

WESTERN AUSTRALIA

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# LIQUOR AMENDMENT ACT (No. 2)

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No. 97 of 1986

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**AN ACT to amend the *Liquor Act 1970* and the *Constitution Acts Amendment Act 1899*, and for related purposes.**

[Assented to 11 December 1986.]

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I—PRELIMINARY

### Short title

1. This Act may be cited as the *Liquor Amendment Act (No. 2) 1986*.

**Commencement**

2. (1) Subject to subsections (2) and (3) the provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

(2) Section 26 shall come into operation on the day on which section 4 (a) comes into operation or the day on which section 12 of the *Liquor Amendment Act 1986* comes into operation, whichever is later.

(3) Parts III and IV shall come into operation on the day on which section 5 comes into operation.

**Principal Act**

3. In this Act the *Liquor Act 1970\** is referred to as the principal Act.

[\*Reprinted as at 30 October 1986.]

**PART II—AMENDMENTS TO LIQUOR ACT 1970****Section 7 amended**

4. Section 7 of the principal Act is amended in subsection (1)—

(a) by deleting the definitions of “clerk”, “Principal Receiver of Revenue”, “rules”, “Schedule” and “section”;

(b) by deleting the definition of “Court” and substituting the following—

“ “Court” means the Liquor Licensing Court established by this Act; ”;

(c) by deleting the definition of “spirits” and substituting the following definition—

“ “spirits” means potable spirit with an alcoholic content of more than 20.06% by volume at a temperature of 20 degrees celsius; ”;

- (d) by deleting the definition of “wine” and substituting the following definition—

“ “wine” includes cider, cyser, mead and perry but does not include any substance with an alcoholic content of more than 20.06% by volume at a temperature of 20 degrees celsius. ”;

- (e) by inserting in their appropriate alphabetical positions the following definitions—

“ “Acting Judge” means an Acting Judge of the Liquor Licensing Court appointed under this Act;

“Category A licence” means a licence of any of the following classes—

- (a) hotel licence;
- (b) tavern licence;
- (c) club licence;
- (d) limited hotel licence;
- (e) winehouse licence;
- (f) restaurant licence;
- (g) canteen licence;
- (h) cabaret licence;
- (i) store licence;
- (j) ballroom licence;
- (k) reception lodge licence;

“decision” includes order, direction and determination;

“Director” means the Director of Liquor Licensing appointed under this Act;

“inspector” means an inspector of licensed premises appointed for the purposes of this Act;

“Judge” means the Liquor Licensing Court Judge appointed under this Act;

“licensing authority” means—

- (a) in relation to a matter that is, under this Act, to be determined by the Court—the Court;
- (b) in relation to any other matter—the Director;

“licensing office” means an office at which a person employed under section 15 (1) (c) is employed or an office of a clerk of a Local Court;

“party”, in relation to an application or matter, includes an objector;

“prescribed” means prescribed by the regulations; ”.

## **Part II repealed and a Part substituted**

5. Part II of the principal Act is repealed and the following Part is substituted—

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PART II—LICENSING AUTHORITIES

*Division 1—The Liquor Licensing Court*

### Establishment and constitution of Court

8. (1) A court known as the Liquor Licensing Court is established.

(2) The Court is a court of record and shall have an official seal of which judicial notice shall be taken.

(3) The Court shall consist of the Liquor Licensing Court Judge.

### Appointment, terms, conditions etc. of Judge

9. (1) The Judge shall be appointed by the Governor on the recommendation of the Minister.

(2) A person is not eligible for appointment as the Judge unless he is a practitioner as defined by the *Legal Practitioners Act 1893* of not less than 8 years' practice and standing.

(3) The Judge is entitled to like salary, allowances and reimbursements, leave of absence, and pension rights, to that to which a District Court Judge, other than the Chief Judge, is entitled in relation to his office.

(4) If a person is a contributor within the meaning of the *Superannuation and Family Benefits Act 1938* at the time he is appointed as the Judge, section 15 of the *District Court of Western Australia Act 1969* shall apply to and in relation to him as if he had been appointed as a District Court Judge.

(5) The Judge, in relation to that office, is entitled to the style and title of "His Honour" or "Her Honour".

(6) A person who has attained the age of 65 years is ineligible for appointment as the Judge and the Judge shall retire from office on attaining the age of 65 years.

(7) The Judge may at any time, by written notice addressed to the Governor, resign his office and on receipt of his resignation by the Governor he shall vacate office as Judge.

(8) Before proceeding to discharge the duties of his office the Judge shall take before the Governor the oath or affirmation of allegiance, and an oath or affirmation of office in the form set out in the Fourth Schedule.

#### Tenure of office

10. The Judge is entitled to hold office during good behaviour but the Governor may, upon the address of both Houses of Parliament remove the Judge from his office.

