



Western Australia

Liquor Control Amendment (Protected Entertainment Precincts) Act 2022

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Western Australia

Liquor Control Amendment (Protected Entertainment Precincts) Act 2022

No. 44 of 2022

**An Act to amend the *Liquor Control Act 1988* and to consequentially
amend other Acts.**

[Assented to 1 December 2022]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Liquor Control Amendment (Protected Entertainment Precincts) Act 2022*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — 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.

Part 2 — *Liquor Control Act 1988* amended

3. Act amended

This Part amends the *Liquor Control Act 1988*.

4. Long title replaced

Delete the long title and insert:

An Act —

- **to regulate the sale, supply and consumption of liquor;**
and
- **to regulate the use of premises on which liquor is sold;**
and
- **to regulate the services and facilities provided in**
conjunction with, or ancillary to, the sale of liquor; and
- **to minimise harm or ill-health caused to people, or any**
group of people, due to the use of liquor; and
- **to provide for orders that may prohibit people from**
being employed at, or from entering, licensed premises;
and
- **to minimise harm and adverse effects, and public**
disturbances and disorder, in areas with a concentration
of licensed premises, by providing for offences and
orders that prohibit people from entering or remaining
in those areas; and
- **to repeal the *Liquor Act 1970*; and**
- **for related matters.**

5. Section 3 amended

In section 3(1) insert in alphabetical order:

***protected entertainment precinct* means an area**
prescribed under section 175(1E);

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public authority means any of the following —

- (a) a Minister of the State;
- (b) an agency or an organisation as those terms are defined in the *Public Sector Management Act 1994* section 3(1);
- (c) a body, whether incorporated or not, or the holder of an office, post or position, that is established or continued for a public purpose under a written law;

6. Section 5 amended

After section 5(3) insert:

- (4) The objects in this section do not apply in relation to Part 5AA or the carrying out of functions under Part 5AA.

Note for this subsection:

The object of Part 5AA is set out in section 152NB.

7. Section 24 amended

In section 24(2)(b) delete “5A; or” and insert:

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

8. Section 25 amended

(1) Delete section 25(1) and insert:

(1A) In this section —

interested person, in relation to a reviewable decision,
means —

- (a) in the case of a decision referred to in paragraph (a) of the definition of ***reviewable decision*** —
 - (i) the Commissioner of Police; or
 - (ii) the person the subject of the prohibition order or the extended exclusion order (as the case requires);

or

- (b) in the case of a decision referred to in paragraph (b) of the definition of ***reviewable decision*** — a person who is a party to the proceedings before the Director;

reviewable decision means —

- (a) a decision made by the Director that relates to the making, variation or revocation of a prohibition order under Part 5A or an extended exclusion order under Part 5AA; or
 - (b) a decision made by the Director in respect of proceedings before the Director (other than a decision referred to in paragraph (a)).
- (1) Subject to subsections (3) and (5), if an interested person is dissatisfied with a reviewable decision, the person may apply to the Commission for a review of that decision.

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(2) Delete section 25(2b)(b) and insert:

- (b) the decision relates to the making, variation or revocation of a prohibition order under Part 5A or an extended exclusion order under Part 5AA; or

9. Section 26 amended

In section 26(b) after “5A” insert:

or an extended exclusion order under Part 5AA

10. Section 34 amended

In section 34(4) after “according” insert:

to

11. Section 115AC amended

(1) In section 115AC(1A) insert in alphabetical order:

personal particulars, in relation to a notice given to a person under section 115AA(2), means —

- (a) the name and date of birth of the person; and
- (b) a photograph of the person; and
- (c) the address of the person; and
- (d) the licensed premises, or class of licensed premises, to which the notice relates;

(2) Delete section 115AC(1) and insert:

- (1) If a notice given to a person under section 115AA(2) is in effect, the Commissioner of Police must publish on a secure webpage all of the personal particulars in relation to the notice, to the extent those particulars are in the possession of the Commissioner.
- (1AA) If a notice given to a person under section 115AA(2) is in effect, the Commissioner of Police or the Director may disclose any of the personal particulars in relation to the notice to —
 - (a) a public authority if the Commissioner or the Director (as the case requires) considers that the personal particulars are required by that authority for a purpose relating to the administration or enforcement of this Act or another written law; or
 - (b) a prescribed person, or a person belonging to a prescribed class of persons, if the Commissioner or the Director (as the case requires) considers that the personal particulars are required by that person for a purpose relating to —
 - (i) the further provision of the personal particulars to responsible persons in relation to licensed premises to assist those responsible persons to identify persons in relation to whom notices under section 115AA(2) are in effect; or
 - (ii) the creation or provision of equipment, software, databases or any other thing to be used by responsible persons in identifying persons in relation to whom

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notices under section 115AA(2) are in effect.

(3) In section 115AC(2):

- (a) delete “Subsection (1) does not permit the publication” and insert:

Subsections (1) and (1AA) do not permit the publication or disclosure

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

juvenile

- (c) in paragraph (b) after “person” insert:

to whom the notice is given

(4) In section 115AC(3) delete “Except as provided in subsection (4), a person who discloses something that has been published under subsection (1)” and insert:

Subject to subsections (4) and (5), a person who discloses information or a photograph that the person has obtained from the secure webpage referred to in subsection (1), or from a disclosure under subsection (1AA),

(5) In section 115AC(3) in the Penalty delete “Penalty:” and insert:

Penalty for this subsection:

(6) Delete section 115AC(4) and insert:

- (4) A responsible person in relation to licensed premises does not commit an offence under subsection (3) if —
 - (a) the responsible person discloses the information or photograph in the performance of duties relating to the person's work on the licensed premises; or
 - (b) the responsible person discloses the information or photograph to another responsible person in relation to the licensed premises for the purposes of enabling the second responsible person to perform duties relating to that second person's work on the licensed premises.
- (5) A person to whom information or a photograph has been disclosed under subsection (1AA)(a) or (b) does not commit an offence under subsection (3) if they disclose the information or photograph for a purpose referred to in subsection (1AA)(a) or (b) (as the case requires).

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

Publication and disclosure of details of people banned under s. 115AA

12. Section 152B amended

After section 152B(2) insert:

- (3) Nothing in subsection (2) requires or authorises the Commissioner of Police to disclose confidential police information.

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13. Section 152G amended

- (1) In section 152G(1) delete “in writing to the Director in a form approved by” and insert:

to

- (2) After section 152G(1) insert:

- (1A) The application must be —

- (a) in writing in a form approved by the Director;
and
- (b) made during the period that the prohibition order is in effect.

14. Section 152J amended

In section 152J(1)(a) delete “order; or” and insert:

order (whether or not the variation or revocation was applied for); or

15. Section 152K amended

- (1) Before section 152K(1) insert:

- (1A) In this section —

personal particulars, in relation to a prohibition order,
means —

- (a) the name and date of birth of the relevant person; and
- (b) a photograph of the relevant person; and

- (c) the address of the relevant person; and
- (d) the licensed premises, or class of licensed premises, to which the order relates;

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, a person belonging to a prescribed class of persons or a person in a prescribed circumstance.

(2) Delete section 152K(2A) and insert:

- (2A) If a prohibition order is in effect, the Director may —
- (a) publish on a secure webpage any of the personal particulars in relation to the order; and
 - (b) if the relevant person in relation to the order is not a juvenile — publish, in any manner the Director considers appropriate, any of the following in relation to the order —
 - (i) the name of the relevant person;
 - (ii) a photograph of the relevant person;
 - (iii) the town or suburb where the relevant person lives;
 - (iv) the licensed premises, or class of licensed premises, to which the order relates.

- (2AA) If a prohibition order is in effect, the Director may disclose any of the personal particulars in relation to the order to —
- (a) a public authority if the Director considers that the personal particulars are required by that

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authority for a purpose relating to the administration or enforcement of this Act or another written law; or

- (b) a prescribed person, or a person belonging to a prescribed class of persons, if the Director considers that the personal particulars are required by that person for a purpose relating to —
 - (i) the further provision of the personal particulars to responsible persons in relation to licensed premises to assist those responsible persons to identify persons subject to prohibition orders; or
 - (ii) the creation or provision of equipment, software, databases or any other thing to be used by responsible persons in identifying persons subject to prohibition orders.

