



Australian Capital Territory

# **Liquor Act 2010**

**A2010-35**

**Republication No 33**

**Effective: 6 June 2020 – 2 September 2020**

Republication date: 6 June 2020

Last amendment made by [A2019-43](#)

## About this republication

### The republished law

This is a republication of the *Liquor Act 2010* (including any amendment made under the [Legislation Act 2001](#), part 11.3 (Editorial changes)) as in force on 6 June 2020. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 6 June 2020.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

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- authorised republications to which the [Legislation Act 2001](#) applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The [Legislation Act 2001](#), part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see [Legislation Act 2001](#), s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the [Legislation Act 2001](#), section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see [Legislation Act 2001](#), s 133).



Australian Capital Territory

# Liquor Act 2010

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Australian Capital Territory

# Liquor Act 2010

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An Act relating to the supply of liquor

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## Part 1                      Preliminary

### Division 1.1              Introduction

#### 1                      Name of Act

This Act is the *Liquor Act 2010*.

#### 3                      Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1*    The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*identity card*—see the [Fair Trading \(Australian Consumer Law\) Act 1992](#), dictionary.’ means that the term ‘identity card’ is defined in that dictionary and the definition applies to this Act.

*Note 2*    A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

#### 4                      Notes

A note included in this Act is explanatory and is not part of this Act.

*Note*       See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

## **5 Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## **6 Application of Act—generally**

This Act does not apply to the following:

- (a) the administration, dispensing or sale of liquor for medicinal purposes—
  - (i) by or under the direction of a doctor; or
  - (ii) by a pharmacist;
- (b) the supply, possession, consumption or purchase of liquor that is authorised by a law in force in the Territory.

**Examples—par (b)**

1 [Defence Act 1903](#) (Cwlth), s 123A

2 [Army and Air Force \(Canteen\) Regulation 2016](#) (Cwlth), s 34

## **7 Application of Act—sale of liquor**

- (1) The provisions of this Act relating to the sale of liquor do not apply to the following:
  - (a) the duty-free sale of liquor;
  - (b) the sale of liquor for someone else by an auctioneer, by auction, in the ordinary course of the auctioneer's business;

- (c) the sale by, or on behalf of, the Commonwealth or the Territory of liquor seized under a law in force in the ACT.

- (2) In this section:

***duty-free sale*** means a sale for which is given permission under the [\*Customs Act 1901\*](#) (Cwlth), section 96A (2).

## **8 Application of Act—sale of liquor at universities**

- (1) The provisions of this Act relating to the sale of liquor do not apply to the sale of liquor in an exempt university building.

- (2) A person commits an offence if—

- (a) the person sells liquor; and
- (b) the sale happens in an exempt university building; and
- (c) the sale is in contravention of a statute of the university.

Maximum penalty: 10 penalty units.

- (3) A person commits an offence if—

- (a) the person purchases liquor; and
- (b) the purchase happens in an exempt university building; and
- (c) the purchase is in contravention of a statute of the university.

Maximum penalty: 10 penalty units.

- (4) In this section:

***exempt university building*** means a building—

- (a) that is occupied by—
  - (i) a university; or
  - (ii) a residential college affiliated with a university under a statute of the university; and

- (b) in which the sale of liquor is authorised by a statute of the university.

*university* means the—

- (a) Australian National University; or
- (b) University of Canberra.

## **8A Application of Act—supply of liquor by exempt business**

- (1) The provisions of this Act relating to the supply of liquor do not apply if—
  - (a) the supply is in the course of conducting an exempt business; and
  - (b) the liquor is not supplied to a child or young person.

- (2) In this section:

*exempt business* means any of the following:

- (a) a business providing traveller accommodation that, in an accommodation unit operated by the business, supplies liquor to a member of the travelling public;

### **Examples—supply of liquor in accommodation unit**

- minibar
  - room service
- (b) a florist or gift maker business that packages liquor together with flowers, food or other gifts where the liquor supplied with each package—
  - (i) does not exceed 1.5L; and
  - (ii) has a value not exceeding half the sale price of the package;
- (c) a hairdressing or barber business that supplies liquor without charge for consumption at the business' premises where the supply is ancillary to the business' services;

- (d) any of the following if the supply of liquor does not exceed 2 standard drinks per person per day:
  - (i) a hospital;
  - (ii) a home or residential care service provider;
  - (iii) a retirement village;
  - (iv) a hospice;
- (e) a limousine or tour business if—
  - (i) the business provides services to no more than 12 adults;  
and
  - (ii) the supply does not exceed 2 standard drinks per person;  
and
  - (iii) the supply is ancillary to the business' services and without charge.

***traveller accommodation***—see the *Civil Law (Wrongs) Act 2002*, section 145.

## **Division 1.2                      Objects and principles**

### **9                      Object of Act**

The object of this Act is to regulate the sale, supply, promotion and consumption of liquor—

- (a) to minimise the harm associated with the consumption of liquor; and
- (b) to facilitate the responsible development of the liquor and hospitality industries in a way that takes into account community safety; and
- (c) in a way that encourages and supports liquor consumers to take responsibility for—
  - (i) their consumption of liquor; and
  - (ii) their behaviour if it is affected by the consumption of liquor.

### **10                      Harm minimisation and community safety principles**

In making a decision under this Act, a decision-maker must have regard to the following principles (the ***harm minimisation and community safety principles***):

- (a) responsible attitudes and practices towards the sale, supply, promotion and consumption of liquor should be encouraged;
- (b) community safety should not be jeopardised, particularly in relation to events involving large numbers of people;

- (c) the liquor industry should be regulated in a way that minimises harm caused by alcohol abuse, including—
  - (i) adverse effects on health; and
  - (ii) personal injury; and
  - (iii) property damage; and
  - (iv) violent or anti-social behaviour;
- (d) the sale of liquor should be regulated in a way that contributes to the responsible development of the liquor, tourism and hospitality industries;
- (e) community amenity, social harmony and wellbeing should be protected and enhanced through the responsible sale, supply, promotion and consumption of liquor;
- (f) the safety, health and welfare of people using licensed premises and permitted premises should not be put at risk;
- (g) noise from licensed premises and permitted premises should not be excessive;
- (h) licensed premises and permitted premises should not be located where they would be likely to cause undue disturbance, inconvenience or offence to people—
  - (i) lawfully at adjacent or nearby premises; or
  - (ii) because of the premises' proximity to a place of public worship, a hospital or a school;
- (i) licences and permits should only be issued to people who comply with ACT law, and are likely to continue to comply with ACT law;



- (j) licences and permits should only be issued for premises that comply with ACT law, and are likely to continue to comply with ACT law.

**Examples—decisions**

- 1 a decision to issue a licence under s 27
- 2 a decision to issue a permit under s 51

## **Division 1.3                      Important concepts**

### **11                      What is *liquor*?**

In this Act:

*liquor*—

- (a) means a substance that—
  - (i) is capable of being ingested; and
  - (ii) contains more than 1.15% by volume of ethanol; and
- (b) includes a substance prescribed by regulation; and
- (c) does not include a substance prescribed by regulation not to be liquor.

### **12                      Offence—sell liquor without licence or permit**

- (1) A person commits an offence if the person—
  - (a) sells liquor to someone else; and
  - (b) does not hold a licence or permit authorising the sale.

Maximum penalty: 100 penalty units, 12 months imprisonment or both.

- (2) This section does not apply if the sale happens at a private event at which not more than 30 people are present.

*Note*        The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

**13      Offence—fail to comply with condition of licence or permit**

- (1) A licensee commits an offence if—
- (a) the licence is subject to a condition; and
  - (b) the licensee fails to comply with the condition.

Maximum penalty: 50 penalty units.

- (2) A permit-holder commits an offence if—
- (a) the permit is subject to a condition; and
  - (b) the permit-holder fails to comply with the condition.

Maximum penalty: 50 penalty units.

**14      Who is a *close associate*?**

- (1) In this Act:

***close associate***—a person is a ***close associate*** of someone (the ***related person***) if—

- (a) the person holds or will hold an executive position (however described) in the related person's business; or
- (b) the commissioner is satisfied that the person is or will be able to exercise a significant influence in relation to the conduct of the related person's business because the person holds or will hold a financial interest, or is entitled to exercise a relevant power, in the business.

- (2) In this section:

***business*** includes—

- (a) a business not carried on for profit; and
- (b) a trade or profession.

***executive position***—a position (however described) in the related person's business is an ***executive position*** if the holder of the position is concerned with, or takes part in, the management of the business.

***exercise*** a power includes exercise the power on behalf of someone else.

***financial interest***, in a business, means—

- (a) a share in the capital of the business; or
- (b) an entitlement to receive income derived from the business, however the entitlement arises.

***hold*** a position includes hold the position on behalf of someone else.

***power*** means a power exercisable—

- (a) by voting or otherwise; and
- (b) alone or with others.

***relevant power***, in a business, means a power—

- (a) to take part in a directorial, managerial or executive decision for the business; or
- (b) to elect or appoint a person as an executive officer in the business.

## **15 Who is an *influential person* for a corporation?**

- (1) In this Act:

***influential person***, for a corporation, means any of the following:

- (a) an executive officer of the corporation;
- (b) a person who may exercise a relevant power in relation to the corporation;
- (c) a related corporation;
- (d) an executive officer of a related corporation.

(2) In this section:

***related corporation*** means a related body corporate under the [Corporations Act](#).

***relevant power***, for a corporation, means a power—

- (a) to take part in a directorial, managerial or executive decision for the corporation; or
- (b) to elect or appoint a person as an executive officer in the corporation; or
- (c) to exercise a significant influence in relation to the conduct of the corporation.

## **Part 2                      Liquor licences**

### **Division 2.1              Classes of licences**

#### **16              What is a *licence*?**

In this Act:

*licence* means—

- (a) a general licence; or
- (b) an on licence; or
- (c) an off licence; or
- (d) a club licence; or
- (e) a catering licence; or
- (f) a special licence.

#### **17              What is a *general licence*?**

In this Act:

*general licence* means a licence that authorises the licensee to sell liquor—

- (a) at a single licensed premises; and
- (b) in—
  - (i) open containers for consumption at the premises; or
  - (ii) sealed containers for consumption off the premises; and
- (c) at the licensed times.

*Note*      A licence may have different licensed times for the sale of liquor for consumption at the premises and the sale of liquor for consumption off the premises.

**18            What is an *on licence*?**

In this Act:

***on licence*** means a licence that authorises the licensee to sell liquor—

- (a) at a single licensed premises; and
- (b) in open containers for consumption at the premises; and
- (c) at the licensed times.

**Examples—on licences**

- 1 bar licence
- 2 nightclub licence
- 3 restaurant and cafe licence

**19            What is an *off licence*?**

In this Act:

***off licence*** means a licence that authorises the licensee to sell liquor—

- (a) at a single licensed premises; and
- (b) in sealed containers for consumption off the premises; and
- (c) at the licensed times.

**20            What is a *club licence*?**

In this Act:

***club licence*** means a licence that authorises a club to sell liquor—

- (a) in stated parts of a single licensed premises; and
- (b) in—
  - (i) open containers for consumption at the premises; or
  - (ii) sealed containers for consumption off the premises; and
- (c) at the licensed times; and

- (d) to an adult—
  - (i) who is a member of the club; or
  - (ii) who is at the licensed premises as a temporary member of the club under the *Gaming Machine Act 2004*; or
  - (iii) who is—
    - (A) at the licensed premises at the invitation of an adult member of the club who is also at the premises; and
    - (B) authorised by the club to be at the premises.

## **20A What is a *catering licence*?**

- (1) In this Act:

***catering licence*** means a licence that authorises the licensee to sell liquor—

- (a) in the course of conducting a catering business; and
- (b) in open containers for consumption at premises where the business is being conducted; and
- (c) at the licensed times; and
- (d) where the predominant activity at the licensed times is the serving of food for consumption at the premises.

- (2) In this section:

***catering business*** means a food business providing a food catering service.

***food business*** means a food business under the *Food Act 2001*, whether or not the business is required to be registered under that Act.

**21                      What is a *special licence*?**

In this Act:

*special licence* means a licence that authorises the licensee to sell liquor—

- (a) at a single licensed premises; and
- (b) at the licensed times.

**Division 2.2                      On licences—subclasses**

**22                      What is a *bar licence*?**

- (1) In this Act:

*bar licence* means an on licence for premises that are a bar.

- (2) In this section:

*bar*—

- (a) means premises where the predominant activity at the licensed times is the serving of liquor for consumption at the premises; and
- (b) includes premises prescribed by regulation to be a bar.

**Examples**

- 1 a pub
- 2 a tavern

**23                      What is a *nightclub licence*?**

- (1) In this Act:

*nightclub licence* means an on licence for premises that are a nightclub.



- (2) In this section:

***nightclub***—

- (a) means premises where the predominant activity at the licensed times is dancing and entertainment; and
- (b) includes premises prescribed by regulation to be a nightclub.

## **24 What is a *restaurant and cafe licence*?**

- (1) In this Act:

***restaurant and cafe licence*** means an on licence for premises that are a restaurant or cafe.

- (2) In this section:

***restaurant or cafe***—

- (a) means premises where the predominant activity at the licensed times is the serving of meals for consumption on the premises; and
- (b) includes premises prescribed by regulation to be a restaurant or cafe.

## **Division 2.3 Licences—application and decision**

### **25 Licence—application**

- (1) A person (a ***proposed licensee***) may apply to the commissioner for a stated licence for stated premises.
- (2) The application must—
  - (a) be in writing; and
  - (b) state the class of licence applied for and, for an on licence, the subclass of licence applied for; and

- (c) include complete details of suitability information about—
  - (i) the proposed licensee; and
  - (ii) each close associate of the proposed licensee; and
  - (iii) if the proposed licensee is a corporation—each influential person for the proposed licensee; and
  - (iv) if someone other than the proposed licensee is to have day-to-day control of the business operated under the licence—each person who is to have day-to-day control; and
  - (v) for a licence other than a catering licence—the proposed licensed premises; and

*Note*     **Suitability information**, about a person—see s 69.  
             **Suitability information**, about premises—see s 78.

- (d) include a police certificate for each of the following people, dated not earlier than 3 months before the date of the application:
  - (i) the proposed licensee;
  - (ii) each close associate of the proposed licensee;
  - (iii) each influential person for the proposed licensee;
  - (iv) if someone other than the proposed licensee is to have day-to-day control of the business operated under the licence—each person who is to have day-to-day control; and
- (e) for a licence other than a catering licence—include evidence that the operation of the business at the premises under the proposed licence complies with—
  - (i) the lease where the premises are located; and
  - (ii) the [territory plan](#); and

(f) include—

- (i) the final floor plans of the premises approved by the planning and land authority in the development approval for the premises; and
- (ii) a certificate of occupancy for the premises; and
- (g) for an application prescribed by regulation—include a risk-assessment management plan for the premises.

*Note 1* A general licence, on licence, club licence or special licence may authorise the sale of liquor in open containers for consumption at the licensed premises—see div 2.1.

*Note 2* ***Risk-assessment management plan***, for licensed premises or permitted premises—see s 88.

*Note 3* Giving false or misleading information is an offence against the [Criminal Code](#), s 338.

*Note 4* If a form is approved under s 228 for this provision, the form must be used.

*Note 5* A fee may be determined under s 227 for this provision.

## **26 Licence—public consultation**

A proposed licensee must comply with the public consultation provisions in division 2.4 (Licences—public consultation).

## **27 Licence—decision on application**

- (1) This section applies if the commissioner receives an application for a licence under section 25.
- (2) The commissioner must issue the licence to the proposed licensee only if satisfied that—
  - (a) if the proposed licensee is an individual—the proposed licensee is an adult; and

- (b) each of the following people is a suitable person to hold the licence:
  - (i) the proposed licensee;
  - (ii) each close associate of the proposed licensee;
  - (iii) if the proposed licensee is a corporation—each influential person for the proposed licensee;
  - (iv) if someone other than the proposed licensee is to have day-to-day control of the business operated under the licence—each person who is to have day-to-day control; and
- (c) if the commissioner requires the proposed licensee to give information about another person under section 71 (2) (c)—the information does not affect the proposed licensee’s suitability to hold the licence; and
- (d) for a licence other than a catering licence—the proposed licensed premises are suitable premises for the licence; and
- (e) the proposed licensee complies, and is likely to continue to comply, with the requirements of this Act; and
- (f) for a licence other than a catering licence—the proposed licensed premises comply with the requirements of this Act.

*Note 1* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

*Note 2* **Suitable person**, to hold a licence or permit—see s 67.  
**Suitable premises**, for a licence or permit—see s 75.

*Note 3* In making this decision, the commissioner must have regard to the harm minimisation and community safety principles (see s 10).

*Note 4* A decision under this subsection is a reviewable decision (see s 220).

- (3) The commissioner must, not later than the required time—
- (a) decide the application; and
  - (b) tell the proposed licensee about the decision on the application.

- (4) In this section:

*required time* means the latest of the following:

- (a) if the commissioner receives a representation about a person or premises under section 35 (Licence—representations)—90 days after the commissioner receives the representation;
- (b) if the commissioner requires the proposed licensee to provide a police certificate or other information under section 71 (Commissioner may require police certificate or information for person etc)—90 days after the day the commissioner receives the certificate or information;
- (c) if the commissioner requires the proposed licensee to provide a certificate, plan or other information under section 79 (Commissioner may require plan etc for premises)—90 days after the day the commissioner receives the certificate, plan or information;
- (d) if the commissioner asks the proposed licensee to allow the commissioner to inspect the premises under section 80 (Commissioner may require inspection of premises)—90 days after the day the commissioner inspects the premises;
- (e) 90 days after the day the commissioner receives the application.

*Note* Failure to issue a licence within the required time is taken to be a decision not to issue the licence (see [ACT Civil and Administrative Tribunal Act 2008](#), s 12).

## 28                      Licence—occupancy loading

- (1) This section applies if the commissioner decides to issue a licence that authorises the licensee to sell liquor in open containers for consumption at the licensed premises.

*Note*                      A general licence, on licence, club licence or special licence may authorise the sale of liquor in open containers for consumption at the licensed premises—see div 2.1.

- (2) The commissioner must also decide the occupancy loading for each public area at the proposed licensed premises.

*Note*                      **Occupancy loading**, for a public area at licensed premises or permitted premises—see s 83.

## 29                      Licence—adults-only areas

- (1) This section applies if the commissioner decides to issue a licence that authorises the licensee to sell liquor in open containers for consumption at the licensed premises.

*Note*                      A general licence, on licence, club licence or special licence may authorise the sale of liquor in open containers for consumption at the licensed premises—see div 2.1.

- (2) The commissioner must also decide the adults-only areas (if any) for the licensed premises.

*Note 1*                      **Adults-only area**, for licensed premises or permitted premises—see s 93.

*Note 2*                      If the commissioner decides that licensed premises are to include an adults-only area, the commissioner may decide when the area is to be used as an adults-only area (see s 94 (3)).

### **30        Licence—form**

- (1) A licence must—
  - (a) be in writing; and
  - (b) include the following information:
    - (i) the class of the licence and, for an on licence, the subclass of licence;
    - (ii) the name of the licensee;
    - (iii) if the licensee carries on business under a name other than the licensee's name—the name under which the licensee carries on business;
    - (iv) for a licence other than a catering licence—the address of the licensed premises;
    - (v) the licensed times when—
      - (A) for a licence other than a catering licence—liquor to be consumed at the licensed premises may be sold (if any); and
      - (B) for a licence other than a catering licence—liquor to be consumed off the licensed premises may be sold (if any); and
      - (C) for a catering licence—liquor to be consumed at the premises where the catering business is being conducted may be sold;
    - (vi) the conditions on the licence;
    - (vii) anything else prescribed by regulation.
- (2) A licence may include anything else the commissioner considers relevant.

## **31 Licence—conditions**

- (1) A licence is subject to the condition that—
- (a) the licensee must comply with this Act; and
  - (b) the licensed premises must comply with this Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (2) A licence is also subject to any other condition—
- (a) prescribed by regulation; or
  - (b) imposed by the commissioner when the licence is issued, renewed or amended.

*Note* Licences may be amended under s 37, s 38 or s 39.

- (3) Without limiting subsection (2) (b), the commissioner may impose 1 or more of the following conditions on a licence:
- (a) that stated inspection requirements must be complied with;
  - (b) that stated reporting requirements must be complied with;
  - (c) that stated records must be kept;
  - (d) that security guards or additional security guards must be engaged generally or for stated events;
  - (e) that staff and security guards must be trained to a required level of competency;
  - (f) that people must not be allowed to enter the licensed premises after a stated time;
  - (g) for an on licence—that liquor must not be served in glass after midnight;
  - (h) for an on licence—that shots of liquor must not be served after midnight;



- (i) that security cameras must be fitted on the licensed premises or on other land under the control of the licensee in the vicinity of the licensed premises;
  - (j) that stated requirements about security cameras must be complied with.
- (4) A regulation may prescribe requirements in relation to a security camera mentioned in subsection (3) (i) and (j).

## **32 Licence—term**

- (1) A licence comes into force on the day it is issued.
- (2) A licence issued on or after the commencement day continues in force until it is cancelled or surrendered.
- (3) A licence issued before the commencement day expires on the day prescribed by regulation.
- (4) However, the commissioner may decide on reasonable grounds that a licence mentioned in subsection (3) expires on an earlier day.
- (5) If the commissioner makes a decision under subsection (4) for a class or subclass of licence, the decision is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

- (6) In this section:

***commencement day*** means the day the [Liquor Amendment Act 2017](#), section 22 commences.

## Division 2.4                      Licences—notification and public consultation

### 33                      Application and definition—div 2.4

- (1) This division applies to the following applications:
- (a) an application under section 25 (Licence—application) for a licence;
  - (b) an application under section 38 (Licence—amendment on application by licensee)—
    - (i) to amend a licence from 1 subclass of on licence to another subclass of on licence; or
    - (ii) to increase the occupancy loading for a public area at the licensed premises; or
    - (iii) to increase the licensed times for the sale of liquor at the licensed premises.
- (2) In this division:
- relevant premises*** means—
- (a) for an application mentioned in subsection (1) (a)—the proposed licensed premises; and
  - (b) for an application mentioned in subsection (1) (b)—the licensed premises.

### 33A                      Licence—notice of application to certain entities

- (1) The commissioner must give written notice of an application to the following:
- (a) the chief health officer;
  - (b) the chief police officer;

- (c) the director-general of the administrative unit responsible for the *Children and Young People Act 2008*;
  - (d) the director-general of the administrative unit responsible for the *Education Act 2004*;
  - (e) the director-general of the administrative unit responsible for the *Environment Protection Act 1997*;
  - (f) the director-general of the administrative unit responsible for the *Litter Act 2004*;
  - (g) the director-general of the administrative unit responsible for the *Road Transport (Public Passenger Services) Act 2001*;
  - (h) any other person prescribed by regulation.
- (2) If a place (an ***adjoining place***) other than unleased land adjoins the relevant premises, the commissioner must also give the notice to the registered proprietor of the lease of the adjoining place.

*Note* For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (3) The notice must comply with the requirements prescribed by regulation.
- (4) The commissioner is taken to have given notice to the registered proprietor of a lease that is a lease of a unit identified in a units plan if the notice is given to the owners corporation for the units plan.
- (5) In this section:

***adjoins***—a place ***adjoins*** relevant premises if the place touches the premises, or is separated from the premises only by a road, reserve, river, watercourse or similar division.

***lease***, of a unit—see the [Unit Titles Act 2001](#), dictionary.

***registered proprietor***, in relation to a lease, means the person who is registered under the [Land Titles Act 1925](#) as proprietor of the lease.

***units plan***—see the [Unit Titles Act 2001](#), dictionary.

### 33B Commissioner may ask for information from commissioner for revenue

- (1) This section applies if—
  - (a) the commissioner is required to give notice of an application to the registered proprietor of a lease under section 33A; and
  - (b) the registered proprietor is uncontactable or the commissioner reasonably believes the registered proprietor is uncontactable.
- (2) The commissioner may, in writing, ask the commissioner for revenue for either of the following:
  - (a) the person's name;
  - (b) the person's home address or other contact address.
- (3) The commissioner for revenue must disclose the information required in a request made in accordance with subsection (2).
- (4) In this section:

**uncontactable**—a registered proprietor is **uncontactable** if the commissioner does not have, or only has incomplete or outdated information about, either of the following:

  - (a) the registered proprietor's name;
  - (b) a home address or other contact address for the registered proprietor.

### 34 Licence—public notification of application

- (1) The applicant must—
  - (a) display a sign about the application at the relevant premises; and
  - (b) give public notice about the application.

*Note* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

- (2) A sign and notice must—
  - (a) state the class of licence applied for and, for an on licence, the subclass of licence applied for; and
  - (b) comply with the requirements prescribed by regulation.
- (3) A person commits an offence if the person—
  - (a) is an applicant; and
  - (b) fails to—
    - (i) display a sign in accordance with this section; or
    - (ii) publish a notice in accordance with this section.

Maximum penalty: 5 penalty units.

- (4) An offence against this section is a strict liability offence.

### **35 Licence—representations**

- (1) If an applicant displays a sign or publishes a notice under section 34, anyone may give a written representation to the commissioner about how—
  - (a) 1 or more of the following people is not a suitable person to hold the licence:
    - (i) the applicant;
    - (ii) a close associate of the applicant;
    - (iii) if the applicant is a corporation—an influential person for the applicant;
    - (iv) if someone other than the applicant is to have day-to-day control of the business operated under the licence—a person who is to have day-to-day control; or

(b) the relevant premises are not suitable premises for the licence.

*Note* **Suitable person**, to hold a licence or permit—see s 67.  
**Suitable premises**, for a licence or permit—see s 75.

(2) A representation about an application may be given to the commissioner only during the public consultation period for the application.

*Note* **Public consultation period**, for an application—see s 36.

(3) A person who gives the commissioner a representation about an application may, in writing, withdraw the representation at any time before the application is decided.

*Note* In deciding whether a person or premises are suitable for a licence, the commissioner must consider public consultation representations received under this section (see s 68 and s 76).

### **36 What is the *public consultation period*?—div 2.4**

(1) In this division:

***public consultation period***, for an application, means—

- (a) the period prescribed by regulation; or
- (b) if the period prescribed is extended under subsection (2)—the prescribed period as extended.

(2) The commissioner may give public notice to extend the public consultation period for an application.

*Note 1* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1).

*Note 2* The commissioner may extend the public consultation period after it has ended (see [Legislation Act](#), s 151C).

(3) If the commissioner extends the public consultation period under subsection (2), the commissioner must give the applicant written notice of the extension.