### Acting Judge

#### 11. (1) Where—

- (a) the Judge is or is expected to be absent from duty for any reason;
- (b) the Judge declines to deal with any matter; or
- (c) the office of Judge is vacant,

the Governor, on the recommendation of the Minister, may appoint to be an Acting Judge a person qualified to be the Judge, to perform the functions of the Judge when he is so absent or so declines or the office is vacant.

(2) Subject to subsection (4), an Acting Judge has the same functions, rights and immunities and is subject to the same rules and conditions as the Judge would have or would be subject to in performing those functions.

(3) An appointment as Acting Judge and any act, matter or thing done in performing functions as provided by subsection (1) shall not be questioned on the ground that the occasion for the appointment had not arisen or had ceased.

(4) An Acting Judge is entitled to such remuneration, allowances, and leave of absence as is determined by the Governor.

### Delegation by Court

#### 12. (1) The Court may—

- (a) by instrument in writing; and
- (b) either generally or as otherwise provided by that instrument,

delegate to a magistrate for the time being assigned to a magisterial district, by reference to his assignment, the functions of the Court relating to—

- (c) the renewal and transfer of licences;
- (d) the granting and renewal of permits; and

(e) the making of orders,

and the magistrate shall exercise the functions so delegated in accordance with any recommendation made by the Court.

(2) The exercise by a magistrate of any jurisdiction delegated under subsection (1) does not affect the exercise of that jurisdiction by the Court.

*Division 2—The Director of Liquor Licensing*

**Appointment of Director**

13. (1) There shall be a Director of Liquor Licensing.

(2) The Director is responsible to the Permanent Head.

(3) The Director shall be appointed under, and shall hold office subject to and in accordance with, the *Public Service Act 1978*.

**Delegation and authorization**

14. (1) The Director may by instrument in writing signed by him and either generally or as otherwise provided by that instrument—

(a) delegate to any person any of the functions of the Director under this Act other than this power of delegation; or

(b) authorize any person to perform any of the functions of a person appointed under section 15 (1) (c).

(2) An authorization under subsection (1) (b) shall be deemed to be delegation for the purposes of sections 55 and 59 of the *Interpretation Act 1984*.

**Staff**

15. (1) There shall be appointed—

(a) a senior supervisor of licensed premises and such other supervisors of licensed premises as may be necessary;

- (b) such inspectors of licensed premises as may be necessary; and
- (c) such other officers as may be necessary to assist the Court and the Director in performing their functions under this Act.

(2) The Director shall furnish to a person appointed under subsection (1) (a) or (b) a certificate stating that he is a supervisor of licensed premises or an inspector of licensed premises, as the case may be.

(3) A person appointed under subsection (1) shall be appointed under, and shall hold office subject to and in accordance with, the *Public Service Act 1978*.

*Division 3—Division of Responsibility between the Court and the Director*

Division of responsibilities

16. (1) Subject to subsection (3), the Court shall determine—
- (a) an application for the grant, renewal, transfer, forfeiture, suspension, surrender or removal of a Category A licence;
  - (b) an application for the grant, extension, variation or cancellation of a provisional certificate for a Category A licence;
  - (c) an application for variation or revocation of a condition of a Category A licence;
  - (d) an application for an entertainment permit;
  - (e) an application by a licensee who holds an hotel licence for exemption from the obligation to provide accommodation;
  - (f) any matter in respect of which a licensing authority is invested with jurisdiction under this Act and the determination of which is necessary or expedient for the purpose of the determination of an application referred to in paragraph (a), (b), (c), (d) or (e); and
  - (g) any matter in respect of which the Court is specifically invested with jurisdiction under this Act.



(2) Subject to section 22E, the Director shall determine—

- (a) any matter, other than a matter to which subsection (1) applies, in respect of which a licensing authority is invested with jurisdiction under this Act; and
- (b) any matter in respect of which the Director is specifically invested with jurisdiction under this Act.

(3) Unless an objection to an application referred to in subsection (1) (a), (b), (c), (d) or (e), is made within the prescribed time, the application and any matter to which subsection (1) (f) applies in relation to the application shall, subject to section 22E, be determined by the Director.

(4) In this section—

“matter in respect of which a licensing authority is invested with jurisdiction” does not include—

- (a) a matter in respect of which the Court is specifically invested with jurisdiction; or
- (b) a matter in respect of which the Director is specifically invested with jurisdiction.

(5) The Court shall exercise the jurisdiction conferred on licensing magistrates or on a licensing bench by any other Act.

*Division 4—The Court’s powers and duties and appeals from the Court’s decisions*

**Procedure of the Court**

17. (1) In determining any application or matter under this Act, the Court—

- (a) shall act without undue formality;

- (b) is not bound by the rules of evidence but may inform itself on any question that arises for its decision in such manner as it thinks fit;
- (c) may sit at such times and such places as it thinks fit;
- (d) may upon its own motion or upon the application of any party and on such terms as to costs or otherwise as it may determine, adjourn the hearing or further hearing of the application or matter from time to time either to the same place or to any other place.