(3) In section 152K(2B):

- (a) delete “Subsection (2A) does not permit the publication” and insert:

Subsections (2A) and (2AA) do not permit the publication or disclosure

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

juvenile

- (c) renumber paragraph (c) as paragraph (b).

- (4) In section 152K(2C) delete “(2A).” and insert:

(2A)(b).

- (5) After section 152K(2C) insert:

- (2D) Subject to subsections (2E), (2F) and (2G), a person who discloses information or a photograph that the person has obtained from the secure webpage referred to in subsection (2A)(a), or from a disclosure under subsection (2AA), commits an offence.
Penalty for this subsection: a fine of \$10 000.
- (2E) Subsection (2D) does not apply to information or a photograph that has also been published under subsection (2A)(b).
- (2F) A responsible person in relation to licensed premises does not commit an offence under subsection (2D) if —
- (a) the responsible person discloses the information or photograph in the performance of duties relating to the person’s work on the licensed premises; or
 - (b) the responsible person discloses the information or photograph to another responsible person in relation to the licensed premises for the purposes of enabling the second responsible person to perform duties relating to that second person’s work on the licensed premises.
- (2G) A person to whom information or a photograph has been disclosed under subsection (2AA)(a) or (b) does not commit an offence under subsection (2D) if they disclose the information or photograph for a purpose

referred to in subsection (2AA)(a) or (b) (as the case requires).

Note: The heading to amended section 152K is to read:

Service, publication and disclosure of prohibition orders

16. Part 5AA inserted

After section 152NA insert:

Part 5AA — Protected entertainment precincts

Division 1 — Preliminary

152NB. Object of Part

- (1) The primary object of this Part is to minimise, in relation to areas with a concentration of licensed premises —
 - (a) harm, or the potential for harm, to people, or any group of people, in the areas; and
 - (b) adverse effects on the safety or welfare of people, or any group of people, in the areas; and
 - (c) adverse effects on the atmosphere, ambience, character or pleasantness of the areas; and
 - (d) public disturbances and public disorder in the areas.
- (2) The references in subsection (1) to harm, the potential for harm, adverse effects, public disturbances and public disorder include references to harm, the potential for harm, adverse effects, public disturbances and public disorder whether or not arising from, or

relating to, the use of liquor or any violence associated with the use of liquor.

- (3) In carrying out functions under this Part, a person must have regard to the primary object of this Part.

152NC. Terms used

In this Part —

excluded offender has the meaning given in section 152NZJ(2);

exclusion order means —

- (a) a short-term exclusion order; or
- (b) an extended exclusion order;

exclusion period, for an excluded offender, has the meaning given in section 152NZJ(4);

extended exclusion order means an order made under section 152NM(1)(a), as varied from time to time, that prohibits a person from entering or remaining in all protected entertainment precincts;

extended exclusion order respondent, in relation to an application under section 152NO(1) for the variation or revocation of an extended exclusion order, means —

- (a) if the application is made by the Commissioner of Police — the subject person; or
- (b) if the application is made by the subject person — the Commissioner of Police;

public place includes —

- (a) licensed premises; and
- (b) a place (including a vehicle) to which the public, or any section of the public, has or is permitted to have access, whether on payment or otherwise; and

- (c) a privately owned place (including a vehicle) to which the public has access with the express or implied approval of, or without interference from, the owner, occupier or person who has the control or management of the place; and
- (d) a school, university or other place of education, other than a part of it to which neither students nor the public usually have access; and
- (e) a vehicle (including a privately owned vehicle) that is in a place referred to in paragraph (a), (b), (c) or (d);

short-term exclusion order means an order made under section 152ND(1), as varied from time to time, that prohibits a person from entering or remaining in all protected entertainment precincts;

subject person means —

- (a) in relation to an application under section 152NJ(1) — the person who is the subject of the application; or
- (b) in relation to an exclusion order — the person who is the subject of the order.

Division 2 — Short-term exclusion orders

152ND. Member of the Police Force may make short-term exclusion order

- (1) A member of the Police Force may make an order prohibiting a person from entering or remaining in all protected entertainment precincts.
- (2) The member of the Police Force must not make the order unless the member is satisfied, on reasonable grounds, that making the order is necessary because —
 - (a) the person has behaved in an unlawful, anti-social, violent, disorderly, offensive,

indecent or threatening way (whether or not the behaviour arose from, or was related to, the use of liquor); and

- (b) the location where the behaviour occurred —
 - (i) was, at the time the behaviour occurred, a public place; and
 - (ii) was, at the time the behaviour occurred, in a protected entertainment precinct; and
 - (iii) is, at the time the order is to be made, in a protected entertainment precinct;and
 - (c) there is a risk that, unless the order is made, the person will behave in a way that —
 - (i) causes violence or public disorder in a protected entertainment precinct; or
 - (ii) has an adverse effect on the safety or welfare of persons in a protected entertainment precinct.
- (3) Before making the order, the member of the Police Force must obtain the approval of a member of the Police Force who is, or is acting as, an Inspector or an officer of a rank more senior than Inspector, unless the member making the order is, or is acting as, such an officer.
- (4) In making the order, the member of the Police Force may specify in the order any terms or conditions that the member thinks fit (including, without limitation, terms or conditions that provide exceptions to the prohibition in the order).
- (5) A short-term exclusion order has effect subject to any terms or conditions specified in the order.

- (6) The approval referred to in subsection (3) may be sought and given orally (including, for example, in person or by telephone), but if given orally must be confirmed in writing as soon as practicable after it is given.
- (7) Failure to confirm the approval in writing does not invalidate the approval or anything done under the approval.

152NE. Provisions in relation to short-term exclusion orders

- (1) A short-term exclusion order must specify the term for which the order has effect.
- (2) The specified term referred to in subsection (1) cannot be more than 6 months beginning at the time the order comes into effect.
- (3) The making of a short-term exclusion order in respect of a person does not prevent the making of 1 or more subsequent short-term exclusion orders in respect of the person (whether on the basis of the same particular occurrence of behaviour or different particular occurrences of behaviour).
- (4) However, if 2 or more short-term exclusion orders are made in respect of a person on the basis of the same particular occurrence of behaviour, the total duration of those short-term exclusion orders must not exceed 6 months.
- (5) A short-term exclusion order must not be made in respect of a person on the basis of a particular occurrence of behaviour if that occurrence of behaviour has been the basis for an extended exclusion order made in respect of the person.

- (6) A short-term exclusion order must not be made in respect of a person if an extended exclusion order is in effect in respect of the person.

152NF. Variation or revocation of short-term exclusion order

- (1) The subject person may apply to the Commissioner of Police for the variation or revocation of a short-term exclusion order.
- (2) The application must be —
 - (a) in writing in a form approved by the Commissioner of Police; and
 - (b) made during the period that the short-term exclusion order is in effect.
- (3) The Commissioner of Police must dispose of the application in accordance with subsection (4) within 30 days after the day on which the Commissioner receives the application.
- (4) The Commissioner of Police may dispose of the application —
 - (a) by varying or revoking the short-term exclusion order (whether or not the variation or revocation was applied for); or
 - (b) by dismissing the application; or
 - (c) at the request of the subject person — by discontinuing the application.
- (5) The Commissioner of Police may vary or revoke a short-term exclusion order on the Commissioner's own initiative.

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- (6) If the Commissioner of Police varies a short-term exclusion order —
 - (a) the Commissioner must ensure that a written notice setting out the variation of the order and, if section 152NH applies, explaining that the subject person may apply to the Commission for a review of the decision of the Commissioner to vary the order, is served on the subject person in accordance with section 152NZQ(2); and
 - (b) the variation takes effect from the time the notice is served on the subject person in accordance with section 152NZQ(2).
- (7) If the Commissioner of Police revokes a short-term exclusion order —
 - (a) the order immediately ceases to have effect; and
 - (b) as soon as practicable after the order is revoked, the Commissioner must ensure that a written notice stating that the order has been revoked and the time of the revocation is served on the subject person in accordance with section 152NZQ(2).
- (8) If the Commissioner of Police dismisses or discontinues an application under subsection (4)(b) or (c), the Commissioner must ensure that written notice of the dismissal or discontinuation is served on the subject person in accordance with section 152NZQ(2).

152NG. Automatic revocation of short-term exclusion order if extended exclusion order comes into effect

- (1) Subsection (2) applies if —
 - (a) an extended exclusion order comes into effect in respect of a person; and
 - (b) the person is subject to a short-term exclusion order.
- (2) The short-term exclusion order is revoked and ceases to have effect when the extended exclusion order comes into effect.