## **Division 2.5                      Licences—amendment, transfer, renewal, etc**

### **37                      Licence—amendment initiated by commissioner**

- (1) The commissioner may, by written notice (an *amendment notice*) given to a licensee, amend the licence if satisfied that—
- (a) each of the following people is a suitable person to hold the licence as amended:
    - (i) the licensee;
    - (ii) each close associate of the licensee;
    - (iii) if the licensee is a corporation—each influential person for the licensee;
    - (iv) if someone other than the licensee has, or is to have, day-to-day control of the business operated under the licence—each person who has, or is to have, day-to-day control; and
  - (b) if the commissioner requires the licensee to give information about another person under section 71 (2) (c)—the information does not affect the licensee’s suitability to hold the licence; and
  - (c) for a licence other than a catering licence—the licensed premises are suitable premises for the licence as amended.

*Note 1*    **Amend** includes amend, impose or remove a licence condition—see the dictionary.

*Note 2*    **Suitable person**, to hold a licence or permit—see s 67.  
**Suitable premises**, for a licence or permit—see s 75.

*Note 3*    In making this decision, the commissioner must have regard to the harm minimisation and community safety principles (see s 10).

- (2) However, the commissioner may amend the licence only if—
  - (a) the commissioner has given the licensee written notice (a *proposal notice*) of the proposed amendment; and
  - (b) the proposal notice states that written comments on the proposal may be made to the commissioner before the end of a stated period of at least 14 days after the day the proposal notice is given to the licensee; and
  - (c) after the end of the stated period, the commissioner has considered any comments made in accordance with the notice.
- (3) Subsection (2) does not apply if the licensee applied for, or agreed in writing to, the amendment.
- (4) The amendment takes effect on the day the amendment notice is given to the licensee or a later day stated in the notice.

### **38 Licence—amendment on application by licensee**

- (1) A licensee may apply to the commissioner to amend the licence.

*Note 1* If a form is approved under s 228 for an application, the form must be used.

*Note 2* A fee may be determined under s 227 for this provision.

- (2) A licensee must apply to the commissioner for amendment of the licence if someone else is to—
  - (a) become a close associate of the licensee; or
  - (b) if the licensee is a corporation—become an influential person for the licensee; or
  - (c) have day-to-day control of the business operated under the licence.



- (3) If a licensee applies to the commissioner to amend an on licence from 1 subclass to another, the licensee must comply with the public consultation provisions in division 2.4 (Licences—public consultation).

**Example—amendment from 1 subclass to another**

Restaurant and cafe licence to nightclub licence

- (4) The commissioner may amend the licence only if satisfied that—
- (a) each of the following people is a suitable person to hold the licence as amended:
    - (i) the licensee;
    - (ii) each close associate of the licensee;
    - (iii) if the licensee is a corporation—each influential person for the licensee;
    - (iv) if someone other than the proposed licensee has, or is to have, day-to-day control of the business operated under the licence—a person who has, or is to have, day-to-day control; and
  - (b) if the commissioner requires the licensee to give information about another person under section 71 (2) (c)—the information does not affect the licensee’s suitability to hold the licence; and
  - (c) for a licence other than a catering licence—the licensed premises are suitable premises for the licence as amended.

*Note 1* **Amend** includes amend, impose or remove a licence condition—see the dictionary.

*Note 2* **Suitable person**, to hold a licence or permit—see s 67.  
**Suitable premises**, for a licence or permit—see s 75.

*Note 3* In making this decision, the commissioner must have regard to the harm minimisation and community safety principles (see s 10).

*Note 4* A decision under this subsection is a reviewable decision (see s 220).

- (5) The commissioner must, not later than the required time—
- (a) decide the application for amendment; and
  - (b) tell the licensee about the decision on the application.

- (6) In this section:

*required time* means the latest of the following:

- (a) if the commissioner receives a representation about a person or premises under section 35 (Licence—representations)—90 days after the commissioner receives the representation;
- (b) if the commissioner requires the licensee to provide a police certificate or other information under section 71 (Commissioner may require police certificate or information for person etc)—30 days after the day the commissioner receives the certificate or information;
- (c) if the commissioner requires the licensee to provide a certificate, plan or other information under section 79 (Commissioner may require plan etc for premises)—30 days after the day the commissioner receives the certificate, plan or information;
- (d) if the commissioner asks the licensee to allow the commissioner to inspect the premises under section 80 (Commissioner may require inspection of premises)—30 days after the day the commissioner inspects the premises;
- (e) 30 days after the day the commissioner receives the application.

*Note* Failure to amend a licence within the required time is taken to be a decision not to amend the licence (see [ACT Civil and Administrative Tribunal Act 2008](#), s 12).

**39      Licence—amendment for change to floor plan of licensed premises**

- (1) A licensee must apply to the commissioner for amendment of the licence if the licensee intends to change the floor plan of the licensed premises.

*Note 1*    If a form is approved under s 228 for an application, the form must be used.

*Note 2*    A fee may be determined under s 227 for this provision.

- (2) The application must—

- (a) be in writing; and
- (b) include evidence that the operation of the business under the licence at the premises, as intended to be changed, complies with—
  - (i) the lease where the premises are located; and
  - (ii) the [territory plan](#); or
- (c) include—
  - (i) the final floor plans of the premises, as intended to be changed, approved by the planning and land authority in the development approval for the premises; and
  - (ii) if the licence is a general licence, an on licence (other than a restaurant and cafe licence that is not required to have an approved risk-assessment management plan), a club licence or a special licence—a risk-assessment management plan for the altered licensed premises.

- (3) The commissioner may amend the licence only if satisfied that the premises as intended to be changed are suitable premises for the licence.

*Note 1* **Amend** includes amend, impose or remove a licence condition—see the dictionary.

*Note 2* **Suitable premises**, for a licence or permit—see s 75.

*Note 3* A decision under this subsection is a reviewable decision (see s 220).

- (4) If the commissioner amends a general licence, on licence, club licence or special licence because of the intended changes to the floor plan, the commissioner must also decide—

- (a) the occupancy loading for each public area at the licensed premises as intended to be changed; and
- (b) the adults-only areas (if any) for the licensed premises as intended to be changed.

*Note 1* **Occupancy loading**, for a public area at licensed premises or permitted premises—see s 83.

*Note 2* **Adults-only area**, for licensed premises or permitted premises—see s 93.

- (5) The commissioner must, not later than the required time—

- (a) decide the application for amendment for alteration of licensed premises; and
- (b) tell the licensee about the decision on the application.

- (6) In this section:

**required time** means the latest of the following:

- (a) if the commissioner requires the licensee to provide a certificate, plan or other information under section 79 (Commissioner may require plan etc for premises)—30 days after the day the commissioner receives the certificate, plan or information;

- (b) if the commissioner asks the licensee to allow the commissioner to inspect the premises under section 80 (Commissioner may require inspection of premises)—30 days after the day the commissioner inspects the premises;
- (c) 30 days after the day the commissioner receives the application.

*Note* Failure to amend a licence within the required time is taken to be a decision not to amend the licence (see *ACT Civil and Administrative Tribunal Act 2008*, s 12).

#### **40 Licence—application to transfer licence**

- (1) A licensee may apply to the commissioner to transfer the licence to someone else (the *proposed new licensee*).
- (2) The application must—
  - (a) be in writing; and
  - (b) include complete details of suitability information about—
    - (i) the proposed new licensee; and
    - (ii) each close associate of the proposed new licensee; and
    - (iii) if the proposed new licensee is a corporation—each influential person for the proposed new licensee; and
    - (iv) if someone other than the proposed new licensee is to have day-to-day control of the business operated under the licence—each person who is to have day-to-day control; and
  - (c) include a police certificate for each of the following people, dated not earlier than 3 months before the date of the transfer application:
    - (i) the proposed new licensee;
    - (ii) each close associate of the proposed new licensee;

- (iii) if the proposed new licensee is a corporation—each influential person for the proposed new licensee;
- (iv) if someone other than the proposed new licensee is to have day-to-day control of the business operated under the licence—each person who is to have day-to-day control.

*Note 1* **Suitability information**, about a person—see s 69.

*Note 2* Giving false or misleading information is an offence against the [Criminal Code](#), s 338.

*Note 3* If a form is approved under s 228 for an application, the form must be used.

*Note 4* A fee may be determined under s 227 for this provision.

#### **41 Licence—decision on application to transfer licence**

- (1) This section applies if the commissioner receives an application to transfer a licence under section 40.
- (2) The commissioner must transfer the licence to the proposed new licensee only if satisfied that—
  - (a) each of the following people is a suitable person to hold the licence:
    - (i) the proposed new licensee;
    - (ii) each close associate of the proposed new licensee;
    - (iii) if the proposed new licensee is a corporation—each influential person for the proposed new licensee;
    - (iv) if someone other than the proposed new licensee is to have day-to-day control of the business operated under the licence—each person who is to have day-to-day control; and

- (b) if the commissioner requires the proposed new licensee to give information about another person under section 71 (2) (c)—the information does not affect the proposed new licensee's suitability to hold the licence; and
- (c) the proposed new licensee complies, and is likely to continue to comply, with the requirements of this Act.

*Note 1* **Suitable person**, to hold a licence or permit—see s 67.

*Note 2* In making this decision, the commissioner must have regard to the harm minimisation and community safety principles (see s 10).

*Note 3* A decision under this subsection is a reviewable decision (see s 220).

- (3) The commissioner must, not later than the required time—
  - (a) decide the application for transfer; and
  - (b) tell the licensee about the decision on the application.

- (4) In this section:

**required time** means the latest of the following:

- (a) if the commissioner requires the proposed new licensee to provide a police certificate or other information under section 71 (Commissioner may require police certificate or information for person etc)—30 days after the day the commissioner receives the certificate or information;
- (b) 30 days after the day the commissioner receives the application.

*Note* Failure to transfer a licence within the required time is taken to be a decision not to transfer the licence (see [ACT Civil and Administrative Tribunal Act 2008](#), s 12).

## **42 Licence—application for renewal**

- (1) The licensee of a licence issued before the commencement day may apply to the commissioner to renew the licence for a period not longer than the period prescribed by regulation.

- (2) The application must be—
  - (a) in writing; and
  - (b) received by the commissioner before the licence expires.
- (3) However, the commissioner may extend the time for making an application.

*Note 1* A licensee may apply to the commissioner for the time to be extended, and the commissioner may extend the time, even though the time has ended (see [Legislation Act](#), s 151C).

*Note 2* If a form is approved under s 228 for an application, the form must be used.

*Note 3* A fee may be determined under s 227 for this provision.

- (4) If a licensee applies to renew a licence under this section, the licence remains in force until the application is decided.
- (5) In this section:

***commencement day*** means the day the [Liquor Amendment Act 2017](#), section 31 commences.

#### **43 Licence—decision on application for renewal**

- (1) This section applies if the commissioner receives an application for renewal of a licence under section 42.
- (2) The commissioner must renew the licence only if satisfied that—
  - (a) each of the following people continues to be a suitable person to hold the licence:
    - (i) the licensee;
    - (ii) each close associate of the licensee;
    - (iii) if the licensee is a corporation—each influential person for the licensee;



- (iv) if someone other than the licensee has day-to-day control of the business operated under the licence—each person who has day-to-day control; and
- (b) if the commissioner requires the proposed licensee to give information about another person under section 71 (2) (c)—the information does not affect the proposed licensee’s suitability to continue to hold the licence; and
- (c) the licensed premises continue to be suitable premises for the licence.

*Note 1* **Suitable person**, to hold a licence or permit—see s 67.  
**Suitable premises**, for a licence or permit—see s 75.

*Note 2* In making this decision, the commissioner must have regard to the harm minimisation and community safety principles (see s 10).

*Note 3* A decision under this subsection is a reviewable decision (see s 220).

- (3) The commissioner must, not later than the required time—
  - (a) decide the application for renewal; and
  - (b) tell the licensee about the decision on the application.
- (4) In this section:

**required time** means the latest of the following:

- (a) if the commissioner requires the licensee to provide a police certificate or other information under section 71 (Commissioner may require police certificate or information for person etc)—30 days after the day the commissioner receives the certificate or information;
- (b) if the commissioner requires the licensee to provide a certificate, plan or other information under section 79 (Commissioner may require plan etc for premises)—30 days after the day the commissioner receives the certificate, plan or information;

- (c) if the commissioner asks the licensee to allow the commissioner to inspect the premises under section 80 (Commissioner may require inspection of premises)—30 days after the day the commissioner inspects the premises;
- (d) 30 days after the day the commissioner receives the application.

*Note* Failure to renew a licence within the required time is taken to be a decision not to renew the licence (see [ACT Civil and Administrative Tribunal Act 2008](#), s 12).

#### **44 Licence—replacing when lost, stolen or destroyed**

- (1) The commissioner may issue a replacement licence to a licensee if satisfied that the licensee's original licence has been lost, stolen or destroyed.
- (2) For subsection (1), the commissioner may require the licensee to give the commissioner a statement verifying that the original licence has been lost, stolen or destroyed.

*Note 1* A fee may be determined under s 227 for this provision.

*Note 2* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

#### **45 Licence—surrender**

- (1) A licensee may surrender the licence by giving written notice (a **surrender notice**) of the surrender to the commissioner.
- (2) The surrender notice must be accompanied by—
  - (a) the licence; or
  - (b) if the licence has been lost, stolen or destroyed—a statement verifying that the licence has been lost, stolen or destroyed.

*Note 1* If a form is approved under s 228 for this provision, the form must be used.

*Note 2* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

## **46 Offence—fail to return licence**

- (1) A person commits an offence if the person—
  - (a) ceases to be a licensee before the licence expires under section 32 (Licence—term); and
  - (b) fails to return the licence to the commissioner as soon as practicable, but not later than 21 days, after ceasing to be a licensee.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

## **46A Licence—immediate suspension for failure to pay fee**

- (1) This section applies if—
  - (a) the commissioner gives a licensee a written notice to pay a fee payable under this Act; and
  - (b) the licensee fails to pay the fee within 7 days after the day the notice is given.
- (2) The commissioner may give the licensee a written notice (the *immediate suspension notice*) suspending the licence.
- (3) The suspension takes effect when the immediate suspension notice is given to the licensee.
- (4) The suspension ends when the fee is paid.

*Note* A failure to pay a fee within 28 days after the day an immediate suspension notice is given is a ground to cancel a licence (see s 183 (3)).

## Part 3                      Liquor permits

### Division 3.1              Classes of permits

#### 47            What is a *permit*?

In this Act:

*permit* means—

- (a) a commercial permit; or
- (b) a non-commercial permit.

#### 48            What is a *commercial permit*?

In this Act:

*commercial permit* means a permit that authorises the permit-holder to sell liquor—

- (a) at a single permitted premises; and
- (b) of a retail value not exceeding the value stated in the permit; and
- (c) at the event stated in the permit; and
- (d) at the permitted times.

#### 49            What is a *non-commercial permit*?

In this Act:

*non-commercial permit* means a permit that authorises a non-profit organisation to sell liquor—

- (a) at a single permitted premises; and
- (b) of a retail value not exceeding the value stated in the permit; and
- (c) that is—
  - (i) in open containers for consumption at the premises; or

- (ii) in sealed containers for consumption off the premises; and
- (d) if the permit relates to an event—at the event stated in the permit; and
- (e) at the permitted times.

## **Division 3.2 Permits—application and decision**

### **50 Permit—application**

- (1) A person (a *proposed permit-holder*) may apply to the commissioner for a permit for stated premises.
  - (2) The application must—
    - (a) be in writing; and
    - (b) include complete details of suitability information about—
      - (i) the proposed permit-holder; and
      - (ii) each close associate of the proposed permit-holder; and
      - (iii) if the proposed permit-holder is a corporation—each influential person for the proposed permit-holder; and
      - (iv) the proposed permitted premises; and
- Note*     *Suitability information*, about a person—see s 69.  
             *Suitability information*, about premises—see s 78.
- (c) if the premises are wholly or partly enclosed, include evidence that the operation of the business at the premises under the proposed permit complies with—
    - (i) the lease where the premises are located; and
    - (ii) the [territory plan](#); and

- (d) if the premises are wholly or partly enclosed, include the following documents (if applicable in relation to the premises):
  - (i) the final floor plans of the premises approved by the planning and land authority in the development approval for the premises;
  - (ii) a certificate of occupancy for the premises; and
- (e) if the application is for a commercial permit—include a risk-assessment management plan for the premises.

*Note 1* Giving false or misleading information is an offence against the [Criminal Code](#), s 338.

*Note 2* If a form is approved under s 228 for this provision, the form must be used.

*Note 3* A fee may be determined under s 227 for this provision.

## **51 Permit—decision on application**

- (1) This section applies if the commissioner receives an application for a permit under section 50.
- (2) The commissioner must issue the permit to the proposed permit-holder only if satisfied that—
  - (a) if the proposed permit-holder is an individual—the proposed permit-holder is an adult; and
  - (b) each of the following people is a suitable person to hold the permit:
    - (i) the proposed permit-holder;
    - (ii) each close associate of the proposed permit-holder;
    - (iii) if the proposed permit-holder is a corporation—each influential person for the proposed permit-holder; and

- (c) if the commissioner requires the proposed permit-holder to give information about another person under section 71 (2) (c)—the information does not affect the proposed permit-holder's suitability to hold the permit; and
- (d) the proposed permitted premises are suitable premises for the permit; and
- (e) the proposed permit-holder complies, and is likely to continue to comply, with the requirements of this Act; and
- (f) the proposed permitted premises comply with the requirements of this Act.

*Note 1* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

*Note 2* **Suitable person**, to hold a licence or permit—see s 67.  
**Suitable premises**, for a licence or permit—see s 75.

*Note 3* In making this decision, the commissioner must have regard to the harm minimisation and community safety principles (see s 10).

*Note 4* A decision under this subsection is a reviewable decision (see s 220).

- (3) The commissioner must, not later than the required time—
  - (a) decide the application; and
  - (b) tell the proposed permit-holder about the decision on the application.

- (4) In this section:

**required time** means the latest of the following:

- (a) if the commissioner requires the proposed permit-holder to provide a police certificate or information under section 71 (Commissioner may require police certificate or information for person etc)—90 days after the day the commissioner receives the certificate or other information;

- (b) if the commissioner requires the proposed permit-holder to provide a certificate, plan or other information under section 79 (Commissioner may require plan etc for premises)—90 days after the day the commissioner receives the certificate, plan or information;
- (c) if the commissioner asks the proposed permit-holder to allow the commissioner to inspect the premises under section 80 (Commissioner may require inspection of premises)—90 days after the day the commissioner inspects the premises;
- (d) 90 days after the day the commissioner receives the application.

*Note* Failure to issue a permit within the required time is taken to be a decision not to issue the permit (see [ACT Civil and Administrative Tribunal Act 2008](#), s 12).

## **52 Permit—occupancy loading**

- (1) This section applies if the commissioner decides to issue a permit for premises that are wholly or partly enclosed.
- (2) The commissioner may also decide the occupancy loading for each public area in each enclosed part of the premises.

*Note* **Occupancy loading**, for a public area at licensed premises or permitted premises—see s 83.

## **53 Permit—adults-only areas**

- (1) This section applies if the commissioner decides to issue a permit for premises that are wholly or partly enclosed.
- (2) The commissioner must also decide the adults-only areas (if any) for the permitted premises.

*Note* **Adults-only areas**, for licensed premises or permitted premises—see s 93.



## **54 Permit—form**

- (1) A permit must—
  - (a) be in writing; and
  - (b) include the following information:
    - (i) the class of the permit;
    - (ii) the name of the permit-holder;
    - (iii) if the permit-holder carries on business under a name other than the permit-holder's name—the name under which the permit-holder carries on business;
    - (iv) the address or location of the permitted premises;
    - (v) the permitted times when—
      - (A) liquor to be consumed at the permitted premises may be sold (if any); and
      - (B) liquor to be consumed off the permitted premises may be sold (if any);
    - (vi) the conditions on the permit;
    - (vii) anything else prescribed by regulation.
- (2) A permit may include anything else the commissioner considers relevant.

## **55 Permit—conditions**

- (1) A permit is subject to the condition that—
  - (a) the permit-holder must comply with this Act; and
  - (b) the permitted premises must comply with this Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (2) A permit is subject to any other condition—
- (a) prescribed by regulation; or
  - (b) imposed by the commissioner when the permit is issued, renewed or amended.
- (3) Without limiting subsection (2) (b), the commissioner may impose 1 or more of the following conditions on a permit:
- (a) that stated inspection requirements must be complied with;
  - (b) that stated reporting requirements must be complied with;
  - (c) that stated records must be kept;
  - (d) that security guards or additional security guards must be engaged generally or for stated events;
  - (e) that staff and security guards must be trained to a required level of competency;
  - (f) that people must not be allowed to enter the permitted premises after a stated time;
  - (g) that any liquor guidelines made by the commissioner under section 223 must be complied with;
  - (h) that liquor must not be served in glass after midnight;
  - (i) that shots of liquor must not be served after midnight.

*Note* Permits may be amended under s 57 or 58.  
Non-commercial permits may be renewed under s 62.

## **56 Permit—term**

- (1) A permit comes into force on the day stated in the permit.
- (2) The commissioner must not issue a permit for longer than 1 year.
- (3) A permit expires on the day stated in the permit.

- (4) However, the commissioner may decide on reasonable grounds that a permit expires on another day.
- (5) If the commissioner makes a decision under subsection (4) for a class of permit, the decision is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

## Division 3.3 Permits—amendment, transfer, renewal, etc

### 57 Permit—amendment initiated by commissioner

- (1) The commissioner may, by written notice (an *amendment notice*) given to a permit-holder, amend the permit if satisfied that—
  - (a) each of the following people is a suitable person to hold the permit as amended:
    - (i) the permit-holder;
    - (ii) each close associate of the permit-holder;
    - (iii) if the permit-holder is a corporation—each influential person for the permit-holder; and
  - (b) if the commissioner requires the permit-holder to give information about another person under section 71 (2) (c)—the information does not affect the permit-holder's suitability to hold the permit; and
  - (c) the permitted premises are suitable premises for the permit as amended.

*Note 1* **Amend** includes amend, impose or remove a permit condition—see the dictionary.

*Note 2* **Suitable person**, to hold a licence or permit—see s 67.  
**Suitable premises**, for a licence or permit—see s 75.

*Note 3* In making this decision, the commissioner must have regard to the harm minimisation and community safety principles (see s 10).

- (2) However, the commissioner may amend the permit only if—
  - (a) the commissioner has given the permit-holder written notice (a *proposal notice*) of the proposed amendment; and
  - (b) the proposal notice states that written comments on the proposal may be made to the commissioner before the end of a stated period of at least 14 days after the day the proposal notice is given to the permit-holder; and
  - (c) after the end of the stated period, the commissioner has considered any comments made in accordance with the notice.
- (3) Subsection (2) does not apply if the permit-holder applied for, or agreed in writing to, the amendment.
- (4) The amendment takes effect on the day the amendment notice is given to the permit-holder or a later day stated in the notice.

## **58 Permit—amendment on application by permit-holder**

- (1) A permit-holder may apply to the commissioner to amend the permit.

*Note 1* If a form is approved under s 228 for an application, the form must be used.

*Note 2* A fee may be determined under s 227 for this provision.

- (2) A permit-holder must apply to the commissioner for amendment of the permit if someone else is to become—
  - (a) a close associate of the permit-holder; or
  - (b) if the permit-holder is a corporation—an influential person for the permit-holder.
- (3) The commissioner may amend the permit only if satisfied that—
  - (a) each of the following people is a suitable person to hold the permit as amended:
    - (i) the permit-holder;

- (ii) each close associate of the permit-holder;
- (iii) if the permit-holder is a corporation—each influential person for the permit-holder; and
- (b) if the commissioner requires the permit-holder to give information about another person under section 71 (2) (c)—the information does not affect the permit-holder's suitability to hold the permit; and
- (c) the permitted premises are suitable premises for the permit as amended.

*Note 1* **Amend** includes amend, impose or remove a permit condition—see the dictionary.

*Note 2* **Suitable person**, to hold a licence or permit—see s 67.  
**Suitable premises**, for a licence or permit—see s 75.

*Note 3* In making this decision, the commissioner must have regard to the harm minimisation and community safety principles (see s 10).

*Note 4* A decision under this subsection is a reviewable decision (see s 220).

- (4) The commissioner must, not later than the required time—
  - (a) decide the application for amendment; and
  - (b) tell the permit-holder about the decision on the application.

- (5) In this section:

**required time** means the latest of the following:

- (a) if the commissioner requires the permit-holder to provide a police certificate or other information under section 71 (Commissioner may require police certificate or information for person etc)—30 days after the day the commissioner receives the certificate or information;

- (b) if the commissioner requires the permit-holder to provide a certificate, plan or other information under section 79 (Commissioner may require plan etc for premises)—30 days after the day the commissioner receives the certificate, plan or information;
- (c) if the commissioner asks the permit-holder to allow the commissioner to inspect the premises under section 80 (Commissioner may require inspection of premises)—30 days after the day the commissioner inspects the premises;
- (d) 30 days after the day the commissioner receives the application.

*Note* Failure to amend a permit within the required time is taken to be a decision not to amend the permit (see [ACT Civil and Administrative Tribunal Act 2008](#), s 12).

**59 Permit—not transferable**

A permit is not transferable.

**60 Permit—commercial permit not renewable**

A commercial permit is not renewable.

**61 Permit—application for renewal of non-commercial permit**

- (1) A non-commercial permit-holder may apply to the commissioner to renew the permit for a period not longer than 1 year.
- (2) The application must be—
  - (a) in writing; and
  - (b) received by the commissioner at least 30 days before the permit expires.

- (3) However, the commissioner may extend the time for making an application.

*Note 1* A non-commercial permit-holder may apply to the commissioner for the time to be extended, and the commissioner may extend the time, even though the time has ended (see [Legislation Act](#), s 151C).

*Note 2* If a form is approved under s 228 for an application, the form must be used.

*Note 3* A fee may be determined under s 227 for this provision.

- (4) If a non-commercial permit-holder applies to renew a permit under this section, the permit remains in force until the application is decided.

## **62 Permit—decision on application for renewal of non-commercial permit**

- (1) This section applies if the commissioner receives an application for renewal of a non-commercial permit under section 61.
- (2) The commissioner must renew the permit only if satisfied that—
- (a) each of the following people continues to be a suitable person to hold the permit:
    - (i) the permit-holder;
    - (ii) each close associate of the permit-holder;
    - (iii) if the permit-holder is a corporation—each influential person for the permit-holder; and
  - (b) if the commissioner requires the permit-holder to give information about another person under section 71 (2) (c)—the information does not affect the permit-holder's suitability to continue to hold the permit; and

- (c) the permitted premises continue to be suitable premises for the permit.

*Note 1* **Suitable person**, to hold a licence or permit—see s 67.  
**Suitable premises**, for a licence or permit—see s 75.

*Note 2* In making this decision, the commissioner must have regard to the harm minimisation and community safety principles (see s 10).

*Note 3* A decision under this subsection is a reviewable decision (see s 220).

- (3) The commissioner must, not later than the required time—

- (a) decide the application for renewal; and
- (b) tell the permit-holder about the decision on the application.