(2) Subject to this Act the Court shall determine its own procedure.

Powers with respect to witnesses  
and evidence

18. (1) The Court may—

- (a) by summons require any person to attend before the Court at a time and place specified in the summons for the purpose of giving evidence relevant to any application or matter before the Court;
- (b) by summons require the production of records;
- (c) inspect records produced before it, and take copies of, or extracts from, them;
- (d) require any person appearing before it to take an oath or affirmation verifying evidence given, or to be given, to the Court;
- (e) require any person appearing before it to answer a question put to him by the Court or some person appearing before the Court.

(2) A summons under subsection (1) may be issued on behalf of the Court, on the application of any party to an application or matter before the Court, by—

- (a) the Judge; or
- (b) the Director.

(3) The Judge or an officer of the Court may take and administer oaths and affirmations in, or for the purposes of, any application or matter that is being or is to be determined by the Court.

### Representation

19. (1) A party to an application or matter being determined by the Court may appear before the Court—

- (a) personally;
- (b) by counsel;
- (c) if the party is a member of a genuine association formed to promote or protect the interests of a particular section of the liquor industry, or employees in the liquor industry—by an officer or employee of that association;  
or
- (d) if the party is a body corporate—by an officer or employee of the body corporate who has obtained leave of the Court to appear on the body corporate's behalf.

(2) The Commissioner of Police may be represented before the Court by a member of the Police Force.

### Contempt of Court

20. (1) A person who—

- (a) having been served with a summons to attend before the Court fails, without reasonable excuse, to attend in obedience to the summons;
- (b) having been served with a summons to produce records fails, without reasonable excuse, to comply with the summons; or
- (c) refuses to be sworn or to affirm, or to answer a relevant question when required to do so by the Court,

is guilty of contempt of court.

(2) A person who wilfully interrupts the proceedings of the Court, or who hinders, obstructs, threatens or assaults any officer, party or witness in attendance before, or going to or returning from, the Court, is guilty of contempt of court.

(3) The Judge may commit a person guilty of contempt of court to prison, for any period not exceeding 30 days, or impose on that person a fine not exceeding \$500 and, in default of payment, may order that the person be imprisoned for any period not exceeding 30 days.

### Appeals

21. (1) Subject to subsection (3), a person aggrieved by a decision of the Court may appeal to the Supreme Court against the decision.

(2) In this section and sections 22 and 22A a reference to a decision of the Court includes a reference to—

- (a) a decision made under section 22F (4) (a) affirming, varying or quashing a decision of the Director;
- (b) a decision made under section 22F (4) (b); and
- (c) an order made under section 22F (4) (c).

(3) An appeal does not lie against a decision of the Court unless the appeal involves a question of law.

(4) An appeal must be instituted within the time, and in accordance with the procedure, prescribed by rules of the Supreme Court.

### Powers of the Supreme Court on appeal

22. Upon the hearing of an appeal, the Supreme Court may—

- (a) admit such evidence, upon affidavit, as it thinks fit;
- (b) allow or dismiss the appeal, vary the decision of the Court in such manner as it thinks fit, or remit the matter to the Court for rehearing with such directions (if any) as it thinks fit;
- (c) make such order for the payment of the costs of the appeal and of the rehearing (if any) as it thinks fit.

Licences or permits to remain in operation pending appeal.

22A. Where the holder of a licence or permit appeals against a decision of the Court forfeiting, revoking, cancelling or suspending the licence or permit or refusing to renew the licence or permit, the licence or permit (as the case may be) shall, subject to the payment of any fees then due and payable, remain in force until the determination of the appeal.

Case stated on question of law

22B. The Court may state a case on a question of law to the Supreme Court.

*Division 5—The Director's powers and duties and review of the Director's decisions*

Proceedings before the Director

22C. (1) In determining any application or matter under this Act, the Director—

- (a) shall act with as little formality as is practicable;
- (b) is not bound by the rules of evidence but may inform himself on any question that arises for his decision in such manner as he thinks fit;
- (c) may conduct or arrange such hearings, meetings, consultations, and negotiations as he thinks fit, at such times and places as he thinks fit;
- (d) may receive and consider such submissions as he thinks fit.

(2) Subject to this Act the Director shall determine his own procedure.

### Representation

22D. (1) A party to an application or matter being determined by the Director may appear before the Director—

- (a) personally;
- (b) by counsel;
- (c) if the party is a member of a genuine association formed to promote or protect the interests of a section of the liquor industry, or employees in the liquor industry—by an officer or employee of that association; or
- (d) if the party is a body corporate—by an officer or employee of the body corporate who has obtained leave of the Director to appear on its behalf.