152NH. Review of short-term exclusion order

- (1) This section applies if —
 - (a) a short-term exclusion order is in effect; and
 - (b) the short-term exclusion order —
 - (i) has a duration of 1 month or more; or
 - (ii) has a duration of any shorter period that, when added to the period of any short-term exclusion order previously made in respect of the subject person, results in the person being prohibited from entering or remaining in protected entertainment precincts for a period of 1 month or more in any 6-month period.
- (2) The subject person may apply to the Commission for a review of any of the following —
 - (a) the decision of the member of the Police Force under section 152ND to make the short-term exclusion order;
 - (b) a decision of the Commissioner of Police under section 152NF to vary the short-term exclusion order.

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- (3) The application must be —
 - (a) made within —
 - (i) 1 month after the short-term exclusion order or the variation of the short-term exclusion order (as the case requires) takes effect; or
 - (ii) if the Commission allows a longer period — that period;
 - and
 - (b) in a manner and form approved by the Commission; and
 - (c) accompanied by the prescribed fee, if any.
- (4) When conducting a review of the decision, the Commission may have regard to —
 - (a) the material that was before the member of the Police Force or the Commissioner of Police (as the case requires) when making the decision; and
 - (b) any information or document provided by the subject person.
- (5) On a review under this section, the Commission may —
 - (a) affirm, vary or quash the decision subject to the review; and
 - (b) make a decision in substitution for the decision subject to the review; and
 - (c) give directions to the Commissioner of Police relating to anything the Commission does under paragraph (a) or (b), to which effect must be given; and
 - (d) make any incidental or ancillary order.

- (6) A short-term exclusion order or a variation of a short-term exclusion order remains in effect during the period of the review of the decision to make the order or vary the order (as the case requires).

152NI. Commissioner of Police to issue guidelines

- (1) In this section —
relevant power means a power under section 152ND or 152NF.
- (2) The Commissioner of Police must issue guidelines in relation to the exercise of the relevant powers.
- (3) Without limiting subsection (2), guidelines must be issued under that subsection in relation to the following —
 - (a) the types of behaviour that are unlawful, anti-social, violent, disorderly, offensive, indecent or threatening for the purposes of section 152ND(2)(a);
 - (b) the circumstances and manner in which the relevant powers should be exercised, including, if the Commissioner of Police is aware that any group in the community is particularly affected by the exercise of the relevant powers, in relation to that group;
 - (c) record-keeping and reporting requirements in relation to the exercise of the relevant powers.
- (4) The Commissioner of Police may amend or revoke guidelines issued under subsection (2).
- (5) A person exercising a relevant power must take into account guidelines issued under subsection (2).

- (6) Guidelines issued under subsection (2) are not subsidiary legislation for the purposes of the *Interpretation Act 1984*.
- (7) Section 3(6) does not apply to a reference to the Commissioner of Police in this section.

Division 3 — Extended exclusion orders

152NJ. Commissioner of Police may apply for extended exclusion order

- (1) The Commissioner of Police may apply to the Director for an order to be made under section 152NM(1)(a) prohibiting a person from entering or remaining in all protected entertainment precincts.
- (2) The application must be in writing in a form approved by the Director.
- (3) The Commissioner of Police must ensure that a copy of the application is served on the subject person in accordance with section 152NZQ(2).
- (4) Nothing in subsection (3) requires or authorises the Commissioner of Police to disclose confidential police information.

152NK. Evidence in support of application for extended exclusion order

- (1) An application under section 152NJ(1) must —
 - (a) set out the reasons why the Commissioner of Police considers the order should be made in respect of the subject person; and
 - (b) set out any prescribed information and be accompanied by any prescribed document; and

- (c) set out any other information, and be accompanied by any other document, that the Commissioner considers relevant to the application.
- (2) Without limiting subsection (1), the Commissioner of Police is authorised to include in or with the application —
 - (a) details of any criminal convictions of the subject person for offences under the law of the Commonwealth or a State or Territory; and
 - (b) any information that the Commissioner has regarding any involvement, or suspected involvement, of the subject person in serious and organised crime (as defined in the *Australian Crime Commission (Western Australia) Act 2004* section 3(1)).

152NL. Notice of application for extended exclusion order must be served on subject person

- (1) The Director must ensure that a written notice is served on the subject person in accordance with section 152NZQ(2) that —
 - (a) states that an application under section 152NJ(1) has been made in respect of the subject person and explains the proposed effect of the order applied for; and
 - (b) describes the information and documents provided in support of the application; and
 - (c) informs the subject person that they will be given a reasonable opportunity to make submissions or to be heard in relation to the application.
- (2) Nothing in subsection (1) requires or authorises the Director to disclose confidential police information.

152NM. Director may make extended exclusion order

- (1) The Director may dispose of an application under section 152NJ(1) —
 - (a) by making an order prohibiting the subject person from entering or remaining in all protected entertainment precincts; or
 - (b) by dismissing the application; or
 - (c) at the request of the Commissioner of Police — by discontinuing the application.
- (2) The Director must not make an order under subsection (1)(a) unless —
 - (a) the Director has given the subject person a reasonable opportunity to make submissions or to be heard in relation to the application; and
 - (b) the Director has had regard to —
 - (i) any information or document provided by the Commissioner of Police in or with the application; and
 - (ii) any information or document provided by the subject person under paragraph (a);

and

 - (c) either subsection (3) or (4) applies.
- (3) This subsection applies if the Director is satisfied, on reasonable grounds, that making the order is necessary because —
 - (a) the subject person has behaved in an unlawful, anti-social, violent, disorderly, offensive, indecent or threatening way (whether or not the behaviour arose from, or was related to, the use of liquor); and

- (b) the location where the behaviour occurred —
 - (i) was, at the time the behaviour occurred, a public place; and
 - (ii) is, at the time the order is to be made, in a protected entertainment precinct (whether or not the location was in a protected entertainment precinct at the time the behaviour occurred);and
 - (c) there is a risk that, unless the order is made, the subject person will behave in a way that —
 - (i) causes violence or public disorder in a protected entertainment precinct; or
 - (ii) has an adverse effect on the safety or welfare of persons in a protected entertainment precinct.
- (4) This subsection applies if —
- (a) the subject person is subject to a prohibition order under Part 5A; and
 - (b) the Director is satisfied that —
 - (i) a reason that the prohibition order was made was that the subject person engaged in particular behaviour (whether or not the behaviour arose from, or was related to, the use of liquor); and
 - (ii) the location where the behaviour occurred was, at the time the behaviour occurred, a public place; and
 - (iii) the location where the behaviour occurred is, at the time the order under subsection (1)(a) is to be made, in a protected entertainment precinct

(whether or not the location was in a protected entertainment precinct at the time the behaviour occurred); and

- (iv) it is in the public interest to make the order under subsection (1)(a).
- (5) In making an order under subsection (1)(a), the Director may specify in the order any terms or conditions that the Director thinks fit (including, without limitation, terms or conditions that provide exceptions to the prohibition in the order).
- (6) An extended exclusion order has effect subject to any terms or conditions specified in the order.
- (7) If the Director dismisses or discontinues an application under subsection (1)(b) or (c), the Director must ensure that written notice of the dismissal or discontinuation is —
 - (a) served on the subject person in accordance with section 152NZQ(2); and
 - (b) given to the Commissioner of Police.

152NN. Provisions in relation to extended exclusion orders

- (1) An extended exclusion order must specify the term for which the order has effect.
- (2) The specified term referred to in subsection (1) cannot be more than —
 - (a) in the case of an order in respect of a person who is a juvenile at the time the order is made — 2 years beginning at the time the order comes into effect; or
 - (b) in any other case — 5 years beginning at the time the order comes into effect.

- (3) The making of an extended exclusion order in respect of a person on the basis of a particular occurrence of behaviour does not prevent the making of 1 or more subsequent extended exclusion orders in respect of the person on the basis of different occurrences of behaviour.
- (4) However, an extended exclusion order must not be made in respect of a person on the basis of a particular occurrence of behaviour if that occurrence of behaviour has been the basis for a previous extended exclusion order made in respect of the person.
- (5) The making of a short-term exclusion order in respect of a person on the basis of a particular occurrence of behaviour does not prevent the making of an extended exclusion order in respect of the person on the basis of the same particular occurrence of behaviour.