- (4) In this section:

**required time** is the latest of the following:

- (a) if the commissioner requires the permit-holder to provide a police certificate or other information under section 71 (Commissioner may require police certificate or information for person etc)—30 days after the day the commissioner receives the certificate or information;
- (b) if the commissioner requires the permit-holder to provide a certificate, plan or other information under section 79 (Commissioner may require plan etc for premises)—30 days after the day the commissioner receives the certificate, plan or information;
- (c) if the commissioner asks the permit-holder to allow the commissioner to inspect the premises under section 80 (Commissioner may require inspection of premises)—30 days after the day the commissioner inspects the premises;
- (d) 30 days after the day the commissioner receives the application.

*Note* Failure to renew a permit within the required time is taken to be a decision not to renew the permit (see [ACT Civil and Administrative Tribunal Act 2008](#), s 12).



## **63 Permit—replacing when lost, stolen or destroyed**

- (1) The commissioner may issue a replacement permit to a permit-holder if satisfied that the permit-holder's original permit has been lost, stolen or destroyed.
- (2) For subsection (1), the commissioner may require the permit-holder to give the commissioner a statement verifying that the original permit has been lost, stolen or destroyed.

*Note 1* A fee may be determined under s 227 for this provision.

*Note 2* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

## **64 Permit—surrender**

- (1) A permit-holder may surrender the permit by giving written notice (a ***surrender notice***) of the surrender to the commissioner.

*Note* If a form is approved under s 228 for this provision, the form must be used.

- (2) The surrender notice must be accompanied by—
  - (a) the permit; or
  - (b) if the permit has been lost, stolen or destroyed—a statement verifying that the permit has been lost, stolen or destroyed.

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

**65 Non-commercial permit—cancellation**

- (1) The commissioner may, by written notice (a ***cancellation notice***), given to a permit-holder, cancel the permit if satisfied that the non-commercial permit-holder has failed to comply with the permit.

*Note 1* A decision under this subsection is a reviewable decision (see s 220).

*Note 2* In making this decision, the commissioner must have regard to the harm minimisation and community safety principles (see s 10).

- (2) The cancellation takes effect on the day the cancellation notice is given to the permit-holder or a later day stated in the notice.

**66 Offence—fail to return permit**

- (1) A person commits an offence if the person—
- (a) ceases to be a permit-holder before the permit expires under section 56 (Permit—term); and
  - (b) fails to return the permit to the commissioner as soon as practicable, but not later than 21 days, after ceasing to be a permit-holder.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

## **Part 4                      Suitability of people and premises for licences and permits**

### **Division 4.1              Suitability of people for licences and permits**

#### **67              Who is a *suitable person*?**

In this Act:

*suitable person*, to hold a licence or permit, means a person who the commissioner is satisfied is a suitable person to hold the licence or permit.

#### **68              Commissioner must consider suitability information, etc**

In deciding whether a person is a suitable person to hold a licence or permit, the commissioner must consider each of the following:

- (a) suitability information about the person;
- (b) any police certificate or other information about the person given to the commissioner under—
  - (i) section 25 (Licence—application); or
  - (ii) section 40 (Licence—application to transfer licence); or
  - (iii) section 71 (Commissioner may require police certificate or information for person etc);
- (c) any public consultation representation about the person received by the commissioner under section 35 (Licence—representations).

*Note*      In making this decision, the commissioner must have regard to the harm minimisation and community safety principles (see s 10).

## **69 What is *suitability information* about a person?**

(1) In this Act:

*suitability information*, about a person, means information about the following:

- (a) any conviction of, or finding of guilt against, the person for an offence against 1 or more of the following:
  - (i) this Act;
  - (ii) a law of another jurisdiction corresponding, or substantially corresponding, to this Act;
  - (iii) the *Crimes Act 1900*;
  - (iv) the *Criminal Code*;
  - (v) the *Crimes Act 1914* (Cwlth);
  - (vi) the *Criminal Code Act 1995* (Cwlth);
  - (vii) the *Unlawful Gambling Act 2009*;
  - (viii) the *Competition and Consumer Act 2010* (Cwlth);
  - (ix) the *Fair Trading (Australian Consumer Law) Act 1992*;
  - (x) the *Australian Consumer Law (ACT)* or a corresponding law of a State;
  - (xi) a law in force in Australia or elsewhere relating to the supply or consumption of liquor;
  - (xii) a law of the ACT with a maximum penalty of imprisonment for 1 year or more;

- (xiii) a law elsewhere that, if the offence were committed in the ACT, would have a maximum penalty of imprisonment for 1 year or more;

*Note* A reference to an Act (including a Commonwealth Act) includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (b) any proven noncompliance by the person with a legal obligation in relation to the supply of liquor;

**Examples**

- 1 a commissioner's direction has been made against the licensee
- 2 an emergency closure order has been made against the licensee
- 3 the person has had a licence suspended

- (c) any refusal of an application by the person for a licence, permit or other authority (however described) in relation to the supply of liquor;
- (d) whether the person complies with the requirements of this Act;
- (e) if the person is an individual—whether the person is, or during the preceding 5 years was—
- (i) bankrupt or personally insolvent; or
  - (ii) involved in the management of a corporation when the corporation was insolvent;

*Note* **Bankrupt or personally insolvent**—see the [Legislation Act](#), dict.

- (f) if the person is a corporation—
- (i) whether the person is, or during the preceding 5 years was, insolvent; or
  - (ii) whether each influential person for the corporation is a suitable person to hold the licence or permit;

- (g) if the person is a club—whether the club is an eligible club;
- (h) if the person is a non-profit organisation—whether the organisation operates on a not-for-profit basis;
- (i) the person’s knowledge and understanding of the obligations under this Act applying in relation to the licence or permit;
- (j) any other matter relevant to the person’s ability to safely and responsibly supply liquor.

*Note*      **Supply** includes sell (see dict).

- (2) In this section:

***insolvent***—a corporation is taken to be ***insolvent*** if the corporation—

- (a) is being wound up; or
- (b) has had a receiver or other controller appointed; or
- (c) has entered into a deed of company arrangement with its creditors; or
- (d) is otherwise under external administration under the [Corporations Act](#), chapter 5.

## **69A      Non-suitability—criminal activity**

- (1) This section applies to a person if—
  - (a) the person was involved with a licence or permit; and
  - (b) a cancellation order for the licence or permit was made under part 11B (Cancellation of licence or permit for criminal activity); and
  - (c) the order was made on the basis, or partly on the basis, of criminal activity of the person.
- (2) The person is taken not to be a suitable person to hold a licence or permit for a period of 5 years after the order was made unless the order is sooner revoked under section 187K.

(3) In this section:

*involved*, with a licence or permit—see section 187H.

## **70 What is an *eligible club*?**

In this Act:

*eligible club* means a club that—

- (a) is established for 1 or more of the following purposes:
  - (i) recreation;
  - (ii) promoting social, religious, political, literary, scientific, artistic, sporting or athletic purposes;
  - (iii) a purpose prescribed by regulation; and
- (b) has a constitution or set of rules that—
  - (i) requires the nomination or election of financial members or foundation members to manage the affairs of the club; and
  - (ii) requires the club to keep records of nominations and elections for 2 years or more; and
  - (iii) requires the club to hold a meeting of its members at least once every 3 years to nominate or elect members to manage the affairs of the club; and
  - (iv) subject to paragraph (c), prohibits the supply of liquor to a person who is not a member of the club unless the person is on the club premises—
    - (A) at the invitation of a club member who is also on the club premises; and
    - (B) with the consent of the club; and

- (v) prohibits the payment of a commission, profit or allowance from, or on receipts from, the supply of liquor at the club premises; and
- (c) may allow the supply of liquor to a person who is on the club premises as a temporary member of the club under the *Gaming Machine Act 2004*; and
- (d) has a membership of at least—
  - (i) 200 adult financial members; or
  - (ii) if the club has held a club licence continuously since before 1 June 1979 under the *Liquor Act 1975* or this Act—150 adult financial members.

## **71 Commissioner may require police certificate or information for person etc**

- (1) This section applies if the commissioner is making a decision about whether a person is a suitable person to hold a licence or permit.
- (2) The commissioner may, by written notice given to the person (a *personal information notice*), require the person to give the commissioner 1 or more of the following not later than a stated reasonable time:
  - (a) a police certificate for 1 or more of the following people, dated not earlier than 3 months before the date of the personal information notice:
    - (i) the person;
    - (ii) a close associate of the person;
    - (iii) if the person is a corporation—an influential person for the person;



- (iv) if someone other than the proposed licensee is to have day-to-day control of the business operated under the licence and the decision relates to suitability for a licence—each person who is to have day-to-day control;
- (b) other stated information about the person;
- (c) a police certificate or other stated information about anyone else the commissioner suspects on reasonable grounds is in a position to exercise significant influence over the conduct of the person.

**Examples—par (c)**

- 1 domestic partner, parent, child or sibling of, or a member of the same household as the person
  - 2 close friend of the person
  - 3 someone else who has regular contact with the related person
- (3) A personal information notice must also tell the person that giving false or misleading information is an offence against the [Criminal Code](#), section 338 (Giving false or misleading information).

**72 Commissioner need not decide suitability if certificate etc not provided**

- (1) This section applies if—
  - (a) the commissioner has given a person a personal information notice under section 71; and
  - (b) the person does not give the commissioner the certificate or information in accordance with the notice.
- (2) The commissioner need not decide whether the person is a suitable person to hold a licence or permit.

**73            Offence—ongoing duty to update person’s suitability information**

- (1) This section applies to a person if—
- (a) the commissioner—
    - (i) is deciding whether the person is a suitable person to hold a licence or permit; or
    - (ii) has decided that the person is a suitable person to hold a licence or permit and the person is operating under the licence or permit; and
  - (b) the person has given the commissioner suitability information about the person.

*Note*     **Suitability information**, about a person—see s 69.

- (2) A person commits an offence if—
- (a) the person’s suitability information changes; and
  - (b) the person does not tell the commissioner about the change as soon as practicable, but not later than 7 days after the change happens.

Maximum penalty: 20 penalty units.

- (3) This section does not apply if the person—
- (a) was not aware of the change until later than 7 days after the change happened; and
  - (b) told the commissioner about the change as soon as the person became aware of the change.

*Note*     The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

## **Division 4.2                      Suitability of premises for licences and permits**

### **74                      Who is the *responsible person* for premises?—div 4.2**

In this part:

*responsible person*, for premises, means—

- (a) for a licence for the premises—the licensee or proposed licensee; or
- (b) for a permit for the premises—the permit-holder or proposed permit-holder.

### **75                      What are *suitable premises*?**

In this Act:

*suitable premises*, for a licence or permit, means premises that the commissioner is satisfied are suitable premises for the licence or permit.

### **76                      Commissioner must consider suitability information, etc**

In deciding whether premises are suitable premises for a licence or permit, the commissioner must consider each of the following:

- (a) suitability information about the premises;
- (b) any certificate, plan or other information about the premises given to the commissioner under—
  - (i) section 25 (Licence—application); or
  - (ii) section 39 (Licence—amendment for change to floor plan of licensed premises); or
  - (iii) section 50 (Permit—application); or
  - (iv) section 79 (Commissioner may require plan etc for premises);

- (c) any public consultation representation about the premises received by the commissioner under section 35 (Licence—representations);
- (d) the results of any inspection of the premises by the commissioner under section 80 (Commissioner may require inspection of premises).

*Note* In making this decision, the commissioner must have regard to the harm minimisation and community safety principles (see s 10).

## **77 Commissioner must decide premises not suitable in some circumstances**

- (1) The commissioner must decide that premises are not suitable premises for a licence or permit if—
  - (a) the premises do not comply with the requirements of—
    - (i) this Act; or
    - (ii) the *Building Act 2004*; or
    - (iii) the *Planning and Development Act 2007*; or

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see *Legislation Act*, s 104).

- (b) use of the premises in accordance with the licence or permit would not be within the purpose of the lease for the land on which the premises are located; or
    - (c) if a risk-assessment management plan is required under section 25 (Licence—application), section 50 (Permit—application), or section 79 (Commissioner may require plan etc for premises)—the commissioner does not approve the risk-assessment management plan.

*Note* The commissioner approves risk-assessment management plans under s 90.

- (2) However, the commissioner may decide that the premises are suitable premises for the licence or permit if satisfied that, in all the circumstances, it would be unreasonable to find the premises unsuitable.

## **78 What is *suitability information* about premises?**

In this Act:

*suitability information*, about premises, means information about the following:

- (a) any conviction of, or finding of guilt against, 1 or more of the following people for an offence against this Act involving the premises:
  - (i) the responsible person for the premises;
  - (ii) a close associate of the responsible person for the premises;
  - (iii) if the responsible person for the premises is a corporation—an influential person for the corporation;

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (b) any proven noncompliance of the premises with a legal obligation in relation to the supply of liquor while 1 or more of the following people was involved in a business operated at the premises:
  - (i) the responsible person for the premises;
  - (ii) a close associate of the responsible person for the premises;

- (iii) if the responsible person for the premises is a corporation—an influential person for the corporation;

**Example**

the premises are licensed premises and the licence has been suspended

- (c) any refusal of an application for a licence, permit or other authority (however described) in relation to the supply of liquor at the premises;
- (d) whether the premises comply with the requirements of—
  - (i) this Act; and
  - (ii) the *Building Act 2004*; and
  - (iii) the *Planning and Development Act 2007*;
- (e) whether use of the premises in accordance with the licence or permit would be within the purpose of the lease for the land on which the premises are located;
- (f) the fire safety of the premises;
- (g) the level of noise likely to emanate from the premises if used in accordance with the licence or permit;
- (h) whether use of the premises in accordance with the licence or permit would be likely to attract a large number of people and, if so, the risk to community safety;
- (i) whether use of the premises in accordance with the licence or permit would be likely to cause undue disturbance, inconvenience or offence to people—
  - (i) lawfully at adjacent or nearby premises; or
  - (ii) because of the premises' proximity to a place of public worship, a hospital, residential premises, or a school;

- (j) any other matter relevant to the appropriateness of the premises in relation to the supply of liquor.

*Note 1* **Supply** includes sell (see dict).

*Note 2* The commissioner must consider the suitability information for premises when deciding to issue, amend or renew a licence or permit. The commissioner does not consider the suitability information for premises when deciding an application to transfer a licence to someone else (see s 41).

## **79 Commissioner may require plan etc for premises**

- (1) This section applies if the commissioner is making a decision about whether premises are suitable premises for a licence or permit.
- (2) The commissioner may, by written notice given to the responsible person for the premises (a ***premises information notice***), require the person to give the commissioner 1 or more of the following, not later than a stated reasonable time:
  - (a) evidence that the operation of the business at the premises under the proposed licence or permit complies with—
    - (i) the lease where the premises are located; and
    - (ii) the [territory plan](#);
  - (b) the final floor plans of the premises approved by the planning and land authority in the development approval for the premises;
  - (c) a certificate of occupancy for the premises;
  - (d) a risk-assessment management plan for the premises;

*Note 1* See pt 6 (Risk-assessment management plans for licensed premises and permitted premises).

*Note 2* If the commissioner does not approve the risk-assessment management plan, the commissioner must also decide that the premises are not suitable premises for the licence or permit (see s 77).

- (e) other stated information about the premises.

- (3) A premises information notice must also tell the person that giving false or misleading information is an offence against the [Criminal Code](#), section 338 (Giving false or misleading information).

**80 Commissioner may require inspection of premises**

- (1) This section applies if the commissioner is making a decision about whether premises are suitable premises for a licence or permit.
- (2) The commissioner may, by written notice given to the responsible person for the premises (an *inspection notice*), require the person to allow the commissioner to inspect the premises within a stated reasonable time.

**81 Commissioner need not decide suitability if requirements not complied with**

- (1) This section applies if—
- (a) the commissioner has given a person a premises information notice under section 79 and the person does not give the commissioner the certificate, plan or information in accordance with the notice; or
- (b) the commissioner has given a person an inspection notice under section 80 and the person does not allow the commissioner to inspect the premises in accordance with the notice.
- (2) The commissioner need not decide whether the premises are suitable premises for the licence or permit.

**82 Offence—ongoing duty to update premises' suitability information**

- (1) This section applies to a responsible person for premises if—
- (a) the commissioner—
- (i) is deciding whether the premises are suitable premises for a licence or permit; or



- (ii) has decided that the premises are suitable premises for a licence or permit and the premises are being used under the licence or permit; and
- (b) the responsible person has given the commissioner suitability information about the premises.

*Note*     **Suitability information**, about premises—see s 78.

- (2) A responsible person commits an offence if—
  - (a) the premises' suitability information changes; and
  - (b) the responsible person does not tell the commissioner about the change as soon as practicable, but not later than 7 days after the change happens.

Maximum penalty: 20 penalty units.

- (3) This section does not apply if the responsible person—
  - (a) was not aware of the change until later than 7 days after the change happened; and
  - (b) told the commissioner about the change as soon as the person became aware of the change.

*Note*     The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

## Part 5                      Occupancy loading for licensed premises and permitted premises

### 83            What is *occupancy loading*?

In this Act:

*occupancy loading*, for a public area at licensed premises or permitted premises, means the maximum number of people allowed in the area.

### 84            What is a *public area*?

In this Act:

*public area*, at licensed premises or permitted premises, means an area at the premises that is open to the public.

**Example**

an outdoor dining area

### 85            Occupancy loading decision

- (1) This section applies if the commissioner must decide the occupancy loading for a public area at licensed premises or permitted premises.

*Note*      Section 28, s 39 and s 52 require the commissioner to decide the occupancy loading for public areas.

- (2) In deciding the occupancy loading for a public area, the commissioner must consider—
- (a) the chief officer's (fire and rescue service) occupancy loading recommendation for the area under section 86; and
  - (b) the building code.

- (3) However, the commissioner must not decide an occupancy loading for an area that exceeds the occupancy loading for the area recommended under section 86 by the chief officer (fire and rescue service).

## **86 Fire engineering study and inspection**

- (1) This section applies if the commissioner must decide the occupancy loading for a public area at licensed premises or permitted premises.
- (2) The commissioner must ask the chief officer (fire and rescue service) to recommend an occupancy loading for the area as soon as practicable after deciding to—
- (a) issue the licence under section 27 (Licence—decision on application); or
  - (b) amend the licence under section 39 (Licence—amendment for change to floor plan of licensed premises); or
  - (c) issue the permit under section 51 (Permit—decision on application).
- (3) To prepare the recommendation, the chief officer (fire and rescue service) may, by written notice (an ***occupancy loading notice***) given to the responsible person for the premises, require the person to—
- (a) give the chief officer (fire and rescue service) a fire engineering study for the area not later than a stated reasonable time; or
  - (b) allow the chief officer (fire and rescue service) to inspect the area within a stated reasonable time.

*Note* A fee may be determined under s 227 for this provision.

- (4) In making the recommendation, the chief officer (fire and rescue service) must consider—
- (a) if the chief officer (fire and rescue service) has required the responsible person for premises to provide a fire engineering study—the fire engineering study; and

- (b) if the chief officer (fire and rescue service) has required the responsible person for premises to allow an inspection—the results of the inspection; and
  - (c) the building code, part D1.13.
- (5) The chief officer (fire and rescue service) must give the commissioner the officer's occupancy loading recommendation for an area as soon as practicable after—
  - (a) the commissioner's request; and
  - (b) the responsible person for the premises—
    - (i) provides the study (if required); and
    - (ii) allows the inspection (if required).

**87 Commissioner not to issue licence or permit if requirement not complied with**

- (1) This section applies if the chief officer (fire and rescue service) has given a person an occupancy loading notice for premises and the person does not comply with the notice.
- (2) The commissioner must not issue or amend the licence, or issue the permit, for the premises until the notice is complied with.

## Part 6 Risk-assessment management plans for licensed premises and permitted premises

### 88 What is a *risk-assessment management plan*?

In this Act:

*risk-assessment management plan*, for licensed premises or permitted premises, means a plan that—

- (a) details procedures, practices and arrangements for conducting the business of selling liquor at the premises; and
- (b) includes anything prescribed by regulation.

**Examples—what risk-assessment management plan may contain**

- 1 how the premises are lit
- 2 what noise mitigation measures are in place
- 3 what security measures are in place

*Note* If a form is approved under s 228 for this provision, the form must be used.

### 89 What is an *approved risk-assessment management plan*?

In this Act:

*approved risk-assessment management plan*, for licensed premises or permitted premises, means a risk-assessment management plan approved under section 90 for the premises.

### 90 Risk-assessment management plan—approval

- (1) The commissioner may approve a risk-assessment management plan for licensed premises or permitted premises only if satisfied that the procedures, practices and arrangements in the plan are consistent with the harm minimisation and community safety principles.

- (2) If the commissioner decides to approve a risk-assessment management plan for licensed premises or permitted premises, the commissioner must give the licensee or permit-holder written notice that the plan has been approved.

**90A Risk-assessment management plan—availability**

The commissioner must not make a risk-assessment management plan, or an approved risk-assessment management plan, for licensed premises or permitted premises available to anyone, other than the licensee or permit-holder, unless required to do so by this Act or another law in force in the Territory.

**90B Risk-assessment management plan—direction to prepare plan**

- (1) This section applies if—
- (a) a licensed premises operated under a restaurant or cafe licence does not have an approved risk-assessment management plan; and
  - (b) the commissioner is satisfied that the premises requires an approved risk-assessment management plan.
- (2) The commissioner may, by written notice given to the licensee, direct the licensee to—
- (a) prepare a risk-assessment management plan; and
  - (b) submit the plan for approval under section 90.
- (3) In giving the notice to the licensee, the commissioner must tell the licensee that the plan must be submitted to the commissioner before the end of a stated period of at least 14 days after the day the notice is given.
- (4) In responding to a notice under this section, the licensee must comply with any requirements prescribed by regulation.

- (5) The commissioner may, in writing, require the licensee to allow the commissioner to inspect the premises within a stated reasonable time.

**90C      Approved risk-assessment management plan—  
amendment on direction from commissioner**

- (1) This section applies if an approved risk-assessment management plan is in force for licensed premises or permitted premises.
- (2) The commissioner may, by written notice (an *amendment notice*) given to the licensee or permit-holder, direct the licensee or permit-holder to amend the plan in the way stated in the notice.
- (3) In giving the notice to the licensee or permit-holder (the *respondent*), the commissioner must tell the respondent that an amendment of the plan must be submitted to the commissioner before the end of a stated period of at least 14 days after the day the notice is given.
- (4) In responding to a notice under this section, the respondent must comply with any requirements prescribed by regulation.
- (5) The commissioner may, in writing, require the respondent to allow the commissioner to inspect the premises within a stated reasonable time.

**91      Approved risk-assessment management plan—  
amendment on application**

- (1) This section applies if an approved risk-assessment management plan is in force for licensed premises or permitted premises.

- (2) The licensee or permit-holder may apply to the commissioner to amend the approved risk-assessment management plan.

**Example—amendment**

to change a procedure about how the licensee is to deal with intoxicated people

*Note 1* If a form is approved under s 228 for an application, the form must be used.

*Note 2* A fee may be determined under s 227 for this provision.

- (3) In applying to amend an approved risk-assessment management plan, the applicant must comply with any requirement prescribed by regulation.
- (4) The commissioner may, in writing, require the applicant to—
- (a) give the commissioner additional information or documents that the commissioner reasonably needs to decide the application; or
  - (b) allow the commissioner to inspect the premises within a stated reasonable time.
- (5) If the applicant does not comply with a requirement under subsection (3) or (4), the commissioner may refuse to consider the application.

**92 Approved risk-assessment management plan—decision on amendment**

- (1) This section applies if the commissioner receives an application to amend an approved risk-assessment management plan under section 91.
- (2) The commissioner may amend the approved risk-assessment management plan only if satisfied that—
- (a) the plan as amended would include procedures, practices and arrangements consistent with the harm minimisation and community safety principles; and



- (b) any requirements prescribed by regulation have been complied with.

*Note* A decision under s (2) is a reviewable decision (see s 220).

- (3) The commissioner must, not later than the required time—
  - (a) decide the application for amendment; and
  - (b) tell the licensee about the decision on the application.
- (4) In this section:

***required time*** means the latest of the following:

- (a) if the commissioner requires the applicant to give the commissioner additional information or documents under section 91—90 days after the day the commissioner receives the additional information or documents;
- (b) if the commissioner requires the applicant to allow the commissioner to inspect the premises under section 91—90 days after the day the commissioner inspects the premises;
- (c) 90 days after the day the commissioner receives the application.

*Note* Failure to amend an approved risk-assessment management plan within the required time is taken to be a decision not to amend the plan (see [ACT Civil and Administrative Tribunal Act 2008](#), s 12).

## **92A Offence—licensee fail to comply with direction to prepare approved risk-assessment management plan**

A licensee commits an offence if—

- (a) the licensee is given a direction to prepare an approved risk-assessment management plan under section 90B; and
- (b) the licensee fails to comply with the direction.

Maximum penalty: 20 penalty units.

**92B Offence—failure to amend approved risk-assessment management plan**

- (1) A licensee commits an offence if—
- (a) the licensee is given an amendment notice under section 90C (2) (Approved risk-assessment management plan—amendment on direction from commissioner); and
  - (b) the licensee fails to comply with the notice.

Maximum penalty: 20 penalty units.

- (2) A permit-holder commits an offence if—
- (a) the permit-holder is given an amendment notice under section 90C (2); and
  - (b) the permit-holder fails to comply with the notice.

Maximum penalty: 20 penalty units.

## **Part 7**                      **Adults-only areas for licensed premises and permitted premises**

### **Division 7.1**              **Adults-only area decisions**

#### **93**              **What is an *adults-only area*?**

In this Act:

*adults-only area*, for licensed premises or permitted premises, means an area decided by the commissioner to be an adults-only area under section 94.

#### **94**              **Adults-only areas decision**

- (1) This section applies if the commissioner must decide the adults-only areas for licensed premises or permitted premises.

*Note*              Section 29, s 39 and s 53 require the commissioner to decide adults-only areas for premises.

- (2) In deciding the adults-only areas of premises, the commissioner must consider—

- (a) the purpose of the licensed premises or permitted premises; and
- (b) the layout of the licensed premises or permitted premises.

- (3) If the commissioner decides that licensed premises are to include an adults-only area, the commissioner may also decide the times when the area is to be used as an adults-only area.

*Note*              In making a decision under this Act, a decision-maker must have regard to the harm minimisation and community safety principles (see s 10).

## **Division 7.2                      Approvals for young people's event in adults-only area at licensed premises**

### **95                      Young people's event approval—application**

- (1) A licensee may apply to the commissioner for approval to conduct a young people's event in an adults-only area of the licensed premises.
- (2) The application must—
  - (a) be in writing; and
  - (b) include details of—
    - (i) the day and time when the event is to start; and
    - (ii) the day and time when the event is to end; and
    - (iii) the name of each person who is to work at the event; and
    - (iv) a police certificate for each person who is to work at the event, dated not earlier than 3 months before the date of the application; and
    - (v) anything else prescribed by regulation.

*Note 1* Giving false or misleading information is an offence against the [Criminal Code](#), s 338.

*Note 2* If a form is approved under s 228 for this provision, the form must be used.