(2) The Commissioner of Police may be represented before the Director by a member of the Police Force.

### Power of Director to refer matters to the Court

22E. (1) If an application or matter that is being or is to be determined by the Director is one that, in the Director's opinion, involves questions of substantial importance, the Director may refer the application or matter for hearing and determination by the Court.

(2) The Director may refer any question of law to the Court.

### Application for review of Director's decision

22F. (1) A person aggrieved by a decision made by the Director in the exercise of the Director's jurisdiction under section 16 (3) may apply to the Court for a review of the decision.

(2) An application for review of a decision of the Director must be made within one month after the applicant receives notice of the decision or such longer period as the Court may allow.

(3) A review under this section shall be in the nature of a rehearing.

- (4) On a review under this section, the Court may—
- (a) affirm, vary or quash the decision subject to the review;
  - (b) make any decision that should, in the opinion of the Court, have been made in the first instance; and
  - (c) make any incidental or ancillary order.

Licence or permits to remain  
in operation pending review

22G. (1) Where the holder of a licence or permit applies to the Court for a review of a decision of the Director forfeiting, revoking, cancelling, or suspending the licence or permit or refusing to renew the licence or permit, the licence or permit (as the case may be) shall, subject to the payment of any fees then due and payable and subject to subsection (2), remain in force until the Court has made its decision in respect of the review.

(2) Subsection (1) does not apply in the case of an application to review an order for forfeiture of a licence made under section 125, by reason of the licensee's conviction of an offence or offences. ”.

### **Section 23 amended**

6. Section 23 of the principal Act is amended in subsection (2) by deleting “by the rules”.

### **Section 34 amended**

7. Section 34 of the principal Act is amended by repealing subsection (4) and substituting the following subsection—

“ (4) The Director may, on the application of the holder of a restaurant licence made not later than 5 days, or such lesser period as the Director may in special circumstances allow, before the day on which the permit is to take effect and on payment of the specified fee, issue to the licensee an occasional permit to have effect on such day, being a special occasion and not being Good Friday, between such hours, for the sale and supply of liquor on such part of the premises, and to such persons or class of persons, as shall be specified in the permit. ”.

**Section 39 amended**

8. Section 39 of the principal Act is amended—

- (a) by deleting subsection (2) and substituting the following subsections—

“ (2) No new Australian wine licence shall be granted.

(2a) Subject to subsection (3) the Director may renew an Australian wine licence. ”; and

- (b) in subsection (3) by deleting “Subject to the succeeding provisions of this section, the Court” and substituting the following—

“ The Director ”.

**Section 51 amended**

9. Section 51 of the principal Act is amended in subsection (4) (b) by deleting “by the rules”.

**Section 54B amended**

10. Section 54B of the principal Act is amended by repealing subsection (1) and substituting the following subsection—

- “ (1) Where an application made for the grant of a licence or a provisional certificate for a licence has been refused by the licensing authority on the grounds that the reasonable requirements of the affected area do not justify the granting of the licence or certificate, the licensing authority shall not hear any other application for the same type of licence or certificate made within the period of 12 months immediately succeeding the date on which the first-mentioned application was refused if in the opinion of the Director the affected area in relation to the second-mentioned application is substantially the same as that specified under section 54 in relation to the first-mentioned application. ”.



**Section 55 amended**

**11.** Section 55 of the principal Act is amended in subsection (2)—

- (a) by inserting after subparagraph (a) (i) the following—  
“ and ”;
- (b) by deleting “and” after subparagraph (a) (ii);
- (c) by deleting subparagraph (a) (iii);
- (d) by inserting after subparagraph (b) (i) the following—  
“ and ”;
- (e) by deleting “and” after subparagraph (b) (ii); and
- (f) by deleting subparagraph (b) (iii).

**Section 56 repealed and a section substituted**

**12.** Section 56 of the principal Act is repealed and the following section is substituted—

Court or Director may raise objections

“ 56. (1) When an application for the grant of a licence, or for a permit, or for a provisional certificate for a licence is being determined by the Director, the Director may, whether or not the application is opposed, raise any objection that might have been made by any person or by any association of licensees and may, after affording the applicant such time to consider the objection as the applicant may reasonably require and giving the applicant an opportunity of being heard, find the validity of the objection established.

(2) When an application for the grant of a licence, or for a permit, or for a provisional certificate for a licence is being determined by the Court, the Director may, whether or not the application is opposed, raise any objection that might have been made by any person or by any association of licensees and the Court may, after affording the applicant such time to consider the objection as the applicant may reasonably require and giving the applicant an opportunity of being heard, find the validity of the objection established.

(3) An objection raised by the Director under subsection (1) shall not be regarded as an objection for the purposes of section 16(3). ”.