152NO. Application for variation or revocation of extended exclusion order

- (1) The Commissioner of Police or the subject person may apply to the Director for the variation or revocation of an extended exclusion order.
- (2) The application must be —
 - (a) in writing in a form approved by the Director; and
 - (b) made during the period that the extended exclusion order is in effect.

152NP. Evidence in support of application for variation or revocation

An application under section 152NO(1) must —

- (a) if the application is for a variation of the extended exclusion order — set out the variation applied for; and
- (b) set out the reasons why the applicant considers the extended exclusion order should be varied or revoked; and
- (c) set out any other information, and be accompanied by any document, that the applicant considers relevant to the application.

152NQ. Notice of application for variation or revocation must be given to extended exclusion order respondent

- (1) The Director must ensure that the extended exclusion order respondent is given a written notice that —
 - (a) states that an application under section 152NO(1) has been made and explains the proposed effect of the variation or revocation applied for; and
 - (b) describes the information and documents provided in support of the application; and
 - (c) informs the extended exclusion order respondent that they will be given a reasonable opportunity to make submissions or to be heard in relation to the application.
- (2) If the extended exclusion order respondent is the subject person, the written notice must be served on the extended exclusion order respondent in accordance with section 152NZQ(2).

- (3) Nothing in subsection (1) requires or authorises the Director to disclose confidential police information.

152NR. Director may vary or revoke extended exclusion order on application

- (1) Unless the applicant and the extended exclusion order respondent agree otherwise, the Director must dispose of an application under section 152NO(1) in accordance with subsection (2) within 30 days after the day on which the Director receives the application.
- (2) The Director may dispose of the application —
 - (a) by varying or revoking the extended exclusion order (whether or not the variation or revocation was applied for); or
 - (b) by dismissing the application; or
 - (c) at the request of the applicant — by discontinuing the application.
- (3) The Director may vary or revoke an extended exclusion order under this section only if satisfied that it is reasonable in the circumstances to do so —
 - (a) having given the extended exclusion order respondent a reasonable opportunity to make submissions or to be heard in relation to the application; and
 - (b) having regard to —
 - (i) any information or document provided by the applicant in or with the application; and
 - (ii) any information or document provided by the extended exclusion order respondent under paragraph (a).

- (4) If the Director dismisses or discontinues an application under subsection (2)(b) or (c), the Director must ensure that written notice of the dismissal or discontinuation is —
 - (a) served on the subject person in accordance with section 152NZQ(2); and
 - (b) given to the Commissioner of Police.

152NS. Director may vary or revoke extended exclusion order on own initiative

- (1) The Director may vary or revoke an extended exclusion order on the Director's own initiative.
- (2) If the Director proposes to vary or revoke an extended exclusion order on the Director's own initiative, the Director must ensure that the Commissioner of Police and the subject person are given a written notice that —
 - (a) explains the effect of the proposed variation or revocation; and
 - (b) sets out the reasons why the Director considers that the extended exclusion order should be varied or revoked; and
 - (c) informs the Commissioner and the subject person that they will be given a reasonable opportunity to make submissions or to be heard in relation to the proposed variation or revocation.
- (3) The written notice must be served on the subject person in accordance with section 152NZQ(2).
- (4) The Director may vary or revoke an extended exclusion order under this section only if satisfied that it is reasonable in the circumstances to do so —

- (a) having given the Commissioner of Police and the subject person a reasonable opportunity to make submissions or to be heard in relation to the proposed variation or revocation; and
 - (b) having regard to any information or document provided by the Commissioner or the subject person under paragraph (a).
- (5) If the Director decides not to vary or revoke the extended exclusion order, the Director must ensure that written notice of the decision is —
 - (a) served on the subject person in accordance with section 152NZQ(2); and
 - (b) given to the Commissioner of Police.

152NT. Effect of variation or revocation

- (1) If the Director varies an extended exclusion order —
 - (a) the Director must ensure that a written notice setting out the variation of the order is —
 - (i) served on the subject person in accordance with section 152NZQ(2); and
 - (ii) given to the Commissioner of Police; and
 - (b) the variation takes effect from the time the notice is served on the subject person in accordance with section 152NZQ(2).
- (2) If the Director revokes an extended exclusion order —
 - (a) the order immediately ceases to have effect; and
 - (b) as soon as practicable after the order is revoked, the Director must ensure that a written notice

stating that the order has been revoked and the time of the revocation is —

- (i) served on the subject person in accordance with section 152NZQ(2); and
- (ii) given to the Commissioner of Police.

Division 4 — General provisions about exclusion orders

152NU. Effect of changes to protected entertainment precincts on exclusion orders

- (1) The prohibition in an exclusion order from entering or remaining in all protected entertainment precincts applies to each area of the State that is, from time to time, a protected entertainment precinct.
- (2) A change to an area of the State that is a protected entertainment precinct is not a variation of an exclusion order for the purposes of this Part.
- (3) An exclusion order does not cease to have effect solely because, as a result of a change to an area of the State that is a protected entertainment precinct, the location where the behaviour on which the exclusion order is based occurred is no longer in a protected entertainment precinct.

152NV. Exclusion order applies at all times unless varied

- (1) Subject to subsection (2), the prohibition in an exclusion order on the subject person entering or remaining in all protected entertainment precincts applies at all times.

- (2) The Commissioner of Police under section 152NF(4)(a), the Director under section 152NR(2)(a) or the Commission on review or appeal may vary an exclusion order so that the prohibition in the exclusion order on the subject person entering or remaining in all protected entertainment precincts applies only at times specified in the order.
- (3) An exclusion order must state whether the prohibition in the order on the subject person entering or remaining in all protected entertainment precincts applies —
 - (a) at all times; or
 - (b) at times specified in the order.

152NW. Form of exclusion order

An exclusion order must be in writing in a form approved by the Director.

152NX. Exclusion order must be served and explained

- (1) A person who makes an exclusion order must, as soon as practicable after making the order, ensure that the order is served on the subject person in accordance with section 152NZQ(2).
- (2) A person who makes an exclusion order must explain, or cause to be explained, to the subject person, in language likely to be understood by the subject person —
 - (a) the duration and effect of the exclusion order; and
 - (b) the consequences of contravening the exclusion order; and
 - (c) the effect of sections 152NU and 152NZF; and

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- (d) if applicable, the right of the subject person to apply to the Commission for a review of the decision to make the exclusion order; and
- (e) in the case of a short-term exclusion order —
 - (i) that the subject person may apply to the Commissioner of Police for the variation or revocation of the short-term exclusion order under section 152NF; and
 - (ii) that the Commissioner of Police may apply to the Director for an extended exclusion order, with a term of no more than 5 years (or 2 years for a juvenile); and
 - (iii) the effect of section 152NG; and
- (f) in the case of an extended exclusion order —
 - (i) that the subject person may apply to the Director for the variation or revocation of the extended exclusion order under section 152NO(1); and
 - (ii) the effect of section 152NZ.
- (3) The explanation referred to in subsection (2) may be given in writing (including as part of an exclusion order), in which case it must be served on the subject person in accordance with section 152NZQ(2).
- (4) Failure to comply with subsection (2) does not —
 - (a) invalidate an exclusion order; or
 - (b) affect the liability of a person for an offence under this Part.

152NY. Duration of exclusion order

An exclusion order —

- (a) has effect from the time the order is served on the subject person in accordance with section 152NZQ(2); and
- (b) ceases to have effect when any of the following occurs —
 - (i) the term of the order expires;
 - (ii) the order is revoked;
 - (iii) the decision to make the order is quashed by the Commission under this Act.

152NZ. Term of extended exclusion order extended by period in custody

The term of an extended exclusion order is extended by any period after the order comes into effect during which the subject person is —

- (a) in custody serving a sentence of imprisonment for any offence, whenever committed; or
- (b) in custody following conviction of an offence, whenever committed, awaiting sentencing for the offence.