*Note 3* A fee may be determined under s 227 for this provision.

- (3) The commissioner may, in writing, require the applicant to—
  - (a) give the commissioner additional information or documents that the commissioner reasonably needs to decide the application; or
  - (b) allow the commissioner to inspect the premises within a stated reasonable time.

- (4) If the applicant does not comply with a requirement under subsection (3), the commissioner may refuse to consider the application.

## **96 Young people's event approval—decision**

- (1) This section applies if the commissioner receives an application for approval to conduct a young people's event under section 95.
- (2) The commissioner may issue the approval to the applicant only if satisfied that the applicant satisfies the criteria prescribed by regulation.
- (3) The commissioner must, not later than the required time—
- (a) decide the application for approval; and
  - (b) tell the licensee about the decision on the application.
- (4) In this section:

***required time*** means the latest of the following:

- (a) if the commissioner requires the applicant to give the commissioner additional information or documents under section 95—90 days after the day the commissioner receives the application;
- (b) if the commissioner requires the applicant to allow the commissioner to inspect the premises under section 95—90 days after the day the commissioner inspects the premises;
- (c) 90 days after the day the commissioner receives the application.

*Note* Failure to approve the conduct of a young people's event within the required time is taken to be a decision not to approve the event (see [ACT Civil and Administrative Tribunal Act 2008](#), s 12).

**97 Young people's event approval—form**

- (1) A young people's event approval must—
  - (a) be in writing; and
  - (b) include the following information:
    - (i) the name of the licensee;
    - (ii) the day and time when the event is to start;
    - (iii) the day and time when the event is to end;
    - (iv) the name of each person approved to work at the event;
    - (v) the conditions on the approval;
    - (vi) anything else prescribed by regulation.
- (2) A young people's event approval may include anything else the commissioner considers relevant.

**98 Young people's event approval—conditions**

A young people's event approval is subject to any condition—

- (a) prescribed by regulation; or
- (b) imposed by the commissioner when the approval is issued.

**99 Young people's event approval—term**

- (1) A young people's event approval comes into force on the day and at the time stated in the approval.
- (2) An approval expires at the earlier of the following times:
  - (a) the day and time stated in the approval;
  - (b) 24 hours after the approval comes into force.

## **Part 8**                      **Conduct at licensed premises and permitted premises**

### **Division 8.1**              **Responsible service of alcohol**

#### **100**              **Offence—supply liquor without RSA certificate—licensee or permit-holder**

- (1) A person commits an offence if—
- (a) the person is a licensee; and
  - (b) the person supplies liquor to someone else; and
  - (c) the supply happens at—
    - (i) if the licensee holds a catering licence—the catered premises; or
    - (ii) in any other case—the licensed premises; and
  - (d) the person does not hold a current RSA certificate.

Maximum penalty: 50 penalty units.

*Note*      *Supply* includes sell—see dict.

- (2) A person commits an offence if—
- (a) the person is a commercial permit-holder; and
  - (b) the person supplies liquor to someone else; and
  - (c) the supply happens at the permitted premises; and
  - (d) the person does not hold a current RSA certificate.

Maximum penalty: 50 penalty units.

- (3) A person commits an offence if—
- (a) the person is a licensee; and
  - (b) an employee of the person supplies liquor to someone else; and

- (c) the supply happens at—
  - (i) if the licensee holds a catering licence—the catered premises; or
  - (ii) in any other case—the licensed premises; and
- (d) the employee does not hold a current RSA certificate.

Maximum penalty: 50 penalty units.

- (4) A person commits an offence if—
  - (a) the person is a commercial permit-holder; and
  - (b) an employee of the person supplies liquor to someone else; and
  - (c) the supply happens at the permitted premises; and
  - (d) the employee does not hold a current RSA certificate.

Maximum penalty: 50 penalty units.

- (5) An offence against this section is a strict liability offence.
- (6) For this section, a licensee or commercial permit-holder that is a corporation ***holds a current RSA certificate***, if each person in the corporation having day-to-day control of the premises operated under the licence or commercial permit holds a current RSA certificate.

**101 Offence—supply liquor without RSA certificate—employee**

- (1) A person commits an offence if—
  - (a) the person is an employee of a licensee; and
  - (b) the person supplies liquor to someone else; and
  - (c) the supply happens at—
    - (i) if the licensee holds a catering licence—the catered premises; or



(ii) in any other case—the licensed premises; and

(d) the person does not hold a current RSA certificate.

Maximum penalty: 10 penalty units.

*Note* **Supply** includes sell (see dict).

(2) A person commits an offence if—

(a) the person is an employee of a commercial permit-holder; and

(b) the person supplies liquor to someone else; and

(c) the supply happens at the permitted premises; and

(d) the person does not hold a current RSA certificate.

Maximum penalty: 10 penalty units.

(3) An offence against this section is a strict liability offence.

## **102 Offence—crowd controller without RSA certificate**

(1) A person commits an offence if—

(a) the person is a licensee; and

(b) a crowd controller is working as a crowd controller at the licensed premises; and

(c) the crowd controller does not hold a current RSA certificate.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if—

(a) the person is a commercial permit-holder; and

(b) a crowd controller is working as a crowd controller at the permitted premises; and

- (c) the crowd controller does not hold a current RSA certificate.

Maximum penalty: 50 penalty units.

- (3) A person commits an offence if the person—

- (a) is a crowd controller; and
- (b) is working as a crowd controller at licensed premises; and
- (c) does not hold a current RSA certificate.

Maximum penalty: 10 penalty units.

- (4) A person commits an offence if the person—

- (a) is a crowd controller; and
- (b) is working as a crowd controller at permitted premises; and
- (c) does not hold a current RSA certificate.

Maximum penalty: 10 penalty units.

- (5) An offence against this section is a strict liability offence.

*Note* Crowd controllers are regulated under the [Security Industry Act 2003](#).

## **103 Offence—fail to keep RSA certificates**

- (1) A person commits an offence if the person—

- (a) is a licensee; and
- (b) fails to keep a copy of a current RSA certificate for each of the following people:
  - (i) the licensee;
  - (ii) each person employed to supply liquor at—
    - (A) if the licensee holds a catering licence—the catered premises; or
    - (B) in any other case—the licensed premises;

- (iii) each crowd controller working as a crowd controller at the licensed premises.

Maximum penalty: 20 penalty units.

*Note* **Supply** includes sell (see dict).

- (2) A person commits an offence if the person—
  - (a) is a commercial permit-holder; and
  - (b) fails to keep a copy of a current RSA certificate for each of the following people:
    - (i) the permit-holder;
    - (ii) each person employed to supply liquor at the permitted premises;
    - (iii) each crowd controller working as a crowd controller at the permitted premises.

Maximum penalty: 20 penalty units.

- (3) An offence against this section is a strict liability offence.

## **Division 8.2 Intoxicated people**

### **104 What is *intoxicated*?**

- (1) For this Act, a person is *intoxicated* if—
  - (a) the person's speech, balance, coordination or behaviour is noticeably affected; and
  - (b) it is reasonable in the circumstances to believe that the affected speech, balance, coordination or behaviour is the result of the consumption of—
    - (i) liquor; or
    - (ii) a drug; or

(iii) a combination of liquor and a drug.

(2) In this section:

*drug*—see the *Road Transport (Alcohol and Drugs) Act 1977*, dictionary, definition of *drug*, paragraphs (a) and (b).

**105 Offence—supply liquor to intoxicated person—licensee or permit-holder**

(1) A person commits an offence if—

- (a) the person is a licensee; and
- (b) the person supplies liquor to another person; and
- (c) the other person is intoxicated; and
- (d) the supply happens at—
  - (i) if the licensee holds a catering licence—the catered premises; or
  - (ii) in any other case—the licensed premises.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if—

- (a) the person is a permit-holder; and
- (b) the person supplies liquor to another person; and
- (c) the other person is intoxicated; and
- (d) the supply happens at the permitted premises.

Maximum penalty: 50 penalty units.

(3) A person commits an offence if—

- (a) the person is a licensee; and
- (b) an employee of the licensee supplies liquor to another person;  
and

- (c) the other person is intoxicated; and
- (d) the supply happens at—
  - (i) if the licensee holds a catering licence—the catered premises; or
  - (ii) in any other case—the licensed premises.

Maximum penalty: 50 penalty units.

- (4) A person commits an offence if—
  - (a) the person is a permit-holder; and
  - (b) an employee of the permit-holder supplies liquor to another person; and
  - (c) the other person is intoxicated; and
  - (d) the supply happens at the permitted premises.

Maximum penalty: 50 penalty units.

- (5) An offence against this section is a strict liability offence.
- (6) In a prosecution for an offence against this section, a substance supplied to a person is presumed to be liquor if—
  - (a) the substance is supplied to the person in an adults-only area at the premises; and
  - (b) a police officer gives evidence—
    - (i) that the police officer saw the substance being supplied to the person; and
    - (ii) that the police officer believes on reasonable grounds that the substance is liquor.

*Note* A person rebutting the presumption in s (6) has an evidential burden in relation to the rebuttal (see [Criminal Code](#), s 58).

**106      Offence—supply liquor to intoxicated person—employee**

- (1) A person commits an offence if—
- (a) the person is an employee of a licensee; and
  - (b) the person supplies liquor to another person; and
  - (c) the other person is intoxicated; and
  - (d) the supply happens at—
    - (i) if the licensee holds a catering licence—the catered premises; or
    - (ii) in any other case—the licensed premises.

Maximum penalty: 10 penalty units.

- (2) A person commits an offence if—
- (a) the person is an employee of a permit-holder; and
  - (b) the person supplies liquor to another person; and
  - (c) the other person is intoxicated; and
  - (d) the supply happens at the permitted premises.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) In a prosecution for an offence against this section, a substance supplied to a person is presumed to be liquor if—
- (a) the substance is supplied to the person in an adults-only area at the premises; and
  - (b) a police officer gives evidence—
    - (i) that the police officer saw the substance being supplied to the person; and

- (ii) that the police officer believes on reasonable grounds that the substance is liquor.

*Note* A person rebutting the presumption in s (4) has an evidential burden in relation to the rebuttal (see [Criminal Code](#), s 58).

## **107 Offence—supply liquor to intoxicated person—other person**

- (1) A person commits an offence if—
    - (a) the person supplies liquor to another person; and
    - (b) the other person is intoxicated; and
    - (c) the supply happens at—
      - (i) licensed premises; or
      - (ii) catered premises; or
      - (iii) permitted premises.
- Maximum penalty: 5 penalty units.
- (2) An offence against this section is a strict liability offence.
  - (3) This section does not apply to—
    - (a) for supply at licensed premises or catered premises—
      - (i) the licensee; or
      - (ii) an employee of the licensee; or
    - (b) for supply at permitted premises—
      - (i) the permit-holder; or
      - (ii) an employee of the permit-holder.

*Note 1* A licensee or permit-holder commits an offence if the licensee or permit-holder supplies liquor to an intoxicated person (see s 105).

*Note 2* An employee of a licensee or permit-holder commits an offence if the employee supplies liquor to an intoxicated person (see s 106).

**108 Offence—abuse, threaten, intimidate staff**

- (1) A person commits an offence if—
- (a) a staff member at premises refuses to supply liquor to the person because the person is intoxicated; and
  - (b) the person engages in abusive, threatening or intimidating behaviour towards the staff member; and
  - (c) the behaviour is because of the refusal.

Maximum penalty: 10 penalty units.

*Note* **Supply** includes sell (see dict).

- (2) A person commits an offence if—
- (a) a staff member refuses to supply liquor to an intoxicated person; and
  - (b) the person engages in abusive, threatening or intimidating behaviour towards the staff member; and
  - (c) the behaviour is because of the refusal.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

**Division 8.3 Children and young people**

**110 Offence—supply liquor to child or young person—licensee or permit-holder**

- (1) A person commits an offence if—
- (a) the person is a licensee; and
  - (b) the person supplies liquor or low-alcohol liquor to another person; and
  - (c) the other person is a child or young person; and



- (d) the supply happens at—
  - (i) if the licensee holds a catering licence—the catered premises; or
  - (ii) in any other case—the licensed premises.

Maximum penalty: 50 penalty units.

*Note* **Supply** includes sell (see dict).

- (2) A person commits an offence if—
  - (a) the person is a permit-holder; and
  - (b) the person supplies liquor or low-alcohol liquor to another person; and
  - (c) the other person is a child or young person; and
  - (d) the supply happens at permitted premises.

Maximum penalty: 50 penalty units.

- (3) A person commits an offence if—
  - (a) the person is a licensee; and
  - (b) an employee of the licensee supplies liquor or low-alcohol liquor to another person; and
  - (c) the other person is a child or young person; and
  - (d) the supply happens at—
    - (i) if the licensee holds a catering licence—the catered premises; or
    - (ii) in any other case—the licensed premises.

Maximum penalty: 50 penalty units.

- (4) A person commits an offence if—
  - (a) the person is a permit-holder; and

- (b) an employee of the permit-holder supplies liquor or low-alcohol liquor to another person; and
- (c) the other person is a child or young person; and
- (d) the supply happens at the permitted premises.

Maximum penalty: 50 penalty units.

- (5) An offence against this section is a strict liability offence.
- (6) This section does not apply in relation to a young person if the young person—
  - (a) was at least 16 years old at the time of the offence; and
  - (b) had, before the time of the offence, shown 1 or more of the following people an identification document identifying the young person as an adult:
    - (i) the defendant;
    - (ii) an employee of the defendant;
    - (iii) a crowd controller working as a crowd controller at the premises.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (6) (see [Criminal Code](#), s 58).

- (7) In a prosecution for an offence against this section, a substance supplied to a person is presumed to be liquor if—
  - (a) the substance is supplied to the person in an adults-only area at the premises; and
  - (b) a police officer gives evidence—
    - (i) that the police officer saw the substance being supplied to the person; and

- (ii) that the police officer believes on reasonable grounds that the substance is liquor.

*Note* A person rebutting the presumption in s (7) has an evidential burden in relation to the rebuttal (see [Criminal Code](#), s 58).

## **111 Offence—supply liquor to child or young person—employee**

- (1) A person commits an offence if—
  - (a) the person is an employee of a licensee; and
  - (b) the person supplies liquor or low-alcohol liquor to another person; and
  - (c) the other person is a child or young person; and
  - (d) the supply happens at—
    - (i) if the licensee holds a catering licence—the catered premises; or
    - (ii) in any other case—the licensed premises.

Maximum penalty: 10 penalty units.

- (2) A person commits an offence if—
  - (a) the person is an employee of a permit-holder; and
  - (b) the person supplies liquor or low-alcohol liquor to another person; and
  - (c) the other person is a child or young person; and
  - (d) the supply happens at the permitted premises.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) This section does not apply in relation to a young person at licensed premises or catered premises if the young person—

- (a) was at least 16 years old at the time of the offence; and
- (b) had, before the time of the offence, shown 1 or more of the following people an identification document identifying the young person as an adult:
  - (i) the defendant;
  - (ii) the licensee;
  - (iii) a crowd controller working as a crowd controller at the premises.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (4) (see [Criminal Code](#), s 58).

- (5) This section does not apply in relation to a young person at permitted premises if the young person—

- (a) was at least 16 years old at the time of the offence; and
- (b) had, before the time of the offence, shown 1 or more of the following people an identification document identifying the young person as an adult:
  - (i) the defendant;
  - (ii) the permit-holder;
  - (iii) a crowd controller working as a crowd controller at the premises.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (5) (see [Criminal Code](#), s 58).

- (6) In a prosecution for an offence against this section, a substance supplied to a person is presumed to be liquor if—

- (a) the substance is supplied to the person in an adults-only area at the premises; and

- (b) a police officer gives evidence—
  - (i) that the police officer saw the substance being supplied to the person; and
  - (ii) that the police officer believes on reasonable grounds that the substance is liquor.

*Note* A person rebutting the presumption in s (6) has an evidential burden in relation to the rebuttal (see [Criminal Code](#), s 58).

## **112 Offence—supply liquor to child or young person—other person**

- (1) A person commits an offence if—
  - (a) the person supplies liquor or low-alcohol liquor to another person; and
  - (b) the other person is a child or a young person; and
  - (c) the supply happens at—
    - (i) licensed premises; or
    - (ii) catered premises; or
    - (iii) permitted premises; and
  - (d) the person is a person other than—
    - (i) for supply at licensed premises or catered premises—
      - (A) a licensee; or
      - (B) an employee of the licensee; or
    - (ii) for supply at permitted premises—
      - (A) a permit-holder; or

(B) an employee of the permit-holder.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply in relation to a young person at licensed premises or catered premises if the young person—
  - (a) was at least 16 years old at the time of the offence; and
  - (b) had, before the time of the offence, shown 1 or more of the following people an identification document identifying the young person as an adult:
    - (i) the defendant;
    - (ii) the licensee;
    - (iii) an employee of the licensee;
    - (iv) a crowd controller working as a crowd controller at the premises.
- (4) This section does not apply in relation to a young person at permitted premises if the young person—
  - (a) was at least 16 years old at the time of the offence; and
  - (b) had, before the time of the offence, shown 1 or more of the following people an identification document identifying the young person as an adult:
    - (i) the defendant;
    - (ii) the permit-holder;
    - (iii) an employee of the permit-holder;

- (iv) a crowd controller working as a crowd controller at the premises.

*Note 1* The defendant has an evidential burden in relation to the matters mentioned in ss (3) and (4) (see [Criminal Code](#), s 58).

*Note 2* It is an offence to supply liquor to a child or young person in a public place (see s 204).

**113 Licensee, permit-holder, etc may refuse to supply liquor without identification document**

- (1) A staff member at premises may refuse to supply liquor or low-alcohol liquor to a person if, when asked, the person does not show the staff member an identification document identifying the person as an adult.
- (2) This section does not limit the circumstances in which a person may refuse to supply liquor or low-alcohol liquor.

**114 Offence—child or young person consume liquor—licensee or permit-holder**

- (1) A person commits an offence if—
  - (a) the person is a licensee; and
  - (b) another person consumes liquor or low-alcohol liquor at—
    - (i) if the licensee holds a catering licence—the catered premises; or
    - (ii) in any other case—the licensed premises; and
  - (c) the other person is a child or young person.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if—
  - (a) the person is a permit-holder; and

(b) another person consumes liquor or low-alcohol liquor at the permitted premises; and

(c) the other person is a child or young person.

Maximum penalty: 20 penalty units.

(3) An offence against this section is a strict liability offence.

(4) This section does not apply in relation to a young person at premises if the young person—

(a) was at least 16 years old at the time of the offence; and

(b) had, before the time of the offence, shown 1 or more of the following people an identification document identifying the young person as an adult:

(i) the defendant;

(ii) an employee of the defendant;

(iii) a crowd controller working as a crowd controller at the premises.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (4) (see [Criminal Code](#), s 58).

## **115 Offence—child or young person consume liquor**

A person commits an offence if the person—

(a) is a child or young person; and

(b) consumes liquor or low-alcohol liquor at—

(i) licensed premises; or

(ii) catered premises; or



- (iii) permitted premises.

Maximum penalty: 5 penalty units.

*Note* A police officer may caution a child or young person in relation to this offence (see s 150).

**116 Offence—child or young person possess liquor—licensee or permit-holder**

- (1) A person commits an offence if—
- (a) the person is a licensee; and
  - (b) another person possesses liquor or low-alcohol liquor at—
    - (i) if the licensee holds a catering licence—the catered premises; or
    - (ii) in any other case—the licensed premises; and
  - (c) the other person is a child or young person.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if—
- (a) the person is a permit-holder; and
  - (b) another person possesses liquor or low-alcohol liquor at the permitted premises; and
  - (c) the other person is a child or young person.

Maximum penalty: 20 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) This section does not apply in relation to a young person if the young person possesses the liquor or low-alcohol liquor in the course of—
- (a) the young person's employment at the premises; or
  - (b) a training program conducted by a declared training provider.

- (5) This section does not apply in relation to a young person at premises if the young person—
- (a) was at least 16 years old at the time of the offence; and
  - (b) had, before the time of the offence, shown 1 or more of the following people an identification document identifying the young person as an adult:
    - (i) the defendant;
    - (ii) an employee of the defendant;
    - (iii) a crowd controller working as a crowd controller at the premises.

*Note* The defendant has an evidential burden in relation to the matters mentioned in ss (4) and (5) (see [Criminal Code](#), s 58).

## **117 Offence—child or young person possess liquor**

- (1) A person commits an offence if the person—
- (a) is a child or young person; and
  - (b) possesses liquor or low-alcohol liquor at—
    - (i) licensed premises; or
    - (ii) catered premises; or
    - (iii) permitted premises.

Maximum penalty: 5 penalty units.

- (2) This section does not apply to a young person if the young person possesses the liquor or low-alcohol liquor in the course of—
- (a) the young person's employment at the premises; or

- (b) a training program conducted by a declared training provider.

*Note 1* The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

*Note 2* A police officer may caution a child or young person in relation to this offence (see s 150).

## **118 Offence—child or young person supply liquor—licensee or permit-holder**

- (1) A person commits an offence if—
- (a) the person is a licensee; and
  - (b) the person employs a child or young person; and
  - (c) the child or young person supplies liquor; and
  - (d) the liquor is supplied in an adults-only area of the licensed premises.

Maximum penalty: 50 penalty units.

*Note* **Supply** includes sell (see dict).

- (2) A person commits an offence if—
- (a) the person is a permit-holder; and
  - (b) the person employs a child or young person; and
  - (c) the child or young person supplies liquor; and
  - (d) the liquor is supplied in an adults-only area of the permitted premises.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

**119 Offence—send child or young person to obtain liquor**

- (1) A person commits an offence if—
- (a) the person sends another person to buy liquor or low-alcohol liquor at—
    - (i) licensed premises; or
    - (ii) catered premises; or
    - (iii) permitted premises; and
  - (b) the other person is a child or young person.

Maximum penalty: 10 penalty units.

- (2) A person commits an offence if—
- (a) the person sends another person to collect liquor or low-alcohol liquor at—
    - (i) licensed premises; or
    - (ii) catered premises; or
    - (iii) permitted premises; and
  - (b) the other person is a child or young person.

Maximum penalty: 10 penalty units.

- (3) This section does not apply in relation to a young person if the young person is sent to obtain liquor or low-alcohol liquor in the course of—
- (a) the young person's employment at the premises; or
  - (b) a training program conducted by a declared training provider.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

**120 Offence—child or young person in adults-only area—  
licensee or permit-holder**

- (1) A person commits an offence if—
- (a) the person is a licensee; and
  - (b) a child or young person is in an adults-only area of the licensed premises.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
- (a) the person is a permit-holder; and
  - (b) a child or young person is in an adults-only area of the permitted premises.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) This section does not apply if the child or young person is in the care of an adult who—
- (a) is a parent, step-parent, guardian, person acting in place of a parent, domestic partner or carer of the child or young person; and
  - (b) could reasonably be expected to responsibly supervise the child or young person.

*Note* For the meaning of **domestic partner**, see the [Legislation Act](#), s 169.

- (5) This section does not apply in relation to a young person if the young person is in the adults-only area in the course of—
- (a) the young person's employment at the licensed premises or permitted premises; or
  - (b) a training program conducted by a declared training provider.

- (6) This section does not apply in relation to a young person if—
- (a) the young person is attending an approved young people's event in the adults-only area; and
  - (b) the event is conducted in accordance with the young people's event approval.

*Note* Young people's event approvals are made under s 95 (3).

- (7) This section does not apply in relation to a young person if the young person—
- (a) was at least 16 years old at the time of the offence; and
  - (b) had, before the time of the offence, shown 1 or more of the following people an identification document identifying the young person as an adult:
    - (i) the defendant;
    - (ii) an employee of the defendant;
    - (iii) a crowd controller working as a crowd controller at the premises.

*Note* The defendant has an evidential burden in relation to the matters mentioned in ss (4), (5), (6) and (7) (see [Criminal Code](#), s 58).

## **121 Offence—child or young person in adults-only area**

- (1) A person commits an offence if the person is—
- (a) a child or young person; and
  - (b) in an adults-only area at—
    - (i) licensed premises; or
    - (ii) permitted premises.

Maximum penalty: 5 penalty units.

- (2) This section does not apply to a child or young person if the child or young person is in the care of an adult who—
- (a) is a parent, step-parent, guardian, person acting in place of a parent, domestic partner or carer of the child or young person; and
  - (b) could reasonably be expected to responsibly supervise the child or young person.

*Note* For the meaning of **domestic partner**, see the [Legislation Act](#), s 169.

- (3) This section does not apply to a young person if the young person is in the adults-only area in the course of—
- (a) the young person's employment at the licensed premises or permitted premises; or
  - (b) a training program conducted by a declared training provider.

*Note 1* Employment of children is dealt with in the [Children and Young People Act 2008](#).

*Note 2* Children and young people must not serve liquor (see s 118).

- (4) This section does not apply to a young person if—
- (a) the young person is attending an approved young people's event in the adults-only area; and
  - (b) the event is conducted in accordance with the young people's event approval.

*Note 1* The defendant has an evidential burden in relation to the matters mentioned in ss (2), (3) and (4) (see [Criminal Code](#), s 58).

*Note 2* A police officer may caution a child or young person in relation to this offence (see s 150).

*Note 3* Young people's event approvals are made under s 95 (3).

**122      Offence—child or young person use false identification  
for adults-only area**

- (1) A person commits an offence if the person—
- (a) is a child or young person; and
  - (b) uses a false identification document to obtain entry to an adults-only area at—
    - (i) licensed premises; or
    - (ii) permitted premises.

Maximum penalty: 5 penalty units.

*Note* A police officer may caution a child or young person in relation to this offence (see s 149).

- (2) A person commits an offence if the person—
- (a) is a child or young person; and
  - (b) uses a false identification document to remain in an adults-only area at—
    - (i) licensed premises; or
    - (ii) permitted premises.

Maximum penalty: 5 penalty units.

*Note* A police officer may caution a child or young person in relation to this offence (see s 150).

- (3) An offence against this section is a strict liability offence.

**123      Offence—fail to mark adults-only areas**

- (1) A person commits an offence if—
- (a) the person is a licensee; and



- (b) an adults-only area at the licensed premises is not clearly marked for the public in the way prescribed by regulation.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if—
  - (a) the person is a permit-holder; and
  - (b) an adults-only area at the permitted premises is not clearly marked for the public in the way prescribed by regulation.

Maximum penalty: 20 penalty units.

- (3) An offence against this section is a strict liability offence.

## **124 Licensee, permit-holder, etc may seize false identification document**

- (1) If a staff member or crowd controller working at licensed premises or permitted premises believes on reasonable grounds that a document shown to the person is a false identification document, the staff member or crowd controller may seize the document.

*Note* A seizure of a document is an incident under s 130.