### **Section 69 amended**

**13.** Section 69 of the principal Act is amended in subsection (5) by deleting “female” in the definition of “associate member”.

### **Section 73A amended**

**14.** Section 73A of the principal Act is amended in subsection (2) by deleting “rules” and substituting the following—

“ regulations ”.

### **Section 74 amended**

**15.** Section 74 of the principal Act is amended by repealing subsection (1) and substituting the following subsections—

“ (1) The Director may grant—

- (a) any permit under this Act where no objection is made to the granting of the permit; and
- (b) any permit, other than an entertainment permit, under this Act if the validity of any objection made to the granting of the permit is not established to the satisfaction of the Director.

(1a) The Court may grant an entertainment permit under this Act if the validity of any objection made to the granting of the permit is not established to the satisfaction of the Court. ”.

### **Section 93 amended**

**16.** Section 93 of the principal Act is amended—

- (a) by repealing subsection (1); and
- (b) in subsection (2) by deleting “rules” and substituting the following—

“ regulations ”.

**Section 96 amended**

17. Section 96 of the principal Act is amended in subsection (1) by deleting “by the rules”.

**Section 105 amended**

18. Section 105 of the principal Act is amended in subsection (2) by deleting “Subject to section 106, the” and substituting the following—

“ The ”.

**Section 106 repealed**

19. Section 106 of the principal Act is repealed.

**Section 110 amended**

20. Section 110 of the principal Act is amended by deleting the definition of “Tourist Advisory Council”.

**Section 111 amended**

21. Section 111 of the principal Act is amended by deleting “is charged” and substituting the following—

“ and the Director are charged ”.

**Section 129 amended**

22. Section 129 of the principal Act is amended in subsection (5) by deleting “rules” and substituting the following—

“ regulations ”.

**Part VII amended**

23. Part VII of the principal Act is amended by deleting the heading to Division 4 and substituting the following heading—

“ *Division 4—Enforcement* ”.

**Sections 142A, 142B, 142C and 142D inserted**

24. After the heading to Division 4 of Part VII of the principal Act the following sections are inserted—

Duties of supervisors

“ 142A. (1) It is the duty of a supervisor to examine and report on any matter that, in his opinion, affects the administration of this Act or upon which the Director may require him to report and, in particular—

- (a) to report to the Director on the extent and standard of services provided in any licensed premises;
- (b) to report to the Director on the nature and extent of any premises proposed to be licensed and on every plan for proposed new licensed premises or for extensions or alterations to, the rebuilding and reinstatement of, or the change in use of any part or parts of, any existing licensed premises;
- (c) to examine and report on any licensed premises or proposed licensed premises as he thinks fit or as may be required by the Director; and
- (d) to appear before, and assist, the Court or the Director whenever so required by the Court or the Director.

(2) Where a supervisor makes a report with respect to any particular licensed premises or premises proposed to be licensed, including any report as to the extent or standard of services provided on the premises, the Director shall—

- (a) cause a copy of such part of the report as the licensing authority adopts to be sent to the owner of the premises or his agent (if known) and, where the owner is not the licensee or proposed licensee, to the licensee or proposed licensee or his agent, as the case may require; and
- (b) make such part of the report as the licensing authority adopts available for inspection, on request, by the local health authority or by any person who has lodged an objection to the granting of a licence or provisional certificate for a licence or the renewal of an existing licence in respect of those premises.

(3) The Director may, by arrangement with a local health authority, delegate to any duly appointed health surveyor for that authority such of a supervisor's powers of examination and report as the Director may approve.

(4) In this section "licensed premises" includes premises in respect of which an application has been made, or a permit is in force, under this Act.

### Powers of inspectors

142B. (1) An inspector may, at any reasonable time and on production of the certificate furnished to him under section 15 (2)—

- (a) enter licensed premises;
- (b) inspect licensed premises;
- (c) require any person who has in his possession books of account, or other records, relevant to a business conducted in pursuance of a licence, or to transactions involving the sale or purchase of liquor, to produce those books of account or other records for inspection;
- (d) require any person who is in a position to provide information relating to the sale, purchase or supply of liquor to answer any question put to him by the authorized officer on that subject.

(2) An inspector may—

- (a) examine books of account or other records produced under this section;
- (b) make copies of, or take extracts from, any such books of account or other records; and
- (c) retain the books of account or other records for such reasonable period as may be necessary for the purposes referred to above.

(3) A person who—

- (a) hinders an inspector in the exercise of powers conferred by this section;

- (b) fails, without reasonable excuse, to comply with a requirement of an inspector, under this section;
- (c) fails, without reasonable excuse, to answer, to the best of his knowledge, information and belief, a question put to him by an inspector,

is guilty of an offence.

Penalty: \$500.