152NZA. Correcting mistakes in exclusion order

- (1) The Commissioner of Police (in the case of a short-term exclusion order) or the Director (in the case of an extended exclusion order) may correct an exclusion order to the extent necessary to rectify —
 - (a) a clerical mistake; or
 - (b) a mistake arising from an accidental slip or omission; or

- (c) a material mistake in the description of any person, thing or matter referred to in the order.
- (2) The Commissioner of Police or Director (as the case requires) must, as soon as practicable after an exclusion order is corrected under this section —
 - (a) ensure that written notice of the correction is served on the subject person in accordance with section 152NZQ(2); and
 - (b) make a record of the particulars of the correction of the order.
- (3) An exclusion order corrected under this section has the same validity and effect as if the mistake had not been made.

152NZB. Reasons for decisions and notice of right of review

- (1) In this section —
relevant written notice means a written notice under —
 - (a) section 152NM(7) that relates to dismissal; or
 - (b) section 152NR(4) that relates to dismissal; or
 - (c) section 152NS(5); or
 - (d) section 152NT(1)(a) or (2)(b).
- (2) A relevant written notice (other than a written notice under section 152NM(7) or 152NT(2)(b)) must contain an explanation of the right of review under section 25 (if applicable).
- (3) A relevant written notice may, but need not, include the reasons for the Director's decision.

- (4) If a relevant written notice does not include the reasons for the decision, a person to whom the notice is given may, within 28 days after receiving the notice or any longer period allowed by the Director, request the Director to provide the person with the reasons for the decision.
- (5) If the Director makes an extended exclusion order, the subject person may, within 28 days after receiving notice of the making of the order, or any longer period allowed by the Director, request the Director to provide the person with the reasons for the decision to make the order.
- (6) If a person makes a request under subsection (4) or (5), the Director must provide the person with written reasons for the decision.
- (7) Section 18AA does not apply to this Part.

152NZC. Publication and disclosure of information about exclusion orders

- (1) In this section —
 - personal particulars*, in relation to an exclusion order, means —
 - (a) the name and date of birth of the subject person; and
 - (b) a photograph of the subject person; and
 - (c) the address of the subject person;
 - 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

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- (c) a prescribed person, a person belonging to a prescribed class of persons or a person in a prescribed circumstance.
- (2) If a short-term exclusion order is in effect, the Commissioner of Police must publish on a secure webpage all of the personal particulars in relation to the order, to the extent those particulars are in the possession of the Commissioner.
- (3) If an extended exclusion order is in effect, the Director may —
 - (a) publish on a secure webpage any of the personal particulars in relation to the order; and
 - (b) if the subject person in relation to the order is not a juvenile — publish, in any manner the Director considers appropriate, any of the following in relation to the order —
 - (i) the name of the subject person;
 - (ii) a photograph of the subject person;
 - (iii) the town or suburb where the subject person lives.
- (4) If an exclusion order is in effect, the Commissioner of Police or the Director may disclose any of the personal particulars in relation to the order to —
 - (a) a public authority if the Commissioner or the Director (as the case requires) considers that the personal particulars are required by that authority for a purpose relating to the administration or enforcement of this Act or another written law; or
 - (b) a prescribed person, or a person belonging to a prescribed class of persons, if the Commissioner or the Director (as the case requires) considers that the personal particulars

are required by that person for a purpose relating to —

- (i) the further provision of the personal particulars to responsible persons in relation to licensed premises to assist those responsible persons to identify persons subject to exclusion orders; or
 - (ii) the creation or provision of equipment, software, databases or any other thing to be used by responsible persons in identifying persons subject to exclusion orders.
- (5) Subsections (2), (3) and (4) do not permit the publication or disclosure of anything that identifies, or is capable of identifying —
- (a) a juvenile other than the subject person; or
 - (b) the details of any offence of which the subject person was convicted in the Children's Court.

152NZD. Offence of further disclosing information about exclusion orders

- (1) Subject to subsections (2), (3) and (4), a person who discloses information or a photograph that the person has obtained from a secure webpage referred to in section 152NZC(2) or (3)(a), or from a disclosure under section 152NZC(4), commits an offence.
- Penalty for this subsection: a fine of \$10 000.
- (2) Subsection (1) does not apply to information or a photograph that has also been published under section 152NZC(3)(b).

- (3) A responsible person in relation to licensed premises does not commit an offence under subsection (1) if —
 - (a) the responsible person discloses the information or photograph in the performance of duties relating to the person's work on the licensed premises; or
 - (b) the responsible person discloses the information or photograph to another responsible person in relation to the licensed premises for the purposes of enabling the second responsible person to perform duties relating to that second person's work on the licensed premises.
- (4) A person to whom information or a photograph has been disclosed under section 152NZC(4)(a) or (b) does not commit an offence under subsection (1) if they disclose the information or photograph for a purpose referred to in section 152NZC(4)(a) or (b) (as the case requires).

152NZE. Relationship with *Criminal Organisations Control Act 2012*

An exclusion order is of no effect to the extent that it conflicts with or duplicates a condition of an interim control order or a control order under the *Criminal Organisations Control Act 2012* that applies to the subject person.

152NZF. Orders not affected by other orders under Act

- (1) This section applies if more than 1 of the following is in effect in respect of a person (each a ***restriction order***) —
 - (a) a notice under section 115AA(2);
 - (b) a prohibition order under Part 5A;
 - (c) an exclusion order.

- (2) The person must comply with each restriction order that is in effect in respect of them.
- (3) A failure by the person to comply with a restriction order is not affected by the fact that the person's actions would not have been prohibited under another restriction order that is in effect in respect of them.

152NZG. Delegation by Commissioner of Police

- (1) The Commissioner of Police may delegate any power or duty of the Commissioner under sections 152NF, 152NJ, 152NK, 152NM, 152NO, 152NR, 152NS and 152NZA to a member of the Police Force who is, or is acting as, an Inspector or an officer of a rank more senior than Inspector.
- (2) The delegation must be in writing signed by the Commissioner of Police.
- (3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A person exercising or performing a power 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 officer or agent.
- (6) Section 3(6) does not apply to a reference to the Commissioner of Police in a section referred to in subsection (1).

152NZH. Decisions of Commission on review

- (1) This section applies if the Commission does any of the following (each a *review*) —
 - (a) reviews under section 152NH —
 - (i) a decision of a member of the Police Force under section 152ND to make a short-term exclusion order; or
 - (ii) a decision of the Commissioner of Police under section 152NF to vary a short-term exclusion order;
 - or
 - (b) reviews under section 25 a decision made by the Director that relates to the making, variation or revocation of an extended exclusion 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 effect of the Commission's decision on the review is to vary or revoke the exclusion order —
 - (a) the variation or revocation takes effect at the time specified by the Commission; and
 - (b) the Commission must specify how the subject person is to be notified of the variation or revocation.
- (3) If the effect of the Commission's decision on the review is that a new exclusion order (the *new exclusion order*) is made —
 - (a) the new exclusion order is to be regarded as, and given effect as, an order made by a member of the Police Force under section 152ND(1) or an order made by the Director under section 152NM(1)(a) (as the case requires); and

- (b) without limiting paragraph (a), unless the Commission specifies otherwise —
 - (i) the Commissioner of Police (in the case of a short-term exclusion order) or the Director (in the case of an extended exclusion order) must ensure that the new exclusion order is served and explained under section 152NX; and
 - (ii) the new exclusion order has effect under section 152NY from the time the order is served on the subject person.
- (4) Despite subsection (3)(a), the decision to make the new exclusion order is not again open to review by the Commission under section 25 or 152NH.

Division 5 — Offences

152NZI. Offence of failing to comply with exclusion order

- (1) In this section —
specified exception, in relation to an exclusion order, means an exception to the prohibition in the order provided by a term or condition specified in the order.
- (2) A person commits an offence if —
 - (a) the person is subject to an exclusion order that is in effect; and
 - (b) the person enters or remains in a protected entertainment precinct at a time to which the prohibition in the order applies.

Penalty for this subsection: imprisonment for 2 years and a fine of \$12 000.

- (3) It is a defence to a charge under subsection (2) for the accused to prove that at all times the offence is alleged to have been committed —
 - (a) the accused entered or remained (as relevant) in the protected entertainment precinct in accordance with a specified exception; and
 - (b) the accused was complying with any conditions on the specified exception.
- (4) Subsection (3) does not limit section 152NZK(3).
- (5) Subsection (2) does not apply if —
 - (a) at the time the person is alleged to have committed the offence, the exclusion order had been varied but the variation had not yet taken effect under this Act; and
 - (b) the person would not have committed an offence under subsection (2) if the variation had taken effect immediately upon it having been made.