- (2) However, a staff member or crowd controller working at licensed premises or permitted premises must not seize a document that purports to be a passport.
- (3) As soon as practicable after a staff member or crowd controller working at licensed premises or permitted premises seizes a document, the staff member or crowd controller must give a receipt for it to the person from whom it was seized.
- (4) A receipt under this section must include the following:
  - (a) a description of the thing seized;
  - (b) an explanation of why the thing was seized;
  - (c) the date and time the thing was seized;

- (d) the name and address of the premises where the thing was seized;
- (e) if the thing is moved from the premises where it is seized—where the thing is to be taken.

*Note* If a form is approved under s 228 for this provision, the form must be used.

- (5) To remove any doubt, a staff member or crowd controller giving a receipt under this section need not sign it.
- (6) A person commits an offence if the person—
  - (a) is a staff member or crowd controller working at licensed premises or permitted premises; and
  - (b) seizes a document under subsection (1); and
  - (c) does not give the document to the commissioner within 7 days after the document is seized.

Maximum penalty: 5 penalty units.

## **Division 8.4                      Occupancy loading**

### **125                      Offence—exceed occupancy loading**

- (1) A person commits an offence if—
  - (a) the person is a licensee; and
  - (b) the number of people in a public area at the licensed premises is more than the number allowed under the occupancy loading for the area.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
  - (a) the person is a permit-holder; and

- (b) the commissioner has decided an occupancy loading for a public area at the permitted premises; and
- (c) the number of people in the public area is more than the number allowed under the occupancy loading for the area.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

## **126 Offence—fail to display occupancy loading sign**

- (1) A person commits an offence if the person—
  - (a) is a licensee; and
  - (b) fails to display a sign about the occupancy loading at the licensed premises in the way prescribed by regulation.

Maximum penalty: 10 penalty units.

- (2) A person commits an offence if—
  - (a) the person is a permit-holder; and
  - (b) the commissioner has decided an occupancy loading for a public area at the permitted premises; and
  - (c) the person fails to display a sign about the occupancy loading at the permitted premises in the way prescribed by regulation.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

## **Division 8.5**                      **Approved risk-assessment management plans**

### **127**                      **Offence—fail to comply with approved risk-assessment management plan**

- (1) A person commits an offence if the person—
- (a) is a licensee; and
  - (b) fails to comply with an approved risk-assessment management plan in force for the licensed premises.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if the person—
- (a) is a commercial permit-holder; and
  - (b) fails to comply with an approved risk-assessment management plan in force for the permitted premises.

Maximum penalty: 20 penalty units.

- (3) A person commits an offence if—
- (a) the person is a licensee; and
  - (b) an employee of the licensee fails to comply with an approved risk-assessment management plan in force for the licensed premises.

Maximum penalty: 10 penalty units.

- (4) A person commits an offence if—
- (a) the person is a commercial permit-holder; and

- (b) an employee of the permit-holder fails to comply with an approved risk-assessment management plan in force for the permitted premises.

Maximum penalty: 10 penalty units.

- (5) This section does not apply if—
  - (a) a term in the approved risk-assessment management plan for the premises is inconsistent with a condition on the licence, or commercial permit, for the premises; and
  - (b) the defendant complies with the condition.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (5) (see [Criminal Code](#), s 58).

## **Division 8.6 Incidents**

### **130 What is an *incident*?—div 8.6**

In this division:

***incident*** means an incident—

- (a) involving violent, unlawful or anti-social behaviour at licensed premises or permitted premises; or
- (b) involving violent or anti-social behaviour that—
  - (i) occurs in the immediate vicinity of licensed premises or permitted premises; and
  - (ii) involves a person who has recently left, or been refused admission to, the premises; or
- (c) resulting in a person being removed from licensed premises or permitted premises; or
- (d) occurring after midnight and before the time prescribed by regulation resulting in a person at licensed premises or permitted premises requiring medical assistance; or

- (e) involving the seizure of a document under section 124 (1) (Licensee, permit-holder, etc may seize false identification document); or
- (f) prescribed by regulation.

### **131 Incident reporting**

- (1) A licensee or permit-holder must give the commissioner a written report about any incident that happens at licensed premises or permitted premises.

*Note* If a form is approved under s 228 for this provision, the form must be used.

- (2) The report must include the following details:
  - (a) a description of the incident;
  - (b) the date and time the incident happened;
  - (c) the name, address and contact details of each person connected with the incident including—
    - (i) each employee of the licensee or permit-holder connected with the incident; and
    - (ii) each person working as a crowd controller at the premises connected with the incident; and
    - (iii) each police officer connected with the incident;
  - (d) for a document seized under section 124 (1)—
    - (i) the date and time when the document was seized; and
    - (ii) a copy of the receipt given under section 124 (3);
  - (e) any action taken in relation to the incident.

- (3) However, if a police officer deals with the incident, the report—
  - (a) must include—
    - (i) the contact details for the police officer; and
    - (ii) the time the police officer started dealing with the incident; and
  - (b) need not include any further details about the incident that happened after that time.
- (4) The report must be given to the commissioner within 24 hours after the incident happened.

### **132 Offence—fail to report incident**

- (1) A person commits an offence if the person—
  - (a) is a licensee; and
  - (b) does not give the commissioner a report under section 131 within 24 hours after an incident happened.

Maximum penalty: 10 penalty units.

- (2) A person commits an offence if the person—
  - (a) is a permit-holder; and
  - (b) does not give the commissioner a report under section 131 within 24 hours after an incident happened.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

## Division 8.7 Breath testing machines

### 133 What is a *breath testing machine*?—div 8.7

In this division:

*breath testing machine* means a machine that is—

- (a) designed to measure, by analysing a person's breath, the concentration of alcohol present in the person's blood; and
- (b) of a type specified in AS 3547-1997 (*Breath Alcohol Testing Devices for Personal Use*) as in force from time to time.

*Note* This standard may be purchased at [www.standards.org.au](http://www.standards.org.au).

### 134 Offence—fail to display breath testing machine sign

- (1) A person commits an offence if—
  - (a) the person is a licensee; and
  - (b) a breath testing machine is installed at the licensed premises; and
  - (c) the person fails to display a sign about the breath testing machine in the way prescribed by regulation.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if—
  - (a) the person is a permit-holder; and
  - (b) a breath testing machine is installed at the permitted premises; and
  - (c) the person fails to display a sign about the breath testing machine in the way prescribed by regulation.

Maximum penalty: 20 penalty units.



## **135 Evidence of breath tests**

- (1) This section applies to evidence of the results of a test that indicates the presence or concentration of alcohol in the blood of a person, performed on a breath testing machine installed at licensed premises or permitted premises.
- (2) The evidence is not admissible—
  - (a) in a civil proceeding against the licensee or permit-holder; or
  - (b) in a criminal proceeding.
- (3) However, this section does not prevent the admission into evidence in a civil proceeding of the results of the test if it is established that at the time of the test—
  - (a) the breath testing machine did not comply with AS 3547-1997; or
  - (b) the licensee or permit-holder was aware, or should have been aware, that the breath testing machine was not operating correctly; or
  - (c) a sign about the breath testing machine was not displayed as required under section 134.

## **Division 8.8 Other offences**

### **136 Offence—sell petrol at premises**

- (1) A person commits an offence if—
  - (a) the person is a licensee; and
  - (b) the person sells petrol to another person; and
  - (c) the sale happens at the licensed premises.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if—
- (a) the person is a permit-holder; and
  - (b) the person sells petrol to another person; and
  - (c) the sale happens at the permitted premises.

Maximum penalty: 20 penalty units.

- (3) This section does not apply to the sale of petrol at licensed premises prescribed by regulation.

**137 Offence—conduct prohibited promotional activities**

- (1) A person commits an offence if—
- (a) the person is a licensee; and
  - (b) the person conducts a prohibited promotional activity; and
  - (c) the activity is conducted at the licensed premises.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
- (a) the person is a permit-holder; and
  - (b) the person conducts a prohibited promotional activity; and
  - (c) the activity is conducted at the permitted premises.

Maximum penalty: 50 penalty units.

- (3) A person commits an offence if—
- (a) the person is a licensee; and
  - (b) another person conducts a prohibited promotional activity; and

- (c) the person knows about the activity; and
- (d) the activity is conducted at the licensed premises.

Maximum penalty: 50 penalty units.

- (4) A person commits an offence if—

- (a) the person is a permit-holder; and
- (b) another person conducts a prohibited promotional activity; and
- (c) the person knows about the activity; and
- (d) the activity is conducted at the permitted premises.

Maximum penalty: 50 penalty units.

- (5) In this section:

***prohibited promotional activity*** means an activity that—

- (a) encourages excessive or rapid consumption of liquor; or
- (b) is prescribed by regulation.

### **138 Offence—remain in or re-enter vicinity of premises**

- (1) A person commits an offence if—

- (a) the person has been refused admission to or turned out of premises under section 143B; and
- (b) the person—
  - (i) remains in the vicinity of the premises; or
  - (ii) re-enters the vicinity of the premises within 6 hours after being refused admission or turned out.

Maximum penalty: 20 penalty units.

- (2) Subsection (1) does not apply if the person—
- (a) reasonably fears for the person's safety if the person does not remain in or re-enter the vicinity of the premises; or
  - (b) must remain in or re-enter the vicinity of the premises to get transport; or
  - (c) lives in the vicinity of the premises.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

- (3) An offence against this section is a strict liability offence.
- (4) In this section:

*vicinity* of premises means any place that is less than 50m from any point on the boundary of the premises.

### **139 Offence—consume liquor at off licensed premises**

- (1) A person commits an offence if—
- (a) the person is an off licensee; and
  - (b) another person consumes liquor at the off licensed premises.
- Maximum penalty: 20 penalty units.
- (2) A person commits an offence if—
- (a) the person consumes liquor; and
  - (b) the consumption happens at off licensed premises.
- Maximum penalty: 10 penalty units.
- (3) An offence against this section is a strict liability offence.
- (4) This section does not apply if the person consuming the liquor at the premises is—
- (a) the off licensee; or

- (b) an employee of the licensee; or
  - (c) a family member of the licensee.
- (5) This section does not apply if the person consuming the liquor at the premises was supplied with the liquor for consumption as a sample of liquor available for sale and—
- (a) there was no charge for the sample; and
  - (b) the sample was consumed at the premises in an area stated to be a sampling area.

*Note* The defendant has an evidential burden in relation to the matters mentioned in ss (4) and (5) (see [Criminal Code](#), s 58).

### **139A Offence—take liquor from on licensed premises**

- (1) A person commits an offence if—
- (a) the person is an on licensee; and
  - (b) another person—
    - (i) buys liquor at the on licensed premises; and
    - (ii) takes the liquor away from the premises.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if the person—
- (a) bought liquor at on licensed premises; and
  - (b) takes the liquor away from the premises.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) This section does not apply if—
- (a) the person taking the liquor away from the premises is—
    - (i) the on licensee; or

- (ii) an employee of the licensee; or
  - (iii) a family member of the licensee; or
- (b) the liquor is the unconsumed portion of wine in an opened bottle that the person bought for consumption on the premises with a meal.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (4) (see [Criminal Code](#), s 58).

## **140 Offence—sexually explicit entertainment**

- (1) A person commits an offence if—
- (a) the person is a licensee; and
  - (b) there is sexually explicit entertainment at the licensed premises.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if—
- (a) the person is a permit-holder; and
  - (b) there is sexually explicit entertainment at the permitted premises.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) This section does not apply if—
- (a) the premises are in a prescribed location; or
  - (b) the entertainment is in a room at the premises used for accommodation.

- (4) In this section:

*sexual intercourse*—see the *Crimes Act 1900*, section 50.

*sexually explicit entertainment*—

- (a) means a performance or other entertainment—
  - (i) in which a person displays genitalia; or
  - (ii) that includes sexual intercourse; and
- (b) includes a performance, or other entertainment, prescribed by regulation.

#### **141 Offence—fail to keep licence or permit at premises**

- (1) A person commits an offence if the person—
  - (a) is a licensee; and
  - (b) fails to keep the licence at the licensed premises.Maximum penalty: 5 penalty units.
- (2) A person commits an offence if the person—
  - (a) is a permit-holder; and
  - (b) fails to keep the permit at the permitted premises.Maximum penalty: 5 penalty units.
- (3) An offence against this section is a strict liability offence.

#### **142 Offence—fail to keep records in required way**

- (1) A person commits an offence if the person—
  - (a) is a licensee or permit-holder; and
  - (b) sells liquor; and

- (c) does not record the sale—
  - (i) in electronic form; and
  - (ii) in a way that is easily retrievable.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if the person—
  - (a) is a licensee or permit-holder; and
  - (b) sells liquor; and
  - (c) makes a record of the sale; and
  - (d) does not keep the record for at least 6 years.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

#### **143 Offence—club licensee advertise for public attendance**

A person commits an offence if—

- (a) the person is a club licensee; and
- (b) the person publishes a statement; and
- (c) the statement—
  - (i) constitutes an invitation to the public to attend the licensed premises; or
  - (ii) could reasonably be understood as an invitation to the public to attend the licensed premises.

Maximum penalty: 10 penalty units.



**143A Offence—fail to comply with direction to display sign**

- (1) A person commits an offence if the person—
- (a) is a licensee; and
  - (b) the person is directed, in writing, by the commissioner to display a sign at the licensed premises of the licensee; and
  - (c) the person fails to—
    - (i) display the sign; or
    - (ii) display the sign in accordance with the direction.

Maximum penalty: 10 penalty units.

- (2) A person commits an offence if the person—
- (a) is a permit-holder; and
  - (b) the person is directed, in writing, by the commissioner to display a sign at the permitted premises of the permit-holder; and
  - (c) the person fails to—
    - (i) display the sign; or
    - (ii) display the sign in accordance with the direction.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

## **Division 8.9 Excluding people from premises**

### **143B Excluding people from premises**

- (1) An authorised person may refuse to admit to, or may turn out of, catered premises, licensed premises or permitted premises a person who is intoxicated, violent, quarrelsome or disorderly.
- (2) An authorised person may use reasonable force to turn a person out of catered premises, licensed premises or permitted premises under subsection (1).
- (3) This section does not limit any other right a person has to refuse to admit a person to, or to turn a person out of, catered premises, licensed premises or permitted premises.
- (4) In this section:

*authorised person* means—

- (a) a police officer; and
- (b) for catered or licensed premises—
  - (i) the licensee; or
  - (ii) an employee or agent of the licensee; or
  - (iii) a person working as a crowd controller at the premises; and
- (c) for permitted premises—
  - (i) the permit-holder; or
  - (ii) an employee or agent of the permit-holder; or
  - (iii) a person working as a crowd controller at the premises.

## **Division 8.10            Exclusion orders**

### **143C        Definitions—div 8.10**

In this division:

*excluded person*—see section 143D.

*exclusion order*—see section 143D.

*exclusion period*—see section 143D.

### **143D        Meaning of *exclusion order*, *excluded person* and *exclusion period***

An *exclusion order* is an order made by a magistrate that prohibits a person (the *excluded person*) from entering or remaining on licensed premises to which the order applies for a stated period (the *exclusion period*).

### **143E        Application for exclusion order**

- (1) The chief police officer may apply to a magistrate for an exclusion order for a person.
- (2) At least 2 days before applying for the exclusion order, the chief police officer must notify the commissioner of the chief police officer's intention to apply for the order.
- (3) The application must be in writing and include—
  - (a) a statement of the grounds on which the application is made; and
  - (b) information to support those grounds.
- (4) The chief police officer must—
  - (a) give a copy of the application to the person; and
  - (b) tell the person the time and date when the application is to be heard.

- (5) The application may be heard and decided in the absence of the person if the person has been given notice under subsection (4) (b).

**143F Making of exclusion order**

- (1) On application under section 143E, a magistrate may make an exclusion order for a person, but only if satisfied that—
- (a) the person has, in company with others and on 1 or more occasions in the 12 months before the application was made, engaged in violent conduct on or in the immediate vicinity of any licensed premises; and
  - (b) making an exclusion order will reduce the risk to public safety.
- (2) An exclusion order applies to all licensed premises operated under the following licences:
- (a) a general licence;
  - (b) an on licence (other than a restaurant and cafe licence);
  - (c) a club licence;
  - (d) a special licence.
- (3) However, on application by the chief police officer or the person, the magistrate may decide the exclusion does not apply to particular licensed premises (the *relevant premises*) if the magistrate is satisfied that—
- (a) the person has a legitimate and genuine need to be on the premises; and
  - (b) allowing the person to be on the premises would not pose a risk to public safety.
- (4) The exclusion period must be 12 months unless the magistrate considers that a shorter period is appropriate having regard to the nature and seriousness of the conduct.

- (5) An exclusion order must state—
- (a) the name of the excluded person; and
  - (b) if there are no relevant premises—that the exclusion applies to all licensed premises mentioned in subsection (2); and
  - (c) if there are relevant premises—that the exclusion applies to all licensed premises other than the relevant premises and the details of the relevant premises; and
  - (d) the exclusion period.
- (6) The magistrate must give a copy of the exclusion order to—
- (a) the excluded person; and
  - (b) the chief police officer; and
  - (c) the commissioner.

**143G      Offence—excluded person on premises contrary to exclusion order**

- (1) A person commits an offence if the person—
- (a) is subject to an exclusion order in relation to licensed premises; and
  - (b) enters or remains on the premises; and
  - (c) is reckless about whether the premises are licensed premises that the person may not enter or remain on under the exclusion order.

Maximum penalty: 100 penalty units, imprisonment for 12 months or both.

- (2) This section does not apply if the person has a reasonable excuse.

*Note*      The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

**143H Display of notice about effect of exclusion order**

- (1) This section applies to the licensee of premises operated under any of the following licences:
  - (a) a general licence;
  - (b) an on licence (other than a restaurant and cafe licence);
  - (c) a club licence;
  - (d) a special licence.
- (2) The licensee must display a notice at or near the entrance to the licensed premises telling people about the effect of section 143G.

**143I Amending or revoking exclusion order**

- (1) A person subject to an exclusion order may apply to a magistrate for—
  - (a) an amendment of the order in relation to the licensed premises to which it applies; or
  - (b) revocation of the order.
- (2) The application must be in writing and include—
  - (a) for an amendment of the order—the change sought to the licensed premises to which it applies; and
  - (b) a statement of the grounds on which the application is made; and
  - (c) information to support those grounds.
- (3) The magistrate may amend the exclusion order so that it does not apply to particular licensed premises only if satisfied that there has been a change of circumstances that means—
  - (a) the person has a legitimate and genuine need to be on the premises; and

- (b) allowing the person to be on the premises would not pose a risk to public safety.
- (4) The magistrate may revoke the exclusion order only if satisfied that there has been a change of circumstances that means the person being on the premises would no longer pose a risk to public safety.
- (5) An excluded person may make an application under subsection (1) not more than—
  - (a) for an exclusion period of less than 9 months—once during the period; and
  - (b) for an exclusion period of at least 9 months, but not more than 12 months—twice during the period.

## Part 9                      Directions, emergency closure orders and cautions

### Division 9.1              Commissioner's directions

#### 144              Commissioner may direct licensee, permit-holder, employee etc

- (1) This section applies if the commissioner believes on reasonable grounds that there is, or is likely to be—
- (a) a contravention of this Act; or
  - (b) a breach of a licence or permit.

*Note*              A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (2) The commissioner may direct (a ***commissioner's direction***) 1 or more of the following people to take action to prevent the contravention or breach:
- (a) a licensee;
  - (b) an employee of a licensee;
  - (c) a person working at the licensed premises;
  - (d) a permit-holder;
  - (e) an employee of a permit-holder;
  - (f) a person working at the permitted premises.

#### **Examples—commissioner's direction**

- 1 to a licensee to require people to leave a public area of the licensed premises because the occupancy loading for the area has been exceeded
- 2 to a licensee to reduce loud noise coming from premises
- 3 to a licensee to remove or discontinue a promotion that is a prohibited promotional activity under s 137



*Note* In making this decision, the commissioner must have regard to the harm minimisation and community safety principles (see s 10).

- (3) A commissioner's direction must—
- (a) be in writing; and
  - (b) either—
    - (i) state—
      - (A) the action to be taken; and
      - (B) when the direction must be complied with; or
    - (ii) state—
      - (A) the conduct not to be undertaken; and
      - (B) how long the direction is in force.
- (4) A commissioner's direction must not state a day or time for compliance that is earlier than the day or time the person is given the commissioner's direction.

*Note* Power to make a statutory instrument includes power to amend or repeal the instrument. The power to amend or repeal the instrument is exercisable in the same way, and subject to the same conditions, as the power to make the instrument.

## **145 Offence—fail to comply with commissioner's direction**

A person commits an offence if—

- (a) a commissioner's direction is in force for the person; and
- (b) the person fails to take reasonable steps to comply with the direction.

Maximum penalty: 100 penalty units, 12 months imprisonment or both.

## **Division 9.1A                      Direction to give security camera images**

### **145A            Commissioner or police may direct licensee to give security camera images**

- (1) This section applies if—
- (a) a licensee has, in accordance with a condition imposed under section 31 (2) (b), fitted 1 or more security cameras; and
  - (b) the commissioner or a senior police officer believes on reasonable grounds that there is, or is likely to be—
    - (i) a contravention of this Act; or
    - (ii) a breach of the licence.

*Note*        A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (2) The commissioner or senior police officer may, in writing, direct the licensee to give the commissioner or senior police officer images recorded by a security camera within 5 days after the direction is given.

### **145B            Offence—fail to comply with direction to give security camera images**

A licensee commits an offence if—

- (a) the licensee is given a direction under section 145A; and
- (b) the licensee fails to comply with the direction.

Maximum penalty: 100 penalty units, 12 months imprisonment or both.

## **Division 9.2                      Emergency closure orders**

### **146                      Emergency closure of premises for 24 hours**

- (1) A senior police officer may order (an *emergency closure order*) a licensee, or permit-holder, to close licensed premises, or permitted premises, if the officer believes on reasonable grounds that—
  - (a) a breach of this Act has happened, or is likely to happen; and
  - (b) the closure of the premises is necessary to prevent or reduce a significant threat or significant risk to the safety of the community.
- (2) Without limiting subsection (1), the circumstances in which there may be a significant threat or significant risk to the safety of the community include circumstances in which there is—
  - (a) a threat to public health or safety; or
  - (b) a risk of substantial damage to property; or
  - (c) a significant threat to the environment; or
  - (d) a risk of an offence against a law of the ACT, with a maximum penalty of imprisonment for 2 years or more, being committed at the premises.
- (3) An emergency closure order must not require the closure of premises for longer than a continuous period of 24 hours.
- (4) If an emergency closure order is made under subsection (1), a police officer must, in writing, tell the licensee or permit-holder—
  - (a) the name of the senior police officer making the order; and
  - (b) when the order starts; and
  - (c) when the order ends.

*Note*                      An emergency closure notice for the emergency closure order must be given to the licensee or permit-holder as soon as practicable after the order is made (see s 147 (1)).

- (5) If an emergency closure order is in force for licensed premises, or permitted premises, the licence, or permit, is suspended for the period of the order.

#### **147 Emergency closure notice**

- (1) If a senior police officer makes an emergency closure order for licensed premises or permitted premises the officer must, as soon as practicable, give a notice (an *emergency closure notice*) to the licensee or permit-holder.
- (2) An emergency closure notice must—
  - (a) be in writing; and
  - (b) state—
    - (i) the date of issue of the notice; and
    - (ii) when the order starts; and
    - (iii) when the order ends; and
    - (iv) the breach of this Act that the senior police officer believes has happened or is likely to happen; and
    - (v) the grounds for the officer's belief; and
  - (c) be signed by the senior police officer.
- (3) The senior police officer must also—
  - (a) keep a record of the emergency closure notice in the police records; and
  - (b) give a copy of the notice to the commissioner.

**148 Offence—fail to comply with emergency closure order**

- (1) A person commits an offence if—
- (a) the person is—
    - (i) a licensee; or
    - (ii) a permit-holder; and
  - (b) an emergency closure order is in force for the person; and
  - (c) the person fails to comply with the emergency closure order.
- Maximum penalty units: 50 penalty units.
- (2) An offence against this section is a strict liability offence.

**Division 9.3 Police cautions for children and young people**

**149 Definitions—div 9.3**

In this division:

*caution offence* means any of the following offences:

- (a) section 115 (Offence—child or young person consume liquor);
- (b) section 117 (Offence—child or young person possess liquor);
- (c) section 121 (Offence—child or young person in adults-only area);
- (d) section 122 (Offence—child or young person use false identification for adults-only area);
- (e) section 202 (Offence—child or young person buy liquor);
- (f) section 203 (Offence—child or young person use false identification to buy liquor);
- (g) section 211 (Offence—child or young person use false identification to obtain proof of identity card).

*CYP director-general* means the director-general responsible for the *Children and Young People Act 2008*.

**150 Police may caution children and young people**

- (1) A police officer may caution a child or young person for a caution offence if—
  - (a) the police officer believes on reasonable grounds that the child or young person is committing, or has committed, the offence; and
  - (b) the child or young person has not been cautioned in the preceding 12 months for a caution offence.
- (2) A caution must—
  - (a) be in writing; and
  - (b) state—
    - (i) the date of issue of the caution; and
    - (ii) the caution offence that the police officer believes the child or young person is committing, or has committed; and
    - (iii) the grounds for the police officer's belief; and
  - (c) warn the child or young person that if the child or young person engages in behaviour that constitutes a further caution offence within 12 months after the date of issue of the caution, the child or young person may be prosecuted for the further offence; and
  - (d) be signed by the police officer.
- (3) A police officer who issues a caution must—
  - (a) keep the caution in the police records; and
  - (b) give a copy of the caution to—
    - (i) the child or young person; and

- (ii) a person with parental responsibility for the child or young person; and
- (iii) if the CYP director-general has parental responsibility (whether shared or otherwise) for the child or young person—the CYP director-general; and
- (iv) the commissioner.

*Note* A copy of the caution must be given to the person as soon as possible (see [Legislation Act](#), s 151B).

- (4) If a child or young person is cautioned for an offence, the child or young person must not be prosecuted in a court for the offence.

## **151 Police must caution and release child or young person as soon as practicable**

- (1) If a police officer intends to caution a child or young person, the police officer must—
  - (a) take the child or young person to a police station; and
  - (b) issue the caution within a reasonable time after the child or young person is taken to the station.
- (2) If a police officer cautions a child or young person, the police officer must as soon as practicable after the caution is issued—
  - (a) arrange for the child or young person to be escorted by a police officer to the child's or young person's home; or
  - (b) arrange for a person with parental responsibility for the child or young person to come to the police station to collect the child or young person; or
  - (c) release the child or young person.
- (3) If a police officer releases a child or young person under subsection (2) (c), the police officer must tell the CYP director-general about the release as soon as practicable after the release.

**152 Chief police officer may revoke cautions**

- (1) The chief police officer may revoke a caution issued to a child or young person if satisfied that the police officer who issued the caution did not act in accordance with section 150 or section 151.
- (2) If the chief police officer revokes a caution, the chief police officer must—
  - (a) destroy the caution kept in the police records; and
  - (b) take reasonable steps to tell the child or young person that the caution is revoked; and
  - (c) if the CYP director-general was given a copy of the caution under section 150 (3) (b)—tell the CYP director-general that the caution is revoked; and
  - (d) tell the commissioner that the caution is revoked.