(4) Subject to subsection (5), a person may decline to answer a question put to him under this section if the answer would tend to incriminate him of an offence.

(5) Where a question put to a person under this section is relevant to the assessment of a licence fee, a person is not excused from answering the question on the ground that the answer to the question would tend to incriminate him of an offence but, where a person objects to answering a question on that ground, the answer is not admissible in evidence in criminal proceedings (except proceedings for an offence against this section).

#### Duties of police

142C. (1) The Commissioner of Police shall issue all such orders, and give all such directions, to members of the Police Force as may, in his opinion, be necessary to—

- (a) prevent the sale, supply or consumption of liquor contrary to the provisions of this Act;
- (b) ensure the proper and lawful exercise of any licence or permit issued under this Act;
- (c) ensure the lawful and orderly conduct of licensed premises and of unlicensed premises on which liquor may be publicly consumed and ensure the good behaviour of persons present on those premises; and
- (d) provide for the making of such reports to, and the bringing of such applications, complaints and objections before, the licensing authority as may be necessary or required for the proper administration of this Act.

(2) Nothing in this section shall be read or construed as limiting any power or authority conferred on a member of the Police Force by any other Act or law.

#### Duties of local health authorities

142D. (1) Every local health authority shall, as regards licensed premises in its district, exercise the same powers as are conferred, and carry out the same duties as are imposed, on it by any other Act with respect to unlicensed premises; and, where the holder of a licence under this Act or any of his servants is convicted of an offence on the complaint of an officer of the local health authority, it shall report that event and the nature of the complaint to the Director.

(2) A local health authority is required to afford the licensing authority such assistance, by way of the examination of, and the report on, licensed premises, as is contemplated by this Act or as the licensing authority may reasonably require. ”.

#### **Section 159 amended**

25. Section 159 of the principal Act is amended in subsection (5) by deleting “at or before the hearing” and substituting the following—

“ before the determination ”.

#### **Section 163B amended**

26. Section 163B of the principal Act is amended in subsection (2) (a) and (b) by deleting “Principal Receiver of Revenue” and substituting, in each case, the following—

“ Director ”.

#### **Section 165 amended**

27. Section 165 of the principal Act is amended by deleting “granting” and substituting the following—

“ the granting of ”.

#### **Section 166 amended**

28. Section 166 of the principal Act is amended in subsection (1) by deleting “granting” and substituting the following—

“ the granting of ”.

**Section 166A amended**

**29.** Section 166A of the principal Act is amended by deleting “in conferring authority” and substituting the following—

“ , where authority is to be conferred ”.

**Section 169 repealed**

**30.** Section 169 of the principal Act is repealed.

**Section 175 amended**

**31.** Section 175 of the principal Act is amended in subsection (1) by deleting “, to prescribe forms or any other matter relating to the conduct of its business, to regulate the preparation and lodging of plans and specifications and for any other matter for which rules are contemplated or required by this Act”.

**Section 177 amended**

**32.** Section 177 of the principal Act is amended in subsection (2) by deleting paragraph (b) and substituting the following paragraphs—

- “ (b) with respect to the practice and procedure of the Director;
- (ba) prescribing forms or any other matter relating to the conduct of the business of the Court or the Director;
- (bb) with respect to the preparation and lodging of plans and specifications for the purposes of this Act; ”.

**Fourth Schedule inserted**

**33.** After the Third Schedule to the principal Act the following Schedule is inserted—

“ FOURTH SCHEDULE (Section 9 (8))

**OATH**

I, \_\_\_\_\_, do swear that I will well and truly serve in the office of Liquor Licensing Court Judge and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.

So help me God!

**AFFIRMATION**

I, \_\_\_\_\_, do solemnly and sincerely affirm and declare that I will well and truly serve in the office of Liquor Licensing Court Judge and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will. ”.