152NZJ.Excluded offender must not enter or remain in protected entertainment precinct

- (1) In this section —
 - conviction** —
 - (a) means a finding of guilt by a court, or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded; and
 - (b) despite the *Spent Convictions Act 1988* section 13 and Part 3 Division 4, includes a spent conviction as defined in section 3(1) of that Act;
 - conviction date**, in relation to an excluded offender, means the day on which the excluded offender was convicted of the specified offence;

relevant material, in relation to proceedings for an offence against subsection (3), means a statement of material facts relied on for sentencing, or sentencing remarks, in proceedings relating to the accused's conviction of a specified offence;

specified offence means —

- (a) an offence against *The Criminal Code* section 279, 280, 281, 293, 294, 297, 301, 305A, 325 or 326; or
 - (b) an offence of attempting, inciting another person or conspiring to commit an offence referred to in paragraph (a).
- (2) In this section, a person is an **excluded offender** if —
- (a) the person has been convicted of a specified offence; and
 - (b) the conviction has not been quashed or set aside and is not a conviction in respect of which a pardon has been granted; and
 - (c) at least 1 of the acts, omissions, events, circumstances or states of affairs that constitute the elements of the offence occurred in a location that —
 - (i) was, at the time the act, omission, event, circumstance or state of affairs occurred, a public place; and
 - (ii) was, on the day on which the person was convicted of the offence, in a protected entertainment precinct (whether or not the location was in a protected entertainment precinct at the time the act, omission, event, circumstance or state of affairs occurred).

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- (3) An excluded offender who enters or remains in a protected entertainment precinct during the exclusion period for the excluded offender commits a crime.
Penalty for this subsection: imprisonment for 5 years.
Summary conviction penalty for this subsection: imprisonment for 2 years and a fine of \$12 000.
- (4) For the purposes of subsection (3), the **exclusion period** for an excluded offender is, subject to subsection (5) —
- (a) in the case of an excluded offender who is a juvenile on the conviction date — the period of 2 years beginning on the conviction date; or
 - (b) in any other case — the period of 5 years beginning on the conviction date.
- (5) A period referred to in subsection (4)(a) or (b) is extended by any period on or after the conviction date during which the excluded offender is —
- (a) in custody serving a sentence of imprisonment for any offence, whenever committed; or
 - (b) in custody following conviction of an offence, whenever committed, awaiting sentencing for the offence.
- (6) An exclusion order is of no effect in respect of an excluded offender during the exclusion period for the excluded offender.
- (7) In proceedings for an offence against subsection (3), any statement in relevant material as to the location of an act, omission, event, circumstance or state of affairs that constitutes an element of a specified offence is sufficient evidence of the location of that act, omission, event, circumstance or state of affairs, except so far as the contrary is shown.

152NZK. Defences for s. 152NZI and 152NZJ

- (1) In this section —
- health service* has the meaning given in the *Health Services Act 2016* section 7;
- social welfare service* includes a service provided by a government or charitable organisation for community welfare, financial assistance, housing or temporary accommodation.
- (2) In this section, a person was *undertaking permitted travel* in relation to a protected entertainment precinct if the person —
- (a) was travelling through the protected entertainment precinct, or accessing or using a mode of transport in the protected entertainment precinct, for the sole purpose of —
 - (i) getting to a place, or doing a thing, referred to in subsection (3)(a) to (m) in the protected entertainment precinct; or
 - (ii) getting to a place outside of the protected entertainment precinct and it was necessary in the circumstances for the person to travel through the protected entertainment precinct, or access or use the mode of transport in the protected entertainment precinct, in order to get to that place;
 - and
 - (b) took the most direct route through the protected entertainment precinct (or the most direct route applicable for the mode of transport used); and

- (c) did not stop unnecessarily in the protected entertainment precinct or remain in the protected entertainment precinct for any purpose other than the relevant travel or access to or use of the mode of transport.
- (3) It is a defence to a charge under section 152NZI(2) or 152NZJ(3) for the accused to prove that, at all times the offence is alleged to have been committed, 1 or more of the following applied —
 - (a) the accused was at their ordinary place of residence;
 - (b) the accused was at another person's place of residence if —
 - (i) the accused was the sole carer of that other person and was there solely to provide care to them; and
 - (ii) it was necessary in the circumstances for the accused to be there in order to provide the care;
 - (c) the accused was engaging in a lawful occupation, trade or profession;
 - (d) the accused was attending an educational institution to take part in secondary education or a higher education course registered under the *Higher Education Act 2004* section 23(3) or an approved VET course as defined in the *Vocational Education and Training Act 1996* section 5(1) and it was necessary in the circumstances for the accused to be in the protected entertainment precinct in order to take part in the secondary education, higher education course or approved VET course;
 - (e) the accused was receiving a health service or social welfare service and it was necessary in

- the circumstances for the accused to be in the protected entertainment precinct in order to receive the service;
- (f) the accused was obtaining a health service or social welfare service for a person of whom the accused was the sole carer and it was necessary in the circumstances for the accused to be in the protected entertainment precinct in order to obtain the service;
 - (g) the accused was receiving legal advice and it was necessary in the circumstances for the accused to be in the protected entertainment precinct in order to receive the advice;
 - (h) the accused was in custody;
 - (i) the accused was complying with a written law, an order made by a court or tribunal, or any other order, direction or requirement made under a written law;
 - (j) the accused was appearing before a court or tribunal;
 - (k) the accused was attending a religious service and it was necessary in the circumstances for the accused to be in the protected entertainment precinct in order to attend a religious service of that kind;
 - (l) the accused was a member of an organisation of employees registered under the *Industrial Relations Act 1979* Part II Division 4 or the *Fair Work (Registered Organisations) Act 2009* (Commonwealth) and was undertaking activities for the purposes of the business of the organisation and it was necessary in the circumstances for the accused to be in the protected entertainment precinct in order to undertake the activities;

- (m) if the accused is an Aboriginal person or a Torres Strait Islander — the accused was fulfilling a cultural practice or obligation of the customary laws or traditions of the accused's community and it was necessary in the circumstances for the accused to be in the protected entertainment precinct in order to fulfil the practice or obligation;
 - (n) the accused was undertaking permitted travel in relation to the protected entertainment precinct.
- (4) For the purposes of subsections (2)(a)(ii) and (3), it is not necessary to be in a protected entertainment precinct to do a thing if the accused could reasonably do the thing without entering the protected entertainment precinct.

152NZL. Permitting person subject to exclusion order or excluded offender to enter premises

- (1) This section applies if licensed premises are located in a protected entertainment precinct.
- (2) A responsible person in relation to the licensed premises commits an offence if —
 - (a) the responsible person —
 - (i) knows that an exclusion order is in effect in respect of a person; and
 - (ii) permits the subject person to enter or remain on the premises in contravention of the exclusion order;
 - and
 - (b) an exception in section 152NZK(3) does not apply to the subject person entering or remaining on the licensed premises.

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

- (3) A responsible person in relation to the licensed premises commits an offence if —
- (a) the responsible person —
 - (i) knows that a person is an excluded offender; and
 - (ii) knows that the exclusion period for the excluded offender has not ended; and
 - (iii) permits the excluded offender to enter or remain on the premises during the excluded offender's exclusion period;
 - and
 - (b) an exception in section 152NZK(3) does not apply to the excluded offender entering or remaining on the licensed premises.

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

- (4) For the purposes of subsections (2)(b) and (3)(b), an exception in section 152NZK(3) applies to the subject person or the excluded offender entering or remaining on the licensed premises if, at all relevant times, the subject person or excluded offender enters or remains on the licensed premises in circumstances referred to in section 152NZK(3).
- (5) For the purposes of subsection (4), section 152NZK(3) applies as if —
- (a) a reference to the accused were a reference to the subject person or the excluded offender (as the case requires); and
 - (b) a reference to the protected entertainment precinct were a reference to the licensed premises.

152NZM. Member of Police Force may require person to give personal details in certain circumstances

- (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 person is in a protected entertainment precinct and any or all of the person's personal details are required for —
 - (i) the purposes of making a short-term exclusion order in respect of the person; or
 - (ii) the purposes of the Commissioner of Police making an application under section 152NJ(1) in respect of the person; or
 - (iii) the service of a document on the person under section 152NZQ(2);or
 - (b) a member of the Police Force reasonably suspects that a person who is in a protected entertainment precinct is —
 - (i) subject to an exclusion order that is in effect; or
 - (ii) an excluded offender whose exclusion period has not ended.
- (3) If any or all of the person's personal details are unknown to a member of the Police Force, the member of the Police Force may request the person to give the member any or all 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 to and in relation to the request in the same way as it applies to a request made under subsection (2) of that section.