## **Part 10                      Enforcement**

### **Division 10.1            General**

#### **153        Definitions—pt 10**

In this part:

***connected***—a thing is ***connected*** with an offence if—

- (a) the offence has been committed in relation to it; or
- (b) it will provide evidence of the commission of the offence; or
- (c) it was used, is being used, or is intended to be used, to commit the offence.

***occupier***, of premises, includes—

- (a) a person believed on reasonable grounds to be an occupier of the premises; and
- (b) a person apparently in charge of the premises.

***offence*** includes an offence that there are reasonable grounds for believing has been, is being, or will be, committed.

***warrant*** means a warrant issued under division 10.3 (Search warrants).

## **Division 10.2 Powers of authorised people**

### **154 Power to enter premises**

- (1) For this Act, an authorised person may—
  - (a) at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment of money); or
  - (b) at any time when the premises is open for business, enter the premises; or
  - (c) enter premises at any time when there are reasonable grounds for suspecting that liquor is being sold on the premises; or
  - (d) at any time, enter premises with the occupier's consent; or
  - (e) enter premises in accordance with a licence or permit condition; or
  - (f) enter premises in accordance with a search warrant; or
  - (g) at any time, enter premises if the authorised person believes on reasonable grounds that the circumstances are so serious and urgent that immediate entry to the premises without the authority of a search warrant is necessary.
- (2) However, subsection (1) (a) and (b) do not authorise entry into a part of premises that is being used only for residential purposes.
- (3) An authorised person may, without the consent of the occupier of premises, enter land around the premises to ask for consent to enter the premises.
- (4) To remove any doubt, an authorised person may enter premises under subsection (1) without payment of an entry fee or other charge.

- (5) In this section:

*at any reasonable time* includes at any time when the public is entitled to use the premises, or when the premises are open to or used by the public (whether or not on payment of money).

**155 Production of identity card**

- (1) An investigator must not remain at premises entered under this part if the investigator does not produce his or her identity card when asked by the occupier.
- (2) A police officer must not remain at premises entered under this part if the officer does not produce evidence that the officer is a police officer when asked by the occupier.

**156 Consent to entry**

- (1) When seeking the consent of an occupier of premises to enter premises under section 154 (1) (d), an authorised person must—
- (a) either—
- (i) if the person is an investigator—produce his or her identity card; or
- (ii) if the person is a police officer—produce evidence that he or she is a police officer; and
- (b) tell the occupier—
- (i) the purpose of the entry; and
- (ii) that anything found and seized under this part may be used in evidence in court; and
- (iii) that consent may be refused.

- (2) If the occupier consents, the authorised person must ask the occupier to sign a written acknowledgment (an ***acknowledgment of consent***)—
  - (a) that the occupier was told—
    - (i) the purpose of the entry; and
    - (ii) that anything found and seized under this part may be used in evidence in court; and
    - (iii) that consent may be refused; and
  - (b) that the occupier consented to the entry; and
  - (c) stating the time and date when consent was given.
- (3) If the occupier signs an acknowledgment of consent, the authorised person must immediately give a copy to the occupier.
- (4) A court must find that the occupier did not consent to entry to the premises by the authorised person under this part if—
  - (a) the question arises in a proceeding in the court whether the occupier consented to the entry; and
  - (b) an acknowledgment of consent is not produced in evidence; and
  - (c) it is not proved that the occupier consented to the entry.

## **157 General powers on entry to premises**

- (1) An authorised person who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises or anything at the premises:
  - (a) inspect or examine;
  - (b) take measurements or conduct tests;
  - (c) take samples;
  - (d) take photographs, films, or audio, video or other recordings;

- (e) require the occupier, or anyone at the premises, to give the authorised person reasonable help to exercise a power under this part.

*Note* The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self incrimination and client legal privilege.

- (2) A person must take reasonable steps to comply with a requirement made of the person under subsection (1) (e).

Maximum penalty: 50 penalty units.

## **158 Power to seize things**

- (1) An authorised person who enters premises under this part with the occupier's consent may seize anything at the premises if—
  - (a) the authorised person is satisfied on reasonable grounds that the thing is connected with an offence against this Act; and
  - (b) seizure of the thing is consistent with the purpose of the entry told to the occupier when seeking the occupier's consent.
- (2) An authorised person who enters premises under a warrant under this part may seize anything at the premises that the authorised person is authorised to seize under the warrant.
- (3) An authorised person who enters premises under this part (whether with the occupier's consent, under a warrant or otherwise) may seize anything at the premises if satisfied on reasonable grounds that—
  - (a) the thing is connected with an offence against this Act; and
  - (b) the seizure is necessary to prevent the thing from being—
    - (i) concealed, lost or destroyed; or
    - (ii) used to commit, continue or repeat the offence.

- (4) Also, an authorised person who enters premises under this part (whether with the consent of a person in charge of the premises, under a warrant or otherwise) may seize anything at the premises if satisfied on reasonable grounds that the thing poses a risk to the health or safety of people or of damage to property or the environment.
- (5) The powers of an authorised person under subsections (3) and (4) are additional to any powers of the authorised person under subsections (1) or (2) or any other territory law.
- (6) Having seized a thing, an authorised person may—
  - (a) remove the thing from the premises where it was seized (the *place of seizure*) to another place; or
  - (b) leave the thing at the place of seizure but restrict access to it.
- (7) A person commits an offence if—
  - (a) the person interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (6); and
  - (b) the person does not have an authorised person's approval to interfere with the thing.

Maximum penalty: 50 penalty units.

- (8) An offence against this section is a strict liability offence.

*Note* See also s 201 about disposal of liquor seized in public places.

## **Division 10.3 Search warrants**

### **159 Warrants generally**

- (1) An authorised person may apply to a magistrate for a warrant to enter premises.
- (2) The application must be sworn and state the grounds on which the warrant is sought.

- (3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.
- (4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—
  - (a) there is a particular thing or activity connected with an offence against this Act; and
  - (b) the thing or activity—
    - (i) is, or is being engaged in, at the premises; or
    - (ii) may be, or may be engaged in, at the premises within the next 7 days.
- (5) The warrant must state—
  - (a) that an authorised person may, with any necessary assistance and force, enter the premises and exercise the authorised person's powers under this part; and
  - (b) the offence for which the warrant is issued; and
  - (c) the things that may be seized under the warrant; and
  - (d) the hours when the premises may be entered; and
  - (e) the date, within 7 days after the day of the warrant's issue, the warrant ends.

## **160 Warrants—application made other than in person**

- (1) An authorised person may apply for a warrant by phone, fax, email, radio or other form of communication if the authorised person considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances.

- (2) Before applying for the warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.
- (3) The authorised person may apply for the warrant before the application is sworn.
- (4) After issuing the warrant, the magistrate must immediately provide a written copy to the authorised person if it is practicable to do so.
- (5) If it is not practicable to provide a written copy to the authorised person—
  - (a) the magistrate must tell the authorised person—
    - (i) the terms of the warrant; and
    - (ii) the date and time the warrant was issued; and
  - (b) the authorised person must complete a form of warrant (the **warrant form**) and write on it—
    - (i) the magistrate's name; and
    - (ii) the date and time the magistrate issued the warrant; and
    - (iii) the warrant's terms.
- (6) The written copy of the warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the authorised person's powers under this part.
- (7) The authorised person must, at the first reasonable opportunity, send to the magistrate—
  - (a) the sworn application; and
  - (b) if the authorised person completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.



- (9) A court must find that a power exercised by the authorised person was not authorised by a warrant under this section if—
- (a) the question arises in a proceeding in the court whether the exercise of power was authorised by a warrant; and
  - (b) the warrant is not produced in evidence; and
  - (c) it is not proved that the exercise of power was authorised by a warrant under this section.

**161 Search warrants—announcement before entry**

- (1) An authorised person must, before anyone enters premises under a search warrant—
- (a) announce that the authorised person is authorised to enter the premises; and
  - (b) give anyone at the premises an opportunity to allow entry to the premises; and
  - (c) if the occupier of the premises, or someone else who apparently represents the occupier, is present at the premises—identify himself or herself to the person.
- (2) The authorised person is not required to comply with subsection (1) if the authorised person believes on reasonable grounds that immediate entry to the premises is required to ensure—
- (a) the safety of anyone (including the authorised person or any person assisting); or
  - (b) that the effective execution of the warrant is not frustrated.

**162 Details of search warrant to be given to occupier etc**

If the occupier of premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the authorised person or a person assisting must make available to the person—

- (a) a copy of the warrant; and
- (b) a document setting out the rights and obligations of the person.

**163 Occupier entitled to be present during search etc**

- (1) If the occupier of premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the person is entitled to observe the search being conducted.
- (2) However, the person is not entitled to observe the search if—
  - (a) to do so would impede the search; or
  - (b) the person is under arrest, and allowing the person to observe the search being conducted would interfere with the objectives of the search.
- (3) This section does not prevent 2 or more areas of the premises being searched at the same time.

**Division 10.4 Return and forfeiture of things seized**

**164 Receipt for things seized**

- (1) As soon as practicable after an authorised person seizes a thing under this part, the authorised person must give a receipt for it to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must leave the receipt, secured conspicuously, at the place of seizure under section 158 (Power to seize things).

- (3) A receipt under this section must include the following:
- (a) a description of the thing seized;
  - (b) an explanation of why the thing was seized;
  - (c) the authorised person's name, and how to contact the authorised person;
  - (d) if the thing is moved from the premises where it is seized—where the thing is to be taken.

*Note* If a form is approved under s 228 for this provision, the form must be used.

## **165 Moving things to another place for examination or processing under search warrant**

- (1) A thing found at premises entered under a search warrant may be moved to another place for examination or processing to decide whether it may be seized under the warrant if—
- (a) both of the following apply:
    - (i) there are reasonable grounds for believing that the thing is or contains something to which the warrant relates;
    - (ii) it is significantly more practicable to do so having regard to the timeliness and cost of examining or processing the thing at another place and the availability of expert assistance; or
  - (b) the occupier of the premises agrees in writing.
- (2) The thing may be moved to another place for examination or processing for not longer than 72 hours.
- (3) An authorised person may apply to a magistrate for an extension of time if the authorised person believes on reasonable grounds that the thing cannot be examined or processed within 72 hours.

- (4) The authorised person must give notice of the application to the occupier of the premises, and the occupier is entitled to be heard on the application.
- (5) If a thing is moved to another place under this section, the authorised person must, if practicable—
  - (a) tell the occupier of the premises the address of the place where, and time when, the examination or processing will be carried out; and
  - (b) allow the occupier or the occupier's representative to be present during the examination or processing.
- (6) The provisions of this part relating to the issue of search warrants apply, with any necessary changes, to the giving of an extension under this section.

## **166 Access to things seized**

A person who would, apart from the seizure, be entitled to inspect a thing seized under this part may—

- (a) inspect it; and
- (b) if it is a document—take extracts from it or make copies of it.

## **167 Return of things seized**

- (1) A thing seized under this part must be returned to its owner, or reasonable compensation must be paid to the owner by the Territory for the loss of the thing, unless—
  - (a) a prosecution for an offence against a territory law in connection with the thing is begun within 1 year after the day the seizure is made and the thing is required to be produced in evidence in the prosecution; or

- (b) an application for the forfeiture of the seized thing is made to a court under the *Confiscation of Criminal Assets Act 2003* or another territory law within 1 year after the day the seizure is made; or
  - (c) all proceedings in relation to the offence with which the seizure was connected have ended and the court has not made an order about the thing.
- (2) However, this section does not apply to a thing—
- (a) if the director-general believes on reasonable grounds that the only practical use of the thing in relation to the premises where it was seized would be an offence against this Act; or
  - (b) if possession of it by its owner would be an offence.

## **168 Forfeiture of seized things**

- (1) This section applies if—
- (a) anything seized under this part has not been returned under section 167; and
  - (b) an application for disallowance of the seizure under section 170—
    - (i) has not been made within 10 days after the day of the seizure; or
    - (ii) has been made within the 10-day period, but the application has been refused or withdrawn before a decision in relation to the application had been made.
- (2) If this section applies to the seized thing—
- (a) it is forfeited to the Territory; and
  - (b) it may be sold, destroyed or otherwise disposed of as the director-general directs.

**169 Power to destroy unsafe things**

- (1) This section applies to anything inspected or seized under this part by an authorised person if the authorised person is satisfied on reasonable grounds that the thing poses a risk to the health or safety of people or of damage to property or the environment.
- (2) The authorised person may direct a person in charge of the premises where the thing is to destroy or otherwise dispose of the thing.
- (3) The direction may state 1 or more of the following:
  - (a) how the thing must be destroyed or otherwise disposed of;
  - (b) how the thing must be kept until it is destroyed or otherwise disposed of;
  - (c) the period within which the thing must be destroyed or otherwise disposed of.
- (4) A person in charge of the premises where the thing is commits an offence if the person contravenes a direction given to the person under subsection (2).

Maximum penalty: 100 penalty units.

- (5) Alternatively, if the thing has been seized under this part, the authorised person may destroy or otherwise dispose of the thing.
- (6) Costs incurred by the Territory in relation to the disposal of a thing under subsection (5) are a debt owing to the Territory by, and are recoverable together and separately from, the following people:
  - (a) the person who owned the thing;
  - (b) each person in control of the premises where the thing was.
- (7) An offence against this section is a strict liability offence.

**170 Application for order disallowing seizure**

- (1) A person claiming to be entitled to anything seized under this part may apply to the Magistrates Court within 10 days after the day of the seizure for an order disallowing the seizure.
- (2) The application may be heard only if the applicant has served a copy of the application on the director-general.

*Note* For how documents may be served, see the [Legislation Act](#), pt 19.5.

- (3) The director-general is entitled to appear as respondent at the hearing of the application.

**171 Order for return of seized thing**

- (1) This section applies if a person claiming to be entitled to anything seized under this part applies to the Magistrates Court under section 170 for an order disallowing the seizure.
- (2) The Magistrates Court must make an order disallowing the seizure if satisfied that—
  - (a) the applicant would, apart from the seizure, be entitled to the return of the seized thing; and
  - (b) the thing is not connected with an offence against this Act; and
  - (c) possession of the thing by the person would not be an offence.
- (3) The Magistrates Court may also make an order disallowing the seizure if satisfied there are exceptional circumstances justifying the making of the order.
- (4) If the Magistrates Court makes an order disallowing the seizure, the court may make 1 or more of the following ancillary orders:
  - (a) an order directing the director-general to return the thing to the applicant or to someone else who appears to be entitled to it;

- (b) if the thing cannot be returned or has depreciated in value because of the seizure—an order directing the Territory to pay reasonable compensation;
- (c) an order about the payment of costs in relation to the application.

## **Division 10.5            Enforcement—miscellaneous**

### **172            Damage etc to be minimised**

- (1) In the exercise, or purported exercise, of a function under this part, an authorised person must take all reasonable steps to ensure that the person causes as little inconvenience, detriment and damage as practicable.
- (2) If an authorised person damages anything in the exercise or purported exercise of a function under this part, the authorised person must give written notice of the particulars of the damage to the person the authorised person believes on reasonable grounds is the owner of the thing.
- (3) The notice must state that—
  - (a) the person may claim compensation from the Territory if the person suffers loss or expense because of the damage; and
  - (b) compensation may be claimed and ordered in a proceeding for compensation brought in a court of competent jurisdiction; and
  - (c) the court may order the payment of reasonable compensation for the loss or expense only if satisfied it is just to make the order in the circumstances of the particular case.
- (4) If the damage happens at premises entered under this part in the absence of the occupier, the notice may be given by leaving it, secured conspicuously, at the premises.



**173 Compensation for exercise of enforcement powers**

- (1) A person may claim compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this part by an authorised person.
- (2) Compensation may be claimed and ordered in a proceeding for—
  - (a) compensation brought in a court of competent jurisdiction; or
  - (b) an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order the payment of reasonable compensation for the loss or expense only if satisfied it is just to make the order in the circumstances of the particular case.
- (4) A regulation may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

## Part 11 Complaints and occupational discipline

### Division 11.1 General

#### 174 Who is a *licensee*?—pt 11

In this part:

*licensee*—

- (a) means a licensee or former licensee; and
- (b) includes an influential person for a corporation that is a licensee or former licensee.

#### 175 Who is a *commercial permit-holder*?—pt 11

In this part:

*commercial permit-holder*—

- (a) means a commercial permit-holder or former commercial permit-holder; and
- (b) includes an influential person for a corporation that is a commercial permit-holder or former commercial permit-holder.

## **Division 11.2      Complaints**

### **176      Who may complain?**

A person who believes on reasonable grounds that a ground for occupational discipline exists in relation to a licensee or commercial permit-holder may complain to the commissioner.

**Examples—people who may complain**

- 1    a member of the public
- 2    a user of a service

*Note*    **Ground for occupational discipline**, for a licensee—see s 183.  
          **Ground for occupational discipline**, for a commercial permit-holder—  
          see s 184.

### **177      Form of complaint**

- (1) A complaint must—
  - (a) be in writing; and
  - (b) include the name and address of the person making the complaint (the *complainant*).
- (2) However, the commissioner may accept a complaint for consideration even if it does not comply with subsection (1).

### **178      Withdrawal of complaints**

- (1) A complainant may withdraw the complaint at any time by written notice to the commissioner.
- (2) If the complainant withdraws the complaint, the commissioner—
  - (a) need not take further action on the complaint; and
  - (b) may take further action on the complaint if the commissioner considers it appropriate to do so; and
  - (c) need not report to the complainant under section 182 (Action after investigating complaint) on the results of taking the action.

## **179 Further information about complaint etc**

- (1) The commissioner may, at any time, require a complainant to give the commissioner—
- (a) further information about the complaint; or
  - (b) a statement verifying all or part of the complaint.

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

- (2) When making a requirement under this section, the commissioner must give the complainant a reasonable period of time to satisfy the requirement and may extend that period, whether before or after it ends.
- (3) If the complainant does not comply with a requirement under subsection (1), the commissioner need not, but may, take further action in relation to the complaint.

## **180 Investigation of complaint**

The commissioner must take reasonable steps to investigate each complaint the commissioner accepts for consideration.

## **181 No further action on complaint**

The commissioner must not take further action on a complaint if satisfied that the complaint—

- (a) lacks substance; or
- (b) is frivolous, vexatious or was not made genuinely; or
- (c) has been adequately dealt with.

*Note* The commissioner may also take no further action on a complaint if the complainant has not complied with a requirement made under s 179 (see s 179 (3)).

## **182 Action after investigating complaint**

- (1) After investigating a complaint against a licensee or commercial permit-holder, the commissioner must—
  - (a) if satisfied on reasonable grounds that a ground for occupational discipline exists in relation to the complaint—
    - (i) apply to the ACAT for an occupational discipline order in relation to the licensee or commercial permit-holder; and
    - (ii) tell the complainant, in writing, that the application has been made; or
  - (b) if not satisfied that a ground for occupational discipline exists in relation to the complaint—
    - (i) tell the complainant, in writing, that the commissioner will not take further action on the complaint; and
    - (ii) not take further action on the complaint.
- (2) Subsection (1) (b) (ii) does not prevent the commissioner from taking further action in relation to a complaint if the commissioner becomes satisfied that a ground for occupational discipline exists in relation to the complaint.

*Note* The commissioner need not notify the complainant under s (1) if the complainant has withdrawn the complaint (see s 178).

## **Division 11.3 Occupational discipline**

### **182A Meaning of *person of concern*—div 11.3**

In this division:

*person of concern*—a person is a *person of concern* if—

- (a) the person is subject to a cancellation order made under part 11B (Cancellation of licence or permit for criminal activity); and

- (b) the cancellation order was made on the basis, or partly on the basis, of the criminal activity of the person.

### 183 Grounds for occupational discipline—licensee

- (1) Each of the following is a *ground for occupational discipline* in relation to a licensee:

- (a) the licensee has contravened, or is contravening, a provision of this Act;

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (b) the licensed premises do not comply with the requirements of this Act;

- (c) the licensee is not a suitable person to hold a licence;

*Note* For what ACAT must consider in deciding suitability—see s 185.

- (d) the licensed premises are not suitable premises for the licence;

*Note* For what ACAT must consider in deciding suitability—see s 186.

- (e) the commissioner has made a commissioner's direction for the licensee and the licensee has not complied with the direction;

*Note* **Commissioner's direction**—see s 144.

- (f) a senior police officer has made an emergency closure order for the licensee and the licensee has not complied with the order;

*Note* **Emergency closure order**—see s 146.

- (g) the licensee has allowed the licensed premises to be used in a way that causes undue disturbance or inconvenience to people—

- (i) lawfully at the premises; or
- (ii) occupying premises in the neighbourhood;

- (h) a loss of amenity has arisen in the vicinity of the licensed premises that is attributable to the premises and about which there has been a complaint;
  - (i) the licensee has allowed people to smoke in a part of the licensed premises that is—
    - (i) an enclosed public place; or
    - (ii) an outdoor eating or drinking place (other than a designated outdoor smoking area);
  - (j) the licensee has failed to take reasonable steps to prevent smoke from another area occupied by the licensee entering—
    - (i) an enclosed public place; or
    - (ii) an outdoor eating or drinking place (other than a designated outdoor smoking area);
  - (k) the licensee has allowed a person of concern to do 1 or more of the following in relation to the business operated under the licence:
    - (i) exercise a significant influence in relation to the conduct of the business;
    - (ii) take part in a directorial, managerial or executive decision for the business;
    - (iii) elect or appoint a person as an executive officer in the business.
- (2) There are grounds to suspend a licence if—
- (a) the licensee has—
    - (i) contravened a commissioner's direction; or
    - (ii) breached a condition of the licence; and
  - (b) it is in the public interest to suspend the licence; and

- (c) it is not appropriate to cancel the licence.
- (3) There are grounds to cancel a licence if—
  - (a) the licensee was given an immediate suspension notice under section 46A (Licence—immediate suspension for failure to pay fee); and
  - (b) the licensee failed to pay the fee within 28 days after the immediate suspension notice was given.

**184 Grounds for occupational discipline—commercial permit-holder**

- (1) Each of the following is a *ground for occupational discipline* in relation to a commercial permit-holder:

- (a) the permit-holder has contravened, or is contravening, a provision of this Act;

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (b) the permitted premises do not comply with the requirements of this Act;

- (c) the permit-holder is not a suitable person to hold a permit;

*Note* For what ACAT must consider in deciding suitability—see s 185.

- (d) the permitted premises are not suitable premises for the permit;

*Note* For what ACAT must consider in deciding suitability—see s 186.

- (e) the commissioner has made a commissioner's direction for the permit-holder and the permit-holder has not complied with the direction;

*Note* **Commissioner's direction**—see s 144.



- (f) a senior police officer has made an emergency closure order for the permit-holder and the permit-holder has not complied with the order;

*Note*     ***Emergency closure order***—see s 146.

- (g) the permit-holder has allowed the permitted premises to be used in a way that causes undue disturbance or inconvenience to people—
  - (i) lawfully at the premises; or
  - (ii) occupying premises in the neighbourhood;
- (h) a loss of amenity has arisen in the vicinity of the permitted premises that is attributable to the premises and about which there has been a complaint;
- (i) the permit-holder has allowed people to smoke in a part of the permitted premises that is—
  - (i) an enclosed public place; or
  - (ii) an outdoor eating or drinking place;
- (j) the permit-holder has failed to take reasonable steps to prevent smoke from another area occupied by the permit-holder entering—
  - (i) an enclosed public place; or
  - (ii) an outdoor eating or drinking place;
- (k) the permit-holder has allowed a person of concern to do 1 or more of the following in relation to the business operated under the permit:
  - (i) exercise a significant influence in relation to the conduct of the business;
  - (ii) take part in a directorial, managerial or executive decision for the business;

- (iii) elect or appoint a person as an executive officer in the business.
- (2) There are grounds to suspend a commercial permit if—
  - (a) the permit-holder has—
    - (i) contravened a commissioner's direction; or
    - (ii) breached a condition of the permit; and
  - (b) it is in the public interest to suspend the permit; and
  - (c) it is not appropriate to cancel the permit.

**185 ACAT must consider suitability information, etc about licensee or commercial-permit holder**

In deciding whether a licensee or commercial permit-holder is a suitable person to hold a licence or commercial permit, the ACAT must consider the following:

- (a) suitability information about the licensee or permit-holder;  
*Note* **Suitability information**, about a person—see s 69.
- (b) any police certificate or other information about the person given to the commissioner under—
  - (i) section 25 (Licence—application); or
  - (ii) section 40 (Licence—application to transfer licence); or
  - (iii) section 71 (Commissioner may require police certificate or information for person etc);
- (c) any public consultation representation about the person received by the commissioner under section 35 (Licence—representations);

- (d) any information or documents given to the commissioner under—
  - (i) section 91 (4) (Risk-assessment management plan—amendment on application); or
  - (ii) section 95 (3) (Young people’s event approval—application).

**186 ACAT must consider suitability information, etc about premises**

In deciding whether premises are suitable premises for a licence or permit, the ACAT must consider the following:

- (a) suitability information about the premises;
- (b) any certificate, plan or other information about the premises given to the commissioner under—
  - (i) section 25 (Licence—application); or
  - (ii) section 39 (Licence—amendment for change to floor plan of licensed premises); or
  - (iii) section 50 (Permit—application); or
  - (iv) section 79 (Commissioner may require plan etc for premises);
- (c) any public consultation representation about the premises received by the commissioner under section 35 (Licence—representations);
- (d) any information or documents given to the commissioner under—
  - (i) section 91 (4) (Risk-assessment management plan—amendment on application); or
  - (ii) section 95 (3) (Young people’s event approval—application);

- (e) results of any inspection of the premises by the commissioner under—
  - (i) section 80 (Commissioner may require inspection of premises); or
  - (ii) section 91 (4) (Risk-assessment management plan—amendment on application); or
  - (iii) section 95 (3) (Young people’s event approval—application).

### **187 Application to ACAT for occupational discipline**

- (1) If the commissioner believes on reasonable grounds that a ground for occupational discipline exists in relation to a licensee or commercial permit-holder, the commissioner may apply to the ACAT for an occupational discipline order in relation to the licensee or permit-holder.

*Note* The [ACT Civil and Administrative Tribunal Act 2008](#), s 66 sets out occupational discipline orders the ACAT may make.

- (2) For an application in relation to a permit-holder, the ACAT Act applies as if a reference in the ACAT Act to—
  - (a) a person who is licensed includes a reference to a person who is a commercial permit-holder; and
  - (b) a licence includes a reference to a commercial permit.

## Part 11A Compliance testing

### 187A Definitions—pt 11A

In this part:

*approved procedures* means procedures approved under section 187D (1) for carrying out an approved program of compliance testing.

*approved program* means a program of compliance testing approved under section 187C (1).

*authorised person* does not include a police officer.