**Miscellaneous amendments****34. The principal Act is amended as follows—**

<i>Provision or provisions amended</i>	<i>Amendment</i>
Sections 6(2), 161, 162, 163, 164A(1)(b), 164B, 165, 166(1), 166A.	Delete "Principal Receiver of Revenue" wherever it occurs, substitute "Director" in each case.
Section 7(1)	Delete "Court" in paragraph (a) of the definition "licensed premises", substitute "Director".
Section 7(1)	Delete "Court" in paragraph (b) of the definition of "bar", in paragraph (b) of the definition of "licensed premises", and in both places where it occurs in the definition of "provisional certificate", substitute "licensing authority" in each case.
Sections 7(3), 24(1) to (5), 24A, 26, 27(1)(b)(iv), 28, 29, 30, 35(4), 38A(2)(a), 38B, 49, 50(2), 51(5), 53, 55(3) and (4), 58A, 58B(4), 59, 59A, 60, 61, 62(1), (2) and (4), 63, 63A, 64, 65, 66, 67, 68, 69, 71, 71A, 72, 73, 73A(1), 73B(1), 75(2), 77(1), 78(2), 80(1), 81, 82, 84(1), 85(4), 87(2), 89, 91, 92, 94(1), 95, 96, 97(1) and (2)(c), 98(1), (2) and (3), 122, 126(1)(b), 132A, 149, 162(4), 163(6), 171, Third Schedule item 5(d)	Delete "Court" wherever it occurs, substitute "licensing authority" in each case.
Sections 23A(1) and (2), 51(4), 58(1) and (2), 58A(5), 176(4) and (5)	Delete "clerk", substitute "Director" in each case.
Sections 24(10) to (12), 25, 31, 33, 34, 35(2) to (2b), 35A, 36(3), 36A, 37(2), 39A, 40, 42, 43, 47, 50A, 51(3), (6) and (7), 54, 54A, 55(6), 58(3), 62(3) and (5), 70A(2)(c), 73A(2), 73B(2), 76, 83A, 88, 93, 94(3), 98(4), 99(3) and (5), 103, 105, 106, 107, 108, 112, 113, 114, 115, 116, 117, 118(2), 119(1), 120(1)(d), 121(1) and (2), 129(5), 159(4) and (5), 162(1b), 163(5), 166B, 176, 177(2a)	Delete "Court" wherever it occurs, substitute "Director" in each case.

<i>Provision or provisions amended</i>	<i>Amendment</i>
Sections 30(2), 58A(6), 63(1) and (5)(a), 64(1), 65(1), 67, 68(1), 69(1), 71(1), 71A, 91	Delete "it is satisfied", substitute "the licensing authority is satisfied" in each case.
Sections 30(3)(a), 62(1) and (2), 63(3), 63A, 73A(1), 81(2), 82, 92	Delete "it thinks", substitute "the licensing authority thinks" in each case.
Sections 33(4), 35A(2), 36A(4), 37(2), 40(1)	Delete "it is satisfied", substitute "the Director is satisfied" in each case.
Sections 34 (2), 39A (3), 73A (2), 107 (2), 114 (1), 159 (4)	Delete "it thinks", substitute "the Director thinks" in each case.
Sections 35A (3), 54 (4), 73B (2)	Delete "its own", substitute "the Director's own" in each case.
Sections 35A (5), 83A (2)	Delete "it has given", substitute "the Director has given" in each case.
Sections 39A (1a), 163 (6)	Delete "to it", substitute "to the Director" in each case.
Section 49 (1)	Delete "it shall not", substitute "the licensing authority shall not".
Section 50 (1)	Delete "to the Court".
Sections 50A (1) and (2), 51 (1), (2) and (5), 52, 54 (3), 55 (3), 58A (1) and (2), 58B (3), 69 (4) (e), 76 (3), 83, 85 (2) (a) and (3), 86 (1), 88 (4) (a), 99 (4), 125 (3), 170 (1), (2a) and (3)	Delete "principal clerk", substitute "Director" in each case.
Sections 51 (2) (a), 99 (4)	Delete " , at Perth,".
Section 52 (b)	Delete "office of the clerk", substitute "licensing office".
Section 54 (3)	Delete "at Perth or from the clerk", substitute "or from the licensing office".
Section 55 (5)	Delete "Court" in the first and third places where it occurs, substitute "licensing authority" in each case.
Section 55 (5)	Delete "Court" in the second place where it occurs, substitute "Director".
Section 58 (1)	Delete "clerk", substitute "Director or the licensing office nearest to the place where the permit is to operate".
Section 58 (1)	Delete the comma after "Force".
Sections 61 (2), 97 (1) and (3)	Delete "it shall", substitute "the licensing authority shall" in each case.

<i>Provision or provisions amended</i>	<i>Amendment</i>
Section 61 (3)	Delete "its discretion", substitute "the licensing authority's discretion,".
Section 61 (3) (b)	Delete "it finds", substitute "the licensing authority finds".
Section 63 (5) (c)	Delete "it has afforded", substitute "the licensing authority has afforded".
Section 65	Delete "Court" where it last occurs, substitute "licensing authority".
Section 70A (1)	Delete "and may", substitute "and the Director may".
Section 74 (2)	Delete "clerk at the place where it is issued", substitute "Director".
Section 81 (1) (b)	Delete "before it", substitute "before the licensing authority".
Section 81 (2)	Delete "its opinion", substitute "the opinion of the licensing authority".
Sections 82, 96 (4)	Delete "on it", substitute "on the licensing authority" in each case.
Section 83	Delete "principal clerk's knowledge", substitute "Director's knowledge".
Sections 83A (1), 98 (3), 114 (1)	Delete "it may", substitute "the Director may" in each case.
Section 84 (1)	Delete "to it", substitute "to the licensing authority".
Section 85 (2) (a)	Delete ", at Perth".
Section 87 (2)	Delete "its finding", substitute "the finding of the licensing authority".
Section 91	Delete "it is required", substitute "the licensing authority is required".
Section 92	Delete "its requirements", substitute "the Director's requirements".
Section 96 (1)	Delete "it considers", substitute "the licensing authority considers".
Section 96 (2)	Delete "its requirements", substitute "the requirements of the licensing authority".
Section 96 (3)	Delete "it may", substitute "the licensing authority may".

