZC, 152ZD or 152ZJ;

34. Section 73 amended

In section 73(1)(nb) delete “152NZT, 152NZU, 152ZC, 152ZD or 152ZJ;” and insert:

152NZT or 152NZU;

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