*compliance test*—see section 187B.

*purchase assistant*—see section 187B (a).

### 187B What is a *compliance test*?—pt 11A

For this part, a *compliance test*—

- (a) involves a young person (a *purchase assistant*), under the supervision of an authorised person, purchasing, or trying to purchase, liquor from a licensee; and
- (b) is carried out to obtain evidence that may lead to the prosecution of a person, or other action being taken against a person, for an offence against section 110 (Offence—supply liquor to child or young person—licensee or permit-holder); and

**Example—other action**

action under pt 11 (Complaints and occupational discipline)

- (c) may involve the purchase assistant and the authorised person engaging in conduct that would, apart from section 187F (Lawfulness of compliance testing), be an offence against a territory law.

**187C Approval of compliance testing programs**

- (1) The Minister may approve a program of compliance testing.
- (2) However, the Minister must not approve a program of compliance testing unless—
  - (a) the Minister is satisfied that the program is necessary to deter the sale of liquor to children and young people in the area where the program will operate; and
  - (b) the program states the area where the program will operate and when the program begins and ends; and
  - (c) the program is not longer than 3 months; and
  - (d) the Minister has approved procedures under section 187D.

**Examples—considerations—par (a)**

- 1 evidence of sales to children in the area where the program will operate
- 2 the success of other enforcement methods
- 3 the results of previous compliance tests in the area where the program will operate
- 4 the period since compliance testing was previously carried out in the area where the program will operate

**187D Approval of compliance testing procedures**

- (1) The Minister may approve procedures for carrying out approved programs of compliance testing.
- (2) The Minister must not approve procedures under subsection (1) unless satisfied that the procedures—
  - (a) provide that, in carrying out a compliance test, a purchase assistant's welfare is paramount; and
  - (b) appropriately protect a purchase assistant's health and safety; and
  - (c) allow a purchase assistant to stop taking part in a compliance test at any time during the test; and

- (d) ensure that, as far as practicable, a purchase assistant's identity is protected during a compliance test; and
  - (e) require a purchase assistant to be, as far as practicable, indistinguishable from other purchasers and to look like a young person; and
  - (f) require a purchase assistant not to lie to anyone about how old the assistant is during a compliance test; and
  - (g) only allow a compliance test to take place during normal business hours or at any other time when the premises where the test takes place is being used in relation to the licensee's normal business; and
  - (h) comply with anything else prescribed by regulation.
- (3) An approval is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

## **187E Carrying out compliance testing**

- (1) An authorised person may carry out a compliance test in accordance with an approved program and the approved procedures.
- (2) An authorised person may use a young person as a purchase assistant in a compliance test only if the young person, and at least 1 person who has parental responsibility under the [Children and Young People Act 2008](#), division 1.3.2 for the young person, have given informed consent to the young person being a purchase assistant.

*Note* If 2 or more people share parental responsibility for a child or young person, any of them may discharge the responsibility (see [Children and Young People Act 2008](#), s 18 (2)).

- (3) Each consent under subsection (2) must be in writing.

- (4) In this section:

***informed consent***, by a person, means consent given by the person after the following matters have been explained to the person:

- (a) a purchase assistant's role in a compliance test, including the assistant's role in any prosecution of a person for an offence against section 110 (Offence—supply liquor to child or young person—licensee or permit-holder);
- (b) the effect of section 187F and section 187G (Indemnification of authorised people and purchase assistants);
- (c) anything else required by the approved procedures.

#### **187F Lawfulness of compliance testing**

- (1) Despite any other territory law, conduct engaged in honestly by an authorised person is not unlawful, and is not an offence by the person, if the conduct is engaged in for the purpose of carrying out a compliance test in accordance with an approved program and the approved procedures.
- (2) Despite any other territory law, conduct engaged in honestly by a purchase assistant is not unlawful, and is not an offence by the assistant, if—
  - (a) the conduct is engaged in for the purpose of carrying out a compliance test; and
  - (b) the assistant acts in accordance, or substantially in accordance, with the instructions (if any) of an authorised person supervising the compliance test.
- (3) However, this section does not—
  - (a) authorise a purchase assistant to enter or be in a place that would be otherwise unlawful for the assistant to enter or be in; or



- (b) prevent action being taken against an authorised person under the *Public Sector Management Act 1994* in relation to a failure by the authorised person or a purchase assistant to comply with approved procedures.

**Example—par (a)**

an adults-only area

**187G Indemnification of authorised people and purchase assistants**

- (1) An authorised person is not civilly liable for conduct engaged in for the purpose of carrying out a compliance test in accordance with an approved program and the approved procedures.
- (2) A purchase assistant is not civilly liable for conduct engaged in for the purpose of carrying out a compliance test if the assistant acts in accordance, or substantially in accordance, with the instructions (if any) of an authorised person for the test.
- (3) However, this section does not prevent action being taken against an authorised person under the *Public Sector Management Act 1994* in relation to a failure of the authorised person or a purchase assistant to comply with approved procedures.
- (4) Any liability that would, apart from this section, attach to an authorised person or purchase assistant attaches instead to the Territory.

## Part 11B                      Cancellation of licence or permit for criminal activity

### 187H        Definitions—pt 11B

In this part:

***cancellation order***, for a licence or permit, means an order made under section 187J.

***involved***, with a licence—a person is ***involved*** with a licence if the person is—

- (a) the licensee; or
- (b) a close associate of the licensee; or
- (c) if the licensee is a corporation—an influential person for the corporation; or
- (d) if someone other than the licensee has day-to-day control of the business operated under the licence—a person who has day-to-day control.

***involved***, with a permit—a person is ***involved*** with a permit if the person is—

- (a) the permit-holder; or
- (b) a close associate of the permit-holder; or
- (c) if the permit-holder is a corporation—an influential person for the corporation; or
- (d) if someone other than the permit-holder has day-to-day control of the business operated under the permit—a person who has day-to-day control.

**187I Application for cancellation order**

- (1) The chief police officer may apply to the ACAT for a cancellation order for a licence or permit.
- (2) At least 2 days before applying for the cancellation order, the chief police officer must notify the commissioner of the chief police officer's intention to apply for the order.
- (3) The chief police officer must give a copy of the application to—
  - (a) for a cancellation order for a licence—the licensee; and
  - (b) for a cancellation order for a permit—the permit-holder.

**187J Cancellation order**

- (1) On application under section 187I, the ACAT may make a cancellation order if satisfied—
  - (a) for a licence—that because of the criminal activity of a person involved with the licence, the licensee continuing to hold the licence presents an unacceptable risk to community safety; and
  - (b) for a permit—that because of the criminal activity of a person involved with the permit, the permit-holder continuing to hold the permit presents an unacceptable risk to community safety.
- (2) For subsection (1)—
  - (a) the ACAT must consider the need to minimise the possibility of criminal activity in the liquor industry; and
  - (b) the matters the ACAT may consider include—
    - (i) whether a person involved with a licence or permit has been convicted or found guilty of a relevant offence or had an exclusion order made against them; and
    - (ii) non-conviction information about a person involved with a licence or permit; and

- (iii) the harm minimisation and community safety principles.

*Note*     ***Harm minimisation and community safety principles—***  
see s 10.

- (3) However the ACAT must not make a cancellation order on the basis of—

- (a) for a licence—the criminal activity of an involved person other than the licensee, unless the ACAT has—

- (i) told the licensee about the proposed cancellation and who the involved person is; and

- (ii) given the licensee a stated reasonable time within which to take steps to ensure that the person ceases to be involved with the licence; and

- (b) for a permit—the criminal activity of an involved person other than the permit-holder, unless the ACAT has—

- (i) told the permit-holder about the proposed cancellation and who the involved person is; and

- (ii) given the permit-holder a stated reasonable time within which to take steps to ensure that the person ceases to be involved with the permit.

- (4) If the ACAT makes a cancellation order for a licence or permit, the chief police officer must give a copy of the order to the commissioner.

- (5) In this section:

***non-conviction information***, about a person, means information about whether the person—

- (a) has been charged with a relevant offence but—

- (i) a proceeding for the offence is not finalised; or

- (ii) the charge has lapsed, been withdrawn or discharged, or struck out; or

- (b) has been acquitted of a relevant offence; or
- (c) has had a conviction for a relevant offence quashed or set aside;  
or
- (d) has been served with an infringement notice for a relevant offence; or
- (e) has a spent conviction for a relevant offence.

*Note* The [Spent Convictions Act 2000](#) sets out which convictions can be spent (see that [Act](#), s 11) and when a conviction is spent (see that [Act](#), s 12).

**relevant offence** means any of the following:

- (a) an offence punishable by imprisonment for 5 years or longer;
- (b) an offence against the [Crimes Act 1900](#), section 26 (Common assault) or section 35A (1);
- (c) an offence involving fraud or dishonesty;
- (d) an offence against this Act or a law of another jurisdiction substantially corresponding to this Act.

## **187K Cancellation order—revocation**

The ACAT may revoke a cancellation order for a licence or permit if satisfied that, as a result of a change in circumstances—

- (a) for a licence—the person who held the licence is no longer engaged in criminal activity that would, if the person were a licensee, present an unacceptable risk to community safety; and
- (b) for a permit—the person who was the permit-holder is no longer engaged in criminal activity that would, if the person were a permit-holder, present an unacceptable risk to community safety.

**187L Offences—cancellation order—involvement of person engaged in criminal activity**

- (1) A person commits an offence if—
- (a) the person was involved with a licence; and
  - (b) the person is subject to a cancellation order for the licence made under section 187J; and
  - (c) the order was made on the basis, or partly on the basis, of criminal activity of the person; and
  - (d) the person does 1 or more of the following in relation to the business operated under the licence that was cancelled:
    - (i) exercises a significant influence in relation to the conduct of the business;
    - (ii) takes part in a directorial, managerial or executive decision for the business;
    - (iii) elects or appoints a person as an executive officer in the business.

Maximum penalty: 100 penalty units, imprisonment for 12 months or both.

- (2) A person commits an offence if—
- (a) the person was involved with a permit; and
  - (b) the person is subject to a cancellation order for the permit made under section 187J; and
  - (c) the order was made on the basis, or partly on the basis, of criminal activity of the person; and
  - (d) the person does 1 or more of the following in relation to the business that was operated under the permit that was cancelled:
    - (i) exercises a significant influence in relation to the conduct of the business;

- (ii) takes part in a directorial, managerial or executive decision for the business;
- (iii) elects or appoints a person as an executive officer in the business.

Maximum penalty: 100 penalty units, imprisonment for 12 months or both.

## Part 12 Responsible service of alcohol (RSA) training courses

### Division 12.1 Approval to provide RSA training courses

#### 188 Definitions—div 12.1

In this division:

*approved RSA training course*, for an approved RSA training provider, means a training course for which the RSA training provider holds an RSA training course approval under section 190.

*approved RSA training provider* means a registered training organisation that holds an RSA training course approval under section 190.

*registered training organisation*—see the [National Vocational Education and Training Regulator Act 2011](#) (Cwlth), section 3.

#### 189 RSA training course approval—application

- (1) A registered training organisation may apply to the commissioner for approval (an *RSA training course approval*) to provide a stated training course about the responsible service of alcohol.

*Note 1* If a form is approved under s 228 for this provision, the form must be used.

*Note 2* A fee may be determined under s 227 for this provision.



- (2) The commissioner may, in writing, require the applicant to give the commissioner additional information or documents that the commissioner reasonably needs to decide the application.

**Example—information or documents**

information about the proposed training course

**190 RSA training course approval—decision on application**

- (1) This section applies if the commissioner receives an application for approval under section 189.
- (2) The commissioner may issue the approval to the applicant only if satisfied that it is in the public interest to issue the approval.
- (3) The commissioner must, not later than the required time—
- (a) decide the application for approval; and
  - (b) tell the applicant about the decision on the application.
- (4) In this section:

***required time*** means the latest of the following:

- (a) if the commissioner requires the applicant to give the commissioner additional information or documents under section 189—90 days after the day the commissioner receives the additional information or documents;
- (b) 90 days after the day the commissioner receives the application.

*Note* Failure to issue an approval within a reasonable period is taken to be a decision not to grant the approval (see [ACT Civil and Administrative Tribunal Act 2008](#), s 12).

**191 RSA training course approval—form**

An RSA training course approval must—

- (a) be in writing; and

- (b) state the name of the registered training organisation to which it is issued; and
- (c) identify the training course to which it applies; and
- (d) if the approval is conditional—state the conditions to which the approval is subject; and
- (e) state when the approval was issued; and
- (f) state when the approval expires; and
- (g) include anything prescribed by regulation.

**192 RSA training course approval—term**

An RSA training course approval, unless renewed or cancelled, remains in force until the end of 30 June after the day it is issued.

**Division 12.2 RSA training course certificates**

**193 What is an *RSA certificate*?**

- (1) In this Act:

***RSA certificate***, for a person, means—

- (a) a certificate by an approved RSA training provider for an approved RSA training course—
  - (i) certifying that the person satisfactorily completed the course on a stated day; and
  - (ii) stating when the certificate expires; or
- (b) an interstate RSA certificate.

(2) In this section:

*interstate RSA training provider* means a registered training organisation that holds an approval (however described), under a law in force in Australia relating to the supply or consumption of liquor, to provide a training course about the responsible service of alcohol.

*interstate RSA certificate*, for a person, means a certificate issued by an interstate RSA training provider or under a law in force in Australia relating to the supply or consumption of liquor—

- (a) certifying that the person satisfactorily completed, on a stated day, a course about the responsible service of alcohol; and
- (b) stating when the certificate expires.

#### **194 RSA training providers must give RSA certificates**

- (1) If an approved RSA training provider is satisfied that a person has satisfactorily completed an approved RSA training course provided by the provider, the provider must give the person an RSA certificate for the course.
- (2) An RSA certificate expires 3 years after the day the person satisfactorily completes the course.

## Part 13 Licence and permit register

### 195 Licence and permit register

- (1) The commissioner must keep a register of licences and permits (the *licence and permit register*).
- (2) The register may include licence and permit information given to the commissioner under this Act.
- (3) The register may be kept in any form, including electronically, that the commissioner decides.
- (4) The register may be kept in 1 or more parts, as the commissioner considers appropriate.
- (5) The commissioner must make information in the register available for public inspection.

**Example**

the register may be available on a website

- (6) This section is subject to section 196.

### 196 Exception to public inspection

- (1) This section applies to an occupational discipline order in relation to a licensee or permit-holder if a record of that order is made in the licence and permit register.

*Note* An occupational discipline order is a decision of the ACAT that may be appealed under the *ACT Civil and Administrative Tribunal Act 2008*, pt 8.

- (2) A matter included in the register in relation to the occupational discipline order may be open for public inspection under section 195 only if—
  - (a) the time for any appeal of the decision has ended and no application for appeal has been made; or

- (b) an application for appeal has been made, the decision has been confirmed on appeal and the time for further appeal has ended.
- (3) If the decision has been reversed or set aside, a matter included in the register in relation to the decision must not be open for public inspection.
- (4) If the decision has been changed (for example, by substitution), this section applies to a matter included in the register in relation to the decision as changed.

#### **197      Correction and keeping up-to-date register**

- (1) The commissioner may correct a mistake, error or omission in the licence and permit register.
- (2) The commissioner may change a detail included in the register to keep the register up-to-date.

## Part 14 Other liquor matters

### Division 14.1 Alcohol-free public places

#### 198 Alcohol-free places

- (1) A regulation may prescribe a place to be a place where liquor and low-alcohol liquor must not be consumed (a *permanent alcohol-free place*).
- (2) The commissioner may declare a public place to be a place where liquor and low-alcohol liquor must not be consumed for a stated period not longer than 1 month (a *temporary alcohol-free place*).
- (3) A declaration is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

#### 199 Offence—consume liquor at certain public places

- (1) A person commits an offence if—
  - (a) the person consumes liquor or low-alcohol liquor; and
  - (b) the liquor or low-alcohol liquor is consumed at—
    - (i) a bus interchange; or
    - (ii) a bus station; or
    - (iii) a light rail stop; or
    - (iv) a place that is within 50m from—
      - (A) a bus interchange; or
      - (B) a bus station; or
      - (C) a light rail stop; or
      - (D) a shop; or
      - (E) licensed premises or permitted premises; or

- (v) a permanent alcohol-free place; or
- (vi) a temporary alcohol-free place.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to the consumption of liquor or low-alcohol liquor—
  - (a) at licensed premises or permitted premises; or
  - (b) at premises where food is sold for consumption at the premises; or
  - (c) at a place that is within 50m from premises mentioned in paragraph (a) or (b) by a person using furniture or other facilities provided by the proprietor or lessee of the premises.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

- (4) In a prosecution for an offence against this section, a substance is presumed to be liquor if—
  - (a) the substance is in a container; and
  - (b) a label or other mark on the container describes the contents as liquor.

**Examples—label or mark that describes container contents as liquor**

- 1 ‘2.6% Alc/Vol’ printed on a can
- 2 ‘14% Alc/Vol’ printed on the label of a bottle

*Note* A person rebutting the presumption in s (4) has an evidential burden in relation to the rebuttal (see [Criminal Code](#), s 58).

- (5) In this section:

***light rail stop***—see the [Road Transport \(Public Passenger Services\) Regulation 2002](#), dictionary.

**200 Offence—possess open container of liquor at certain public places**

- (1) A person commits an offence if—
- (a) the person possesses an open container of liquor or low-alcohol liquor; and
  - (b) the liquor or low-alcohol liquor is possessed at—
    - (i) a bus interchange; or
    - (ii) a bus station; or
    - (iii) a light rail stop; or
    - (iv) a place that is within 50m from—
      - (A) a bus interchange; or
      - (B) a bus station; or
      - (C) a light rail stop; or
      - (D) a shop; or
      - (E) licensed premises or permitted premises; or
    - (v) a permanent alcohol-free place; or
    - (vi) a temporary alcohol-free place; and
  - (c) the person intends to consume the liquor or low-alcohol liquor at the place.

Maximum penalty: 5 penalty units.

- (2) This section does not apply to the possession of liquor or low-alcohol liquor—
- (a) at licensed premises or permitted premises; or
  - (b) at premises where food is sold for consumption at the premises; or



- (c) at a place that is within 50m from premises mentioned in paragraph (a) or (b) by a person using furniture or other facilities provided by the proprietor or lessee of the premises.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

- (3) In a prosecution for an offence against this section, a substance is presumed to be liquor if—
  - (a) the substance is in a container; and
  - (b) a label or other mark on the container describes the contents as liquor.

**Examples—label or mark that describes container contents as liquor**

- 1 ‘2.6% Alc/Vol’ printed on a can
- 2 ‘14% Alc/Vol’ printed on the label of a bottle

*Note* A person rebutting the presumption in s (3) has an evidential burden in relation to the rebuttal (see [Criminal Code](#), s 58).

- (4) In this section:

***light rail stop***—see the [Road Transport \(Public Passenger Services\) Regulation 2002](#), dictionary.

***open***, for a container, includes—

- (a) a container with the manufacturer's seal broken; and
- (b) a container where the contents are accessible.

## **201 Seizure of liquor in public places**

- (1) This section applies if an authorised person suspects on reasonable grounds that—
  - (a) a person (the ***possessor***) is in possession of liquor or low-alcohol liquor; and
  - (b) the liquor or low-alcohol liquor is connected with the commission of an offence against section 199 or section 200.

- (2) The authorised person may seize the liquor or low-alcohol liquor from the possessor if the authorised person has told the possessor—
  - (a) that the authorised person suspects the liquor or low-alcohol liquor is connected with the commission of an offence against section 199 or section 200; and
  - (b) the grounds for the suspicion.
- (3) If an authorised person seizes liquor or low-alcohol liquor under subsection (2), the authorised person may dispose of the liquor or low-alcohol liquor.
- (4) However, the authorised person must not dispose of the liquor or low-alcohol liquor under subsection (3) if the possessor indicates in any way that the possessor believes the authorised person's grounds for the suspicion are incorrect.
- (5) If an authorised person disposes of liquor or low-alcohol liquor under subsection (3)—
  - (a) the possessor must not be prosecuted for an offence in relation to the liquor or low-alcohol liquor; and
  - (b) a caution must not be issued to the possessor in relation to any act done in relation to the liquor or low-alcohol liquor.

## **Division 14.2 Children and young people**

### **202 Offence—child or young person buy liquor**

A person commits an offence if the person—

- (a) is a child or young person; and
- (b) buys liquor or low-alcohol liquor.

Maximum penalty: 5 penalty units.

*Note* A police officer may caution a child or young person in relation to this offence (see s 150).

**203      Offence—child or young person use false identification to buy liquor**

- (1) A person commits an offence if the person—
- (a) is a child or young person; and
  - (b) uses a false identification document to buy liquor or low-alcohol liquor.

Maximum penalty: 5 penalty units.

*Note*      A police officer may caution a child or young person in relation to this offence (see s 150).

- (2) An offence against this section is a strict liability offence.

**204      Offence—supply liquor to child or young person at public place**

- (1) A person commits an offence if—
- (a) the person supplies liquor or low-alcohol liquor to another person; and
  - (b) the other person is a child or young person; and
  - (c) the supply happens in a public place.

Maximum penalty: 20 penalty units.

- (2) This section does not apply in relation to a young person if the young person—
- (a) was at least 16 years old at the time of the offence; and
  - (b) had, before the time of the offence, shown the defendant an identification document identifying the young person as an adult.

*Note*      The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

**204A Offence—supply liquor to child or young person by parent etc—private place**

- (1) A person commits an offence if—
- (a) the person supplies liquor or low-alcohol liquor to another person; and
  - (b) the other person is a child or young person; and
  - (c) the supply happens at a private place.

Maximum penalty: 20 penalty units.

- (2) Subsection (1) does not apply if the supply is by a person who is—
- (a) a parent or guardian of the child or young person; or
  - (b) authorised by a parent or guardian of the child or young person to supply liquor or low-alcohol liquor to the child or young person.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

- (3) A person commits an offence if—
- (a) the person is—
    - (i) a parent or guardian of a child or young person; or
    - (ii) authorised by a parent or guardian of a child or young person to supply liquor or low-alcohol liquor to the child or young person; and
  - (b) the person supplies liquor or low-alcohol liquor to the child or young person; and
  - (c) the supply happens at a private place.

Maximum penalty: 20 penalty units.

- (4) Subsection (3) does not apply if the supply is consistent with responsible supervision of the child or young person.

(5) For subsection (4)—

- (a) the following are relevant to whether the supply of liquor to a child or young person is consistent with responsible supervision of the child or young person:
  - (i) the age of the child or young person;
  - (ii) whether the child or young person is consuming food with the liquor;
  - (iii) the level of supervision the supplier has of the child or young person;
  - (iv) the kind of liquor supplied to the child or young person;
  - (v) the quantity of, and the time in which, the liquor is supplied to the child or young person; and
- (b) the supply of liquor to a child or young person who is intoxicated is not consistent with the responsible supervision of the child or young person.

*Note* For offences about the supply of liquor to a child or young person at licensed premises and permitted premises, see div 8.3 (Children and young people).

(6) In this section:

***private place*** means a place that is not—

- (a) a public place; or
- (b) permitted premises.

**205 Offence—child or young person consume liquor in public place**

A person commits an offence if—

- (a) the person is a child or young person; and
- (b) the person consumes liquor or low-alcohol liquor in a public place.

Maximum penalty: 5 penalty units.

**206 Offence—child or young person possess liquor in public place**

- (1) A person commits an offence if—

- (a) the person is a child or young person; and
- (b) the person possesses liquor or low-alcohol liquor at a public place.

Maximum penalty: 5 penalty units.

- (2) This section does not apply to a young person if the young person possesses the liquor or low-alcohol liquor in the course of—

- (a) the young person's employment at licensed premises or permitted premises; or
- (b) a training program conducted by a declared training provider.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

**207 Police officer may ask for identification document**

- (1) A police officer may ask a person to show the officer an identification document for the person if the police officer believes on reasonable grounds that the person is—
  - (a) committing an offence against this Act; and
  - (b) a child or young person.
- (2) A police officer must produce evidence that the officer is a police officer if asked to do so by the person.

**208 Offence—fail to comply with police officer's request for identification document**

- (1) A person commits an offence if—
  - (a) a police officer asks the person to show the officer an identification document under section 207; and
  - (b) the person—
    - (i) fails to comply with the request; or
    - (ii) shows the police officer a false identification document.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply if the police officer fails to comply with section 207 (2).

**209 What is a *proof of identity card*?—div 14.2**

In this division:

***proof of identity card***, for a person, means a card that includes the following about the person:

- (a) the name of the person;

- (b) a photo of the person;
- (c) the date of birth of the person.

## 210 Proof of identity cards

- (1) A person who is an adult may apply, in writing, to the road transport authority for a proof of identity card.

*Note 1* If a form is approved under s 228 for this provision, the form must be used.

*Note 2* A fee may be determined under s 227 for this provision.

- (2) The road transport authority may issue the applicant with a proof of identity card if satisfied of the applicant's identity and that the applicant is an adult.

## 211 Offence—child or young person use false identification to obtain proof of identity card

A person commits an offence if the person—

- (a) is a child or young person; and
- (b) uses a false identification document to obtain a proof of identity card under section 210.

Maximum penalty: 10 penalty units.

*Note* A police officer may caution a child or young person in relation to this offence (see s 150).

## Division 14.3 Prohibited liquor products

### 212 What is a *prohibited liquor product*?

In this Act:

***prohibited liquor product*** means a thing declared by the Minister to be a prohibited liquor product under section 213.



## **213 Prohibited liquor products**

- (1) The Minister may declare a thing containing liquor to be a prohibited liquor product if satisfied that—
- (a) the thing is likely to—
    - (i) have a special appeal to children or young people; or
    - (ii) be confused with confectionery or a non-alcoholic drink;  
or
  - (b) the thing's name or packaging—
    - (i) is indecent or offensive; or
    - (ii) is likely to encourage irresponsible, rapid or excessive consumption of the contents; or
  - (c) it is otherwise in the public interest to do so.

### **Examples—par (a)**

- 1 a thing with packaging that would appeal to children
- 2 a thing with a name that could be confused with confectionery

- (2) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

## **214 Offence—supply prohibited liquor product**

A person commits an offence if—

- (a) the person supplies something to someone else; and
- (b) the thing is a prohibited liquor product.

Maximum penalty: 50 penalty units.

## **Division 14.4 Authorisation for extended trading**

### **214A Extended trading—application**

- (1) This section applies to a licensee who holds any of the following:
  - (a) a general licence;
  - (b) an on licence;
  - (c) a club licence;
  - (d) a special licence.
- (2) The licensee may apply to the commissioner for an extended trading authorisation for the licensed premises.
- (3) The application must—
  - (a) be in writing; and
  - (b) include the following:
    - (i) a description of the special event;
    - (ii) the date the person intends to sell liquor under the authorisation;
    - (iii) the period during which the person intends to sell liquor under the authorisation;
    - (iv) how the licensee intends to limit the impact of the extended trading on occupants of premises near the licensed premises.