Division 6 — Miscellaneous

Subdivision 1 — Other notices

152NZN. Notice must be given to excluded offender

- (1) In this section —
conviction date, in relation to an excluded offender, has the meaning given in section 152NZJ(1).
- (2) The Director must ensure that a written notice in accordance with subsection (5) is served on an excluded offender as soon as practicable after the excluded offender's conviction date.
- (3) If, after the excluded offender's conviction date and before the end of the exclusion period for the excluded offender, the excluded offender is released from custody after serving a sentence of imprisonment, the Director must ensure that a written notice in accordance with subsection (5) is served on the excluded offender either —
- (a) within 7 days before the excluded offender is released; or
 - (b) as soon as practicable after the excluded offender is released.
- (4) A notice under subsection (2) or (3) must be served on the excluded offender in accordance with section 152NZQ(2).

- (5) A notice under subsection (2) or (3) must —
 - (a) describe each area of the State that is a protected entertainment precinct as at the date of the notice; and
 - (b) explain the effect of section 152NZJ and the consequences of committing an offence under section 152NZJ(3).
- (6) Failure to comply with this section does not affect the liability of a person for an offence under this Part.

152NZO. Protected entertainment precincts must be advertised and notified

- (1) This section applies if regulations are proposed to be made, amended or repealed under section 175(1E) that would result in 1 or more of the following (each a ***change to a protected entertainment precinct***) —
 - (a) a new area of the State being prescribed under section 175(1E);
 - (b) a change to an area of the State that is prescribed under section 175(1E);
 - (c) an area of the State no longer being prescribed under section 175(1E).
- (2) The Director must, before the day on which each change to a protected entertainment precinct is proposed to take effect, ensure that —
 - (a) the following (the ***changed precinct details***) are advertised in accordance with subsection (3) —
 - (i) the details of the change (including a description of the areas of the State affected by the change);
 - (ii) the day on which the change is proposed to take effect;

and

- (b) a written notice setting out the changed precinct details is served in accordance with section 152NZQ(2) on each person who is subject to an exclusion order that will be in effect on the day on which the change is proposed to take effect.
- (3) The changed precinct details must be advertised —
 - (a) by publishing the details on the Department’s website; and
 - (b) in any other manner prescribed.
- (4) The Director must ensure that a current description of each area of the State that is a protected entertainment precinct is available on the Department’s website.
- (5) Failure to comply with this section does not affect —
 - (a) the validity of any regulations made, amended or repealed under section 175(1E); or
 - (b) the operation of section 152NU(1); or
 - (c) the liability of a person for an offence under this Part.

Subdivision 2 — Service of documents

152NZP. Terms used

In this Subdivision —

document includes an order, notice or application;

electronic means includes —

- (a) an electronic database or document system; and
- (b) any other means by which a document can be accessed electronically;

named juvenile has the meaning given in section 152NZQ(3);

named person has the meaning given in section 152NZQ(4).

152NZQ. Service of exclusion orders and other documents

- (1) In this section —
- custodial officer*** has the meaning given in the *Young Offenders Act 1994* section 3;
- detainee*** has the meaning given in the *Young Offenders Act 1994* section 3;
- prison*** has the meaning given in the *Prisons Act 1981* section 3(1);
- superintendent*** has the meaning given in the *Prisons Act 1981* section 3(1).
- (2) To serve a document on a person in accordance with this subsection, the document must be served —
- (a) if the person is a juvenile — in accordance with subsection (3); or
- (b) in any other case — in accordance with subsection (4).
- (3) To serve a document on a juvenile (the ***named juvenile***) in accordance with this subsection —
- (a) if the named juvenile is a detainee — a custodial officer must —
- (i) hand the document to the named juvenile in person; or
- (ii) if the named juvenile refuses to accept the document — leave it near the named juvenile and orally draw the named juvenile's attention to it;
- or

- (b) in any other case — a member of the Police Force must —
 - (i) hand the document to the named juvenile in person; or
 - (ii) if the named juvenile refuses to accept the document — leave it near the named juvenile and orally draw the named juvenile's attention to it.
- (4) To serve a document on a person (the ***named person***) in accordance with this subsection, another person must —
 - (a) do 1 of the following —
 - (i) hand it to the named person in person;
 - (ii) if the named person refuses to accept it — leave it near the named person and orally draw the named person's attention to it;
 - (iii) hand it to another person who appears to have reached 16 years of age and who appears to be residing at the place where the named person is known to reside;
 - (iv) if the named person is in a prison — hand it to the superintendent of the prison;
 - or
 - (b) post the document to —
 - (i) the named person at an address provided by the named person, but only if the named person has consented to being served with documents under this Part at that address; or

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- (ii) if the named person is in a prison — the named person at the address of the prison;
 - or
 - (c) give the document to the named person at an electronic address provided by the named person, or by other prescribed electronic means in accordance with the regulations, but only if the named person has consented to being served with documents under this Part at that electronic address or by those electronic means;
 - or
 - (d) give the document to the named person by another means, but only if the named person has consented to being served with documents under this Part by those means.
- (5) The regulations may make provision for or in relation to the following —
- (a) the manner in which consent under subsection (4)(b)(i), (c) or (d) may or must be given;
 - (b) circumstances in which consent under subsection (4)(b)(i), (c) or (d) is taken not to be given.

152NZR. Time when document served

- (1) In this section —
- working day*** means a day other than a Saturday, a Sunday or a public holiday throughout the State.
- (2) A document served in accordance with section 152NZQ(3) is taken to be served on the named juvenile at the time it is handed to or left near the named juvenile under that provision.

- (3) A document served in accordance with section 152NZQ(4)(a) is taken to be served on the named person at the time it is handed to or left near a person under that provision.
- (4) A document served by post in accordance with section 152NZQ(4)(b) is taken to be served on the named person —
 - (a) at the end of the 4th working day after the date it was posted; or
 - (b) if it is proved that the document was delivered at a different time — at the time at which the document was delivered.
- (5) Despite subsection (4), the document is taken not to be served if the postal service returns the document to the sender or it is proved that the document was not delivered.
- (6) The regulations may make provision for or in relation to the following —
 - (a) the time at which a document served in accordance with section 152NZQ(4)(c) or (d) is taken to be served;
 - (b) circumstances in which a document served in accordance with section 152NZQ(4)(c) or (d) is taken not to be served;
 - (c) the means of satisfying a requirement under this Part in relation to a document (for example, a requirement that the original of a document be given or that a document be signed) if the document is served by electronic means.

152NZS. Proof of service of document

- (1) As soon as practicable after a person serves a document in accordance with section 152NZQ(2), the person must make a certificate of service.
- (2) The certificate must —
 - (a) state that, at the time and place stated in the certificate, the person making the certificate served the document in accordance with section 152NZQ(2); and
 - (b) be signed by the person making the certificate (which may be by way of an electronic signature).
- (3) The certificate must state the full name of the person served.
- (4) A signed certificate of service that complies with this section may be tendered in evidence without calling the person who signed the certificate.
- (5) When a certificate of service is tendered under subsection (4), it is to be presumed, unless the contrary is proved —
 - (a) that the signature is that of the person who made the certificate; and
 - (b) that the information in the certificate is true.
- (6) Section 172(4) and (6)(b) do not apply in relation to the service of a document in accordance with section 152NZQ(2).

Subdivision 3 — Other matters

152NZT. Publication and disclosure of information about excluded offenders

(1) In this section —

personal particulars, in relation to an excluded offender, means —

- (a) the name and date of birth of the excluded offender; and
- (b) a photograph of the excluded offender; and
- (c) the address of the excluded offender;

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, a person belonging to a prescribed class of persons or a person in a prescribed circumstance.

(2) During the exclusion period for an excluded offender, the Commissioner of Police or the Director may —

- (a) publish on a secure webpage any of the personal particulars in relation to the excluded offender; and
- (b) if the excluded offender is not a juvenile — publish, in any manner the Commissioner or the Director (as the case requires) considers appropriate, any of the following —
 - (i) the name of the excluded offender;
 - (ii) a photograph of the excluded offender;
 - (iii) the town or suburb where the excluded offender lives.