<i>Provision or provisions amended</i>	<i>Amendment</i>
Section 97 (3)	Delete "Court" in the first, second and last places where it occurs, substitute "licensing authority" in each case.
Section 97 (3)	Delete "notify it", substitute "notify the licensing authority".
Section 99(3)	Delete "its decision", substitute "the decision of the Director".
Section 99(4)	Delete "Court or with any such objection as varied by the Court", substitute "Director or with any such direction as varied by the Director".
Sections 106 (1), 107 (1)	Delete "it shall", substitute "the Director shall" in each case.
Section 112(1)	Delete "its sole discretion", substitute "the sole discretion of the Director".
Section 112(2)(c)	Delete "inform itself", substitute "obtain information".
Sections 112(2)(c), 114(2)	Delete "its opinion", substitute "the Director's opinion" in each case.
Section 113(3)	Delete "where it is", substitute "where the Director is".
Section 121(4)	Delete "a member of the Court", substitute "the Court".
Section 125(1)	Delete "its approval", substitute "the approval of the licensing authority".
Section 159(7)	Delete "the Court may direct the Principal Receiver of Revenue to", substitute "the Director may".
Section 166(2)	Delete "Court" in the second place where it occurs, substitute "Director".
Section 166B	Delete "it may direct the Principal Receiver of Revenue to", substitute "the Director may".
Section 166B	Delete "as it", substitute "as the Director".
Section 170(1)	Delete ", in such form as the Court may require,".

**PART III—SAVING AND TRANSITIONAL PROVISIONS****Definitions****35. In this Part—**

“amended provisions” means the principal Act as amended by this Act;

“appointed day” means the day on which section 5 comes into operation;

“licensing authority” has the same meaning as in the amended provisions.

**Completion of proceedings**

**36.** Where proceedings for the determination of a matter by the Licensing Court of Western Australia were initiated by application or otherwise under the principal Act and, as at the appointed day, the matter had not been determined the determination may be continued and completed under the amended provisions by the licensing authority.

**Licences, permits, approvals etc. to continue**

**37.** (1) Any licence, provisional certificate, permit, approval or other thing issued, given or done by the Licensing Court of Western Australia under the principal Act and having effect immediately before the appointed day continues to have effect under and subject to the amended provisions as if it had been issued, given or done by the licensing authority.

(2) Without limiting the generality of subsection (1) plans of licensed premises approved or deemed to have been approved by the Licensing Court of Western Australia and held by that court immediately before the appointed day are, subject to the amended provisions, deemed to be approved by the Director of Liquor Licensing.

(3) Any thing done by the principal clerk or any other clerk of the Licensing Court of Western Australia, or the Principal Receiver of Revenue, under the principal Act and having effect immediately before the appointed day continues to have effect under and subject to the amended provisions as if it had been done by the Director of Liquor Licensing.

**Appointments of supervisors  
and inspectors to continue**

38. An appointment made for the purposes of section 19 of the principal Act and having effect immediately before the appointed day continues to have effect as if made for the purposes of section 15 of the amended provisions.

**References**

39. (1) References in a written law other than the principal Act to the principal clerk or any other clerk of the Licensing Court of Western Australia, or to the Principal Receiver of Revenue, shall, if and to the extent that it is appropriate in the context so to do, be read and construed as references to the Director of Liquor Licensing.

(2) References in Order 64 of the Rules of the Supreme Court 1971 to the Licensing Court of Western Australia shall be read and construed as references to the Liquor Licensing Court.

(3) References in the *Liquor Licensing (Moratorium) Act 1983* or in an order made under section 5(1) of that Act to the Licensing Court of Western Australia shall, to the extent that it is appropriate in the context so to do, be read and construed as references to the licensing authority.

**PART IV—CONSEQUENTIAL AMENDMENT*****Constitution Acts Amendment Act 1899* amended**

40. The *Constitution Acts Amendment Act 1899\** is amended in Division 1 of Part I of Schedule V by deleting the item “Chairman or other member of the Licensing Court of Western Australia.” and substituting the following item—

“ Liquor Licensing Court Judge appointed under the *Liquor Act 1970.* ”.

[\*Reprinted as approved 26 June 1984 and amended by Acts Nos. 75 and 78 of 1984 and 10 of 1986.]