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- (3) During the exclusion period for an excluded offender, the Commissioner of Police or the Director may disclose any of the personal particulars in relation to the excluded offender to —
 - (a) a public authority if the Commissioner or the Director (as the case requires) considers that the personal particulars are required by that authority for a purpose relating to the administration or enforcement of this Act or another written law; or
 - (b) a prescribed person, or a person belonging to a prescribed class of persons, if the Commissioner or the Director (as the case requires) considers that the personal particulars are required by that person for a purpose relating to —
 - (i) the further provision of the personal particulars to responsible persons in relation to licensed premises to assist those responsible persons to identify excluded offenders; or
 - (ii) the creation or provision of equipment, software, databases or any other thing to be used by responsible persons in identifying excluded offenders.
- (4) Subsections (2) and (3) do not permit the publication or disclosure of anything that identifies, or is capable of identifying —
 - (a) a juvenile other than the excluded offender; or
 - (b) the details of any offence of which the excluded offender was convicted in the Children's Court.

152NZU. Offence of further disclosing information about excluded offenders

- (1) Subject to subsections (2), (3) and (4), a person who discloses information or a photograph that the person has obtained from the secure webpage referred to in section 152NZT(2)(a), or from a disclosure under section 152NZT(3), commits an offence.
Penalty for this subsection: a fine of \$10 000.
- (2) Subsection (1) does not apply to information or a photograph that has also been published under section 152NZT(2)(b).
- (3) A responsible person in relation to licensed premises does not commit an offence under subsection (1) if —
 - (a) the responsible person discloses the information or photograph in the performance of duties relating to the person's work on the licensed premises; or
 - (b) the responsible person discloses the information or photograph to another responsible person in relation to the licensed premises for the purposes of enabling the second responsible person to perform duties relating to that second person's work on the licensed premises.
- (4) A person to whom information or a photograph has been disclosed under section 152NZT(3)(a) or (b) does not commit an offence under subsection (1) if they disclose the information or photograph for a purpose referred to in section 152NZT(3)(a) or (b) (as the case requires).

152NZV. Monitoring by Parliamentary Commissioner

- (1) In this section —
Parliamentary Commissioner means the Parliamentary Commissioner for Administrative Investigations appointed under the *Parliamentary Commissioner Act 1971*.
- (2) The Parliamentary Commissioner must keep under scrutiny the operation of, and the exercise of powers under —
 - (a) the provisions of this Part; and
 - (b) any regulations made for the purposes of this Part; and
 - (c) any regulations made under section 175(1E).
- (3) For that purpose, the Parliamentary Commissioner may require the Commissioner of Police or the Director to provide information relevant to the operation of, and the exercise of powers under, the provisions referred to in subsection (2).
- (4) The Parliamentary Commissioner —
 - (a) must, as soon as practicable after the 3rd anniversary of the day on which the *Liquor Control Amendment (Protected Entertainment Precincts) Act 2022* section 16 comes into operation, prepare a report on the Parliamentary Commissioner's work and activities under this section and give a copy of the report to the Minister and to the Commissioner of Police; and
 - (b) may, at any other time the Parliamentary Commissioner considers appropriate, prepare a report on the Parliamentary Commissioner's work and activities under this section and give

a copy of the report to the Minister and to the Commissioner of Police.

- (5) A report under subsection (4) —
- (a) must, if the Parliamentary Commissioner has identified any group in the community that is particularly affected by the operation of, or the exercise of powers under, the provisions referred to in subsection (2), include a review of the impact of the operation of, and the exercise of powers under, those provisions on that group; and
 - (b) may include recommendations about amendments that might appropriately be made to this Act in relation to the operation of, or the exercise of powers under, the provisions referred to in subsection (2).
- (6) The Minister must cause a report under subsection (4) to be laid before each House of Parliament as soon as practicable after the Minister receives the report.
- (7) Nothing in this section limits or affects the jurisdiction or functions of the Parliamentary Commissioner under the *Parliamentary Commissioner Act 1971*.

17. Section 175 amended

After section 175(1d) insert:

- (1E) The Governor, on the recommendation of the Minister, may make regulations prescribing an area of the State to be a protected entertainment precinct.

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- (1F) The Minister cannot make a recommendation for the purposes of subsection (1E) unless —
- (a) the Minister is satisfied that the area of the State contains a concentration of licensed premises; and
 - (b) the Minister is satisfied that the proposed regulations are necessary to achieve the primary object set out in section 152NB; and
 - (c) after consultation with each of the following, the Minister is satisfied that the proposed regulations are in the public interest —
 - (i) the Commissioner of Police;
 - (ii) each local government in the district of which any part of the protected entertainment precinct is to be situated;
 - (iii) if the Minister considers it appropriate to consult any other person — that person.

18. Section 177D inserted

After section 177C insert:

177D. Transitional provisions for *Liquor Control Amendment (Protected Entertainment Precincts) Act 2022* (Sch. 1D)

Schedule 1D sets out transitional provisions relating to amendments made to this Act by the *Liquor Control Amendment (Protected Entertainment Precincts) Act 2022*.

19. Section 178 amended

In section 178(1) after “operation of this Act” insert:

(other than amendments made to the Act by the *Liquor Control Amendment (Protected Entertainment Precincts) Act 2022*)

20. Schedule 1D inserted

After Schedule 1C insert:

**Schedule 1D — Transitional provisions relating to
the *Liquor Control Amendment (Protected
Entertainment Precincts) Act 2022***

[s. 177D]

1. Terms used

In this Schedule —

commencement day means the day on which the *Liquor Control Amendment (Protected Entertainment Precincts) Act 2022* section 16 comes into operation;

conviction has the meaning given in section 152NZJ(1);

extended exclusion order has the meaning given in section 152NC;

short-term exclusion order has the meaning given in section 152NC;

specified offence has the meaning given in section 152NZJ(1).

2. Application of s. 115AC to existing notices

The amendments made to section 115AC by the *Liquor Control Amendment (Protected Entertainment Precincts) Act 2022* section 11 apply to the publication or disclosure of information or photographs in relation to a notice given to a

person under section 115AA(2) whether the notice was given before, on or after the day on which the *Liquor Control Amendment (Protected Entertainment Precincts) Act 2022* section 11 comes into operation.

3. Application of s. 152K to existing prohibition orders

The amendments made to section 152K by the *Liquor Control Amendment (Protected Entertainment Precincts) Act 2022* section 15 apply to the publication or disclosure of information or photographs in relation to a prohibition order under Part 5A whether the order was made before, on or after the day on which the *Liquor Control Amendment (Protected Entertainment Precincts) Act 2022* section 15 comes into operation.

4. Short-term exclusion orders

A short-term exclusion order must not be made on the basis of behaviour that occurred before commencement day.

5. Extended exclusion orders

- (1) Except as provided for in subclause (2), an extended exclusion order must not be made on the basis of behaviour that occurred before commencement day.
- (2) An extended exclusion order to which section 152NM(4) applies may be made whether —
 - (a) the prohibition order referred to in section 152NM(4)(a) was made before, on or after commencement day; or
 - (b) the behaviour referred to in section 152NM(4)(b)(i) occurred before, on or after commencement day.

6. Excluded offenders

For the purposes of section 152NZJ(2), the conviction of the specified offence referred to in section 152NZJ(2)(a) must have occurred on or after commencement day.

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

21. Act amended

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

22. Section 73 amended

Delete section 73(1)(nb) and insert:

- (nb) if permitted by, or if covered by an express exception from a prohibition on disclosure in, the *Liquor Control Act 1988* section 115AC, 152K, 152NZC, 152NZD, 152NZT or 152NZU;

Part 4 — *Sentencing Act 1995* amended

23. Act amended

This Part amends the *Sentencing Act 1995*.

24. Section 8 amended

After section 8(3a) insert:

- (3B) The following are not mitigating factors —
- (a) the fact that an exclusion order (as defined in the *Liquor Control Act 1988* section 152NC) might be or has been made in respect of the offender, or the consequences for the offender of the order being made;
 - (b) the fact that the offender is or will be an excluded offender (as defined in the *Liquor Control Act 1988* section 152NZJ(2)), or the consequences for the offender of being an excluded offender under that Act.

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