(4) In this section:

*extended trading authorisation*, for licensed premises, means an authorisation for the licensee to supply liquor at the premises on the date and during the extended hours stated in the authorisation.

*special event* means a unique or infrequent event of significance in the ACT, the region or nationally that people independent of the licensee and anyone connected with the licensee wish to celebrate or mark on the licensed premises.

#### **214B Extended trading—decision on application**

The commissioner may approve an application under section 214A only if satisfied that—

- (a) the event stated in the application is a special event; and
- (b) the licensee is capable of managing any additional risks involved in the sale of liquor during the extended trading period; and
- (c) the licensee is capable of minimising the impact of the extended trading on occupants of premises near the licensed premises; and
- (d) no more than 5 extended trading authorisations have been granted for the licensed premises in the preceding 12 months.

## Part 15 Liquor advisory board

### 215 Establishment of liquor advisory board

The liquor advisory board is established.

### 216 Membership of liquor advisory board

- (1) The liquor advisory board is made up of—
- (a) the commissioner; and
  - (b) the director-general; and
  - (c) the Victims of Crime Commissioner; and
  - (d) the following members appointed by the Minister:
    - (i) 1 member appointed to represent the Australian Federal Police;
    - (ii) 1 member appointed to represent the community;
    - (iii) 1 member appointed to represent Aboriginal people and Torres Strait Islanders;
    - (iv) 1 member appointed to represent small businesses;
    - (v) 1 member appointed to represent club licensees;
    - (vi) 1 member appointed to represent on licensees, other than club licensees;
    - (vii) 1 member appointed to represent young people;
    - (viii) 1 member appointed to represent off licensees;
    - (ix) 1 member appointed to represent the late night economy;

- (x) 1 member with knowledge or expertise in the area of health and the effects of alcohol.

**Example—par (d) (ix)**

a nightclub licensee

**Examples—par (d) (x)**

- 1 health practitioner
- 2 member of an organisation that provides advocacy or information services about the effects of alcohol
- 3 member of a health consumer or health promotion body

*Note 1* For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

*Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see [Legislation Act](#), div 19.3.3).

- (2) The chair of the board is the director-general.

## **217 Liquor advisory board function**

The liquor advisory board has the function of advising the Minister about—

- (a) matters associated with the operation and effectiveness of this Act; and
- (b) measures, including legislative measures, that support the harm minimisation and community safety principles.

**Examples—par (a)**

- 1 the achievement of the objects of the Act
- 2 the effectiveness of the harm minimisation and community safety principles

**218 Liquor advisory board procedure**

- (1) Meetings of the liquor advisory board are to be held when and where it decides.
- (2) However—
  - (a) the liquor advisory board must meet at least twice each year; and
  - (b) the director-general may, by reasonable written notice given to the other liquor advisory board members, call a meeting.
- (3) The liquor advisory board may conduct its proceedings (including its meetings) as it considers appropriate.

**219 Reimbursement of expenses for liquor advisory board members**

- (1) A member of the liquor advisory board appointed under section 216 (1) (d) is not entitled to be paid for the exercise of the member's functions.
- (2) However, the member may apply to the director-general for reimbursement of expenses reasonably incurred by the member for the purpose of attending a meeting of the liquor advisory board.

## Part 16 Notification and review of decisions

### 220 What is a *reviewable decision*?—pt 16

In this part:

*reviewable decision* means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

### 221 Reviewable decision notices

If the commissioner makes a reviewable decision, the commissioner must give a reviewable decision notice to each person mentioned in schedule 1, column 4 in relation to the decision.

*Note 1* The commissioner must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

*Note 2* The requirements for a reviewable decision notice are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

### 222 Applications for review

The following people may apply to the ACAT for a review of a reviewable decision:

- (a) a person mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

*Note* If a form is approved under the [ACT Civil and Administrative Tribunal Act 2008](#) for the application, the form must be used.

## Part 16A Criminal intelligence

### 222A Definitions—pt 16A

In this part:

***criminal intelligence*** means information relating to actual or suspected criminal activity (whether in the ACT or elsewhere) the disclosure of which could reasonably be expected to—

- (a) prejudice a criminal investigation; or
- (b) enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement; or
- (c) endanger anyone's life or physical safety.

***maintain***—an entity ***maintains*** the confidentiality of information in relation to an applicant for a licence or permit or a licensee or permit-holder only if—

- (a) the information is not used by the entity for a purpose other than exercising a function mentioned in this part; and
- (b) the information is not disclosed to the applicant, licensee or permit-holder, representatives of the applicant, licensee or permit-holder or any member of the public; and
- (c) evidence and submissions about the information are received and heard in private in the absence of the applicant, licensee or permit-holder and representatives of the applicant, licensee or permit-holder, and are not disclosed to any member of the public; and
- (d) the information is not disclosed in any reasons for a decision.



**222B Disclosure of criminal intelligence—chief police officer**

- (1) Information that is classified by the chief police officer as criminal intelligence must not be disclosed for this Act to anyone other than the commissioner, the Minister, a court, the ACAT or an entity to whom the chief police officer authorises its disclosure.
- (2) The chief police officer may only disclose the information to the commissioner if the chief police officer believes on reasonable grounds that the information is relevant to the making of a decision by the commissioner about—
  - (a) issuing a licence or permit to an applicant; or
  - (b) whether to apply to the ACAT for an occupational discipline order in relation to a licensee or permit-holder.
- (3) Subsection (1) does not prevent the chief police officer from disclosing the information for another lawful purpose.

**222C Disclosure of criminal intelligence—commissioner for fair trading and ACAT**

- (1) This section applies—
  - (a) if—
    - (i) the commissioner refuses to issue a licence or permit to an applicant; or
    - (ii) the commissioner applies to the ACAT for an occupational discipline order in relation to a licensee or permit-holder; or
    - (iii) the ACAT makes an occupational discipline order in relation to a licensee or permit-holder; and
  - (b) if a thing mentioned in paragraph (a) is done because, or partly because, of information that is classified by the chief police officer as criminal intelligence.

- (2) The commissioner or the ACAT must not give any reason for doing the thing other than the following:
  - (a) for subsection (1) (a) (i)—that issuing the licence or permit would not be in the public interest;
  - (b) for subsection (1) (a) (ii)—that disclosing the reason for the application would not be in the public interest;
  - (c) for subsection (1) (a) (iii)—that disclosing the reason for the order would not be in the public interest.

**222D Whether information is criminal intelligence—application and decision**

- (1) This section applies if the commissioner—
  - (a) refuses to issue a licence or permit to an applicant because, or partly because, of information that is classified by the chief police officer as criminal intelligence, and the applicant applies to the ACAT for review of the decision (the *proceeding*); or
  - (b) applies to the ACAT for an occupational discipline order in relation to a licensee or permit-holder because, or partly because, of information that is classified by the chief police officer as criminal intelligence (the *proceeding*).
- (2) This section also applies if the chief police officer applies to the ACAT for a cancellation order under part 11B (Cancellation of licence or permit for criminal activity) because, or partly because, of information that is classified by the chief police officer as criminal intelligence (the *proceeding*).
- (3) The commissioner or chief police officer must apply to the ACAT for a decision about whether the information is criminal intelligence.
- (4) The application need not be served on anyone unless the ACAT otherwise orders on its own initiative.

- (5) The ACAT may decide that the information is, or is not, criminal intelligence.
- (6) If the ACAT proposes to decide that the information is not criminal intelligence, the applicant must be told about the proposal and given the opportunity to withdraw the information from the proceeding.

### **222E Appeal—applicant may withdraw information**

- (1) This section applies to the following proceedings:
  - (a) if—
    - (i) the ACAT has made a decision that information is not criminal intelligence, and there is an appeal to the Supreme Court from that decision; and
    - (ii) the court proposes to find that the information is not criminal intelligence;
  - (b) if—
    - (i) the applicant mentioned in section 222D (1) (a) appeals the ACAT's decision to the Supreme Court; and
    - (ii) the court proposes to find that the information is not criminal intelligence;
  - (c) if—
    - (i) the licensee or permit-holder mentioned in section 222D (1) (b) appeals the ACAT's decision to the Supreme Court; and
    - (ii) the court proposes to find that the information is not criminal intelligence.
- (2) The applicant mentioned in section 222D (3) must be told about the court's proposal and given the opportunity to withdraw the information from the proceeding.

**222F Confidentiality of criminal intelligence—commissioner and ACAT**

- (1) The commissioner must maintain the confidentiality of information classified by the chief police officer as criminal intelligence when deciding whether to—
  - (a) issue a licence or permit to an applicant; or
  - (b) apply to the ACAT for an occupational discipline order in relation to a licensee or permit-holder.
- (2) The commissioner and the ACAT must maintain the confidentiality of information that is the subject of an application mentioned in section 222D (3)—
  - (a) until the tribunal makes a decision about whether the information is criminal intelligence; or
  - (b) that the tribunal decides—
    - (i) is criminal intelligence; or
    - (ii) is not criminal intelligence, if there is an appeal from that decision and the appeal is upheld.
- (3) However, in a proceeding on an application mentioned in section 222D (2), the ACAT may allow a party or a representative of a party to have access to or inspect information that is criminal intelligence (on conditions the ACAT thinks appropriate) if the ACAT thinks it would not be contrary to the public interest to do so.
- (4) If the ACAT proposes to allow a party or a representative of a party to have access to or inspect information that is criminal intelligence, the chief police officer must be told about the proposal and given the opportunity to withdraw the information from the proceeding.
- (5) The commissioner and the ACAT must maintain the confidentiality of information that is the subject of an application mentioned in section 222D (3) if the information is withdrawn.

- (6) The commissioner or the ACAT may take any steps the commissioner or tribunal considers appropriate to maintain the confidentiality of the information.
- (7) However, if the Supreme Court finds that the information is not criminal intelligence, and the information is not withdrawn, the commissioner or the ACAT need not maintain the confidentiality of the information.

### **222G Confidentiality of criminal intelligence—courts**

- (1) This section applies if a court deals (on appeal or otherwise) with—
  - (a) a decision by the ACAT about whether information is criminal intelligence; or
  - (b) the question of whether information classified by the chief police officer as criminal intelligence is criminal intelligence.
- (2) The court must maintain the confidentiality of the information.
- (3) The court may take any steps it considers appropriate to maintain the confidentiality of the information.
- (4) The court must not give any reason for making a finding in relation to the information, other than the public interest.
- (5) However, if the Supreme Court finds that information is not criminal intelligence, and the information is not withdrawn—
  - (a) the court need not maintain the confidentiality of the information and may give reasons for the finding; and
  - (b) any other court need not maintain the confidentiality of the information and may give reasons for making a finding in relation to the information.

**222H Delegation by chief police officer**

- (1) The chief police officer may delegate a function under this part to a senior police officer.

*Note* For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

- (2) In this section:

***senior police officer*** means a police officer of or above the rank of superintendent.

## Part 17 Miscellaneous

### 223 Liquor guidelines

- (1) The commissioner may make guidelines (the *liquor guidelines*) for this Act consistent with the objects of this Act and the harm minimization and community safety principles.
- (2) Without limiting subsection (1), a liquor guideline may make provision in relation to the following:
  - (a) advertising liquor;
  - (b) intoxication;
  - (c) crowd management at and near licensed premises;
  - (d) RSA training.
- (3) A liquor guideline is a notifiable instrument.

*Note 1* A notifiable instrument must be notified under the [Legislation Act](#).

*Note 2* It is a condition of a licence or permit that the licensee or permit-holder must comply with the guidelines—see s 31 (1) (a) and s 55 (1) (a).

### 224 Declared training providers

- (1) The Minister may declare a person to be a training provider for this Act (a *declared training provider*).
- (2) A declaration is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

### 224A Licences and permits not personal property—PPS Act

For the [Personal Property Securities Act 2009](#) (Cwlth), section 10, definition of *personal property*, a licence or permit is not personal property.

## **224B Evidentiary certificates—licensees and permit holders**

In a court proceeding, a certificate signed by the commissioner stating either of the following matters is evidence of the matters:

- (a) that, on each stated day, a stated person was or was not the holder of a licence of the stated kind in relation to the stated premises;
- (b) that, on each stated day, a stated person was or was not the holder of a permit in relation to the stated premises.

## **225 Acts and omissions of representatives**

- (1) In this section:

*person* means an individual.

*Note* See the [Criminal Code](#), pt 2.5 for provisions about corporate criminal responsibility.

*representative*, of a person, means an employee or agent of the person.

*state of mind*, of a person, includes—

- (a) the person’s knowledge, intention, opinion, belief or purpose; and
  - (b) the person’s reasons for the intention, opinion, belief or purpose.
- (2) This section applies to a prosecution for an offence against this Act.
- (3) If it is relevant to prove a person’s state of mind about an act or omission, it is enough to show—
- (a) the act was done or omission made by a representative of the person within the scope of the representative’s actual or apparent authority; and
  - (b) the representative had the state of mind.



- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done by the person.
- (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
- (6) A person who is convicted of an offence cannot be punished by imprisonment for the person if the person would not have been convicted of the offence without subsection (3) or (4).

## **226 Proceedings for offences**

A proceeding in relation to an offence against this Act must not be begun except by the commissioner or a police officer.

## **227 Determination of fees**

- (1) The Minister may determine fees for this Act.

*Note* The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A fee determination for section 42 (Licence—application for renewal) commences—
  - (a) 3 months after its notification day; or
  - (b) if the determination provides for a later date or time—on that date or that time.
- (3) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (4) In this section:

**Minister** means the Minister for the time being administering the provision of the Act for which the fee, charge or other amount is determined.

## 228 Approved forms

- (1) The commissioner may approve forms for this Act.
- (2) If the commissioner approves a form for a particular purpose, the approved form must be used for that purpose.

*Note* For other provisions about forms, see the [Legislation Act](#), s 255.

- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

## 229 Regulation-making power

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2) A regulation may make provision in relation to the following:
- (a) licensed times and permitted times;
  - (b) the calculation of fees based on 1 or more of the following:
    - (i) the class or subclass of a licence or permit;
    - (ii) licensed times and permitted times;
    - (iii) the term of a licence or permit;
    - (iv) the nature and scale of the activities being carried out at the licensed premises or permitted premises;
    - (v) the occupancy loading for the licensed premises or permitted premises;

- (vi) the history of compliance of licensees and permitted premises with this Act;
  - (vii) anything else consistent with the objects of this Act and the harm minimisation and community safety principles;
- (c) how fees may be paid;
- (d) the circumstances in which the commissioner may waive or reduce fees.
- (3) A fee mentioned in subsection (2) may be an amount that is not a fee for a service.
- (4) A regulation may create offences and fix maximum penalties of not more than 20 penalty units for the offences.

## Schedule 1 Reviewable decisions

(see s 220)

column 1 item	column 2 section	column 3 decision	column 4 person
1	27 (2)	refuse to issue licence	applicant for licence
2	38 (4)	refuse to amend licence	licensee
3	39 (3)	refuse to amend licence (change to floor plan)	licensee
4	41 (2)	refuse to transfer licence	licensee
5	43 (2)	refuse to renew licence	licensee
6	51 (2)	refuse to issue permit	applicant for permit
7	58 (3)	refuse to amend permit	permit-holder
8	62 (2)	refuse to renew permit	permit-holder
9	65 (1)	cancel non-commercial permit	permit-holder
10	90 (1)	refuse to approve risk-assessment management plan	licensee or permit-holder
11	92 (2)	refuse to amend approved risk-assessment management plan	licensee or permit-holder

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column 1 item	column 2 section	column 3 decision	column 4 person
12	96 (2)	refuse to approve young people's event	applicant
13	190 (2)	refuse to approve RSA training course	applicant

## Dictionary

(see s 3)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- Act
- adult
- Australian Consumer Law (ACT)
- Australian Criminal Intelligence Commission
- Australian driver licence
- bankrupt or personally insolvent
- building code
- chief officer (fire and rescue service)
- chief police officer
- commissioner for fair trading
- corporation
- Corporations Act
- director-general (see s 163)
- document
- planning and land authority
- police officer.

*ACAT Act* means the [ACT Civil and Administrative Tribunal Act 2008](#).

*adults-only area*, for licensed premises or permitted premises—see section 93.

*amend*, a licence or permit, includes the following:

- (a) amend an existing licence condition;
- (b) impose a new licence condition;
- (c) remove an existing licence condition.

***approved procedures***, for part 11A (Compliance testing)—see section 187A.

***approved program***, for part 11A (Compliance testing)—see section 187A.

***approved risk-assessment management plan***, for licensed premises or permitted premises—see section 89.

***approved RSA training course***, for an approved RSA training provider, for division 12.1 (Approval to provide RSA training courses)—see section 188.

***approved RSA training provider***, for division 12.1 (Approval to provide RSA training courses)—see section 188.

***at*** premises includes in or on the premises.

***authorised person***—

(a) for this Act generally, means—

- (i) an investigator; or
- (ii) a police officer; and

(b) for part 11A (Compliance testing)—see section 187A.

***bar licence***—see section 22.

***breath testing machine***, for division 8.7 (Breath testing machines)—see section 133.

***cancellation order***, for part 11B (Cancellation of licence or permit for criminal activity)—see section 187H.

***catered premises*** means premises where liquor is authorised to be sold under a catering licence.

***catering licence***—see section 20A.

***caution offence***, for division 9.3 (Police cautions for children and young people)—see section 149.

***certificate of occupancy***, for premises—see the [Building Act 2004](#), dictionary.

***child***—see the [Children and Young People Act 2008](#), section 11.

***class***—each of the following is a ***class*** of licence:

- (a) general licence;
- (b) on licence;
- (c) off licence;
- (d) club licence;
- (e) special licence.

***close associate***—see section 14.

***club licence***—see section 20.

***commercial permit***—see section 48.

***commercial permit holder*** means—

- (a) a person who holds a commercial permit; or
- (b) for part 11 (Complaints and occupational discipline)—see section 175.

***commissioner*** means the commissioner for fair trading.

***commissioner's direction***—see section 144 (2).

***complainant***, for division 11.2 (Complaints)—see section 177.

***compliance test***, for part 11A (Compliance testing)—see section 187B.

***connected***, for part 10 (Enforcement)—see section 153.

***criminal intelligence***, for part 16A (Criminal intelligence)—see section 222A.

***crowd controller*** means a person who is a crowd controller for the purposes of the [Security Industry Act 2003](#), section 7.



***CYP director-general***, for division 9.3 (Police cautions for children and young people)—see section 149.

***declared training provider***—see section 224.

***designated outdoor smoking area***—see the [Smoke-Free Public Places Act 2003](#), section 9F (2).

***eligible club***—see section 70.

***emergency closure notice***—see section 147.

***emergency closure order***—see section 146.

***enclosed***, for premises, means enclosed as prescribed by regulation.

***enclosed public place***—see the [Smoke-Free Public Places Act 2003](#), dictionary.

***excluded person***, for division 8.10 (Exclusion orders)—see section 143D.

***exclusion order***, for division 8.10 (Exclusion orders)—see section 143D.

***exclusion period***, for division 8.10 (Exclusion orders)—see section 143D.

***false identification document***, for a person, means an identification document that—

- (a) was fraudulently obtained; or
- (b) was issued to someone else; or
- (c) is forged; or
- (d) is fraudulently altered; or
- (e) has expired.

***foreign driver licence*** means a licence to drive a motor vehicle (however described) issued under the law of an external Territory or a foreign country.

**general licence**—see section 17.

**ground for occupational discipline**, for division 11.3 (Occupational discipline)—

- (a) in relation to a licensee—see section 183; or
- (b) in relation to a commercial permit-holder—see section 184.

**harm minimisation and community safety principles**—see section 10.

**identification document**, for a person, means—

- (a) a document that—
  - (i) is—
    - (A) an Australian driver licence or foreign driver licence; or
    - (B) a proof of identity card or interstate proof of identity card; or
    - (C) a passport; and
  - (ii) contains a photograph that could reasonably be taken to be the person; and
  - (iii) states the person's date of birth; or
- (b) any other document prescribed by regulation.

*Note* A document may be in electronic form (see [Legislation Act](#), dict, pt 1, def *document*).

**identity card**—see the [Fair Trading \(Australian Consumer Law\) Act 1992](#), dictionary.

**incident**, for division 8.6 (Incidents)—see section 130.

**influential person**, for a corporation—see section 15.

**interstate proof of identity card** means a document corresponding to a proof of identity card that has been issued under the law of a State.

***intoxicated***—see section 104.

***investigator***—see the [Fair Trading \(Australian Consumer Law\) Act 1992](#), dictionary.

***involved***, with a licence, for part 11B (Cancellation of licence or permit for criminal activity)—see section 187H.

***involved***, with a permit, for part 11B (Cancellation of licence or permit for criminal activity)—see section 187H.

***lease***—see the [Planning and Development Act 2007](#), section 235.

***licence***—see section 16.

***licence and permit register***—see section 195.

***licensed premises*** means premises that are the subject of a licence (other than a catering licence).

***licensed times***, for the sale of liquor at licensed premises or catered premises, means the times stated in the licence for the sale of liquor at the premises.

***licensee***—

- (a) means a person who holds a licence; or
- (b) for part 11 (Complaints and occupational discipline)—see section 174.

***liquor***—see section 11.

***liquor advisory board*** means the liquor advisory board established under section 215.

***liquor guidelines***—see section 223 (1).

***low-alcohol liquor*** means a drink that is not liquor but contains more than 0.5% by volume of ethanol.

***maintain***, for part 16A (Criminal intelligence)—see section 222A.

***nightclub licence***—see section 23.

***non-commercial permit***—see section 49.

***non-profit organisation*** means an organisation that—

- (a) is not carried on for profit or gain to its individual members; and
- (b) does not make any distribution, whether in money, property or otherwise, to its members.

***occupancy loading***, for a public area at licensed premises or permitted premises—see section 83.

***occupancy loading notice***, for part 5 (Occupancy loading for licensed premises and permitted premises)—see section 86 (3).

***occupier***, of premises, for part 10 (Enforcement)—see section 153.

***offence***, for part 10 (Enforcement)—see section 153.

***off licence***—see section 19.

***on licence***—see section 18.

***outdoor eating or drinking place***—see the [\*Smoke-Free Public Places Act 2003\*](#), section 9A.

***permanent alcohol-free place***—see section 198 (1).

***permit***—see section 47.

***permit-holder*** means a person who holds a permit mentioned in part 3 (Liquor permits).

***permitted premises*** means premises that are the subject of a permit.

***permitted times***, for the sale of liquor at permitted premises, means the times stated in the permit for the sale of liquor at the premises.

***person***—a reference to a ***person*** in relation to a non-commercial permit includes a reference to a non-profit organisation.

***personal information notice***—see section 71.

***police certificate***, for a person, means a written statement by the Australian Federal Police or the Australian Criminal Intelligence Commission indicating—

- (a) whether, according to the records held by the Australian Federal Police or the Australian Criminal Intelligence Commission, the person has been charged with, or convicted of, an offence against a law of—
  - (i) the Territory; or
  - (ii) the Commonwealth; or
  - (iii) a State; or
  - (iv) another country; and
- (b) if so—particulars of each offence.

*Note* A conviction does not include a spent conviction or an extinguished conviction (see [Spent Convictions Act 2000](#), s 16 (c) (i) and s 19H (1) (c) (i)).

***premises*** includes land, structure, vehicle or boat.

***premises information notice***—see section 79.

***prohibited liquor product***—see section 212.

***proof of identity card***, for division 14.2 (Children and young people)—see section 209.

***proposed licensee***—see section 25.

***proposed new licensee***—see section 40.

***proposed permit-holder***—see section 50.

***public area***, at licensed premises or permitted premises—see section 84.

***public consultation period***, for an application for division 2.4 (Licences—public consultation)—see section 36.

**public place** means any street, road, public park, reserve or other place that the public is entitled to use or that is open to, or used by, the public (whether or not for payment), including—

- (a) a shop, and any place occupied in relation to a shop; and
- (b) a factory, and any place occupied in relation to, a factory; and
- (c) a building or part of a building occupied by a club, and any place occupied in relation to a club; and
- (d) any private property that is commonly used by the public, whether as trespassers or otherwise.

**purchase assistant**, for part 11A (Compliance testing)—see section 187B (a).

**registered training organisation**, for division 12.1 (Approval to provide RSA training courses)—see section 188.

**relevant premises**, for division 2.4 (Licences—public consultation)—see section 33.

**responsible person**, for premises, for part 4 (Suitability of people and premises for licences and permits)—see section 74.

**restaurant and cafe licence**—see section 24.

**reviewable decision**, for part 16 (Notification and review of decisions)—see section 220.

**risk-assessment management plan**, for licensed premises or permitted premises—see section 88.

**RSA certificate**, for a person—see section 193.

**RSA training course approval**, for division 12.1 (Approval to provide RSA training courses)—see section 189.

**sell** includes—

- (a) sell by wholesale, retail, auction or tender; and
- (b) barter or exchange; and

- (c) supply for profit; and
- (d) offer for sale, receive for sale or expose for sale; and
- (e) consign or deliver for sale; and
- (f) have in possession for sale.

**senior police officer** means the chief police officer or another police officer of or above the rank of superintendent.

**smoke**—see the *Smoke-Free Public Places Act 2003*, section 5B.

**special licence**—see section 21.

**staff member**, for part 8 (Conduct at licensed premises and permitted premises), means—

- (a) for licensed premises—
  - (i) the licensee; or
  - (ii) an employee of the licensee; or
- (b) for permitted premises—
  - (i) the permit-holder; or
  - (ii) an employee of the permit-holder.

**subclass**—each of the following is a **subclass** of on licence:

- (a) bar licence;
- (b) nightclub licence;
- (c) restaurant and cafe licence.

**suitability information**—

- (a) about a person—see section 69; and
- (b) about premises—see section 78.

**suitable person**, to hold a licence or permit—see section 67.

**suitable premises**, for a licence or permit—see section 75.

***supply*** includes sell.

***temporary alcohol-free place***—see section 198 (2).

***warrant***, for part 10 (Enforcement)—see section 153.

***young person***—see the [Children and Young People Act 2008](#), section 12.



## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the [Legislation Act 2001](#), part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

#### **Liquor Act 2010 A2010-35**

notified LR 6 September 2010  
s 1, s 2 commenced 6 September 2010 (LA s 75 (1))  
div 8.1 commenced 1 June 2012 (s 2 (1) (as am by [A2010-43](#) amdt 1.19), as mod by [SL2010-40](#) mod 4.1 (as am by [SL2010-48](#); [SL2011-23](#)))  
s 118 commenced 1 June 2011 (s 2 (1A) (ins as mod by [SL2010-40](#) mod 4.1 (as am by [SL2010-48](#)))  
pt 12 commenced 1 June 2011 (s 2 (2) (as am by [A2010-43](#) amdt 1.19), as mod by [SL2010-40](#) mod 4.1 (as am by [SL2010-48](#)))  
remainder commenced 1 December 2010 (s 2 (3) (as am by [A2010-43](#) amdt 1.19) and [CN2010-14](#))

as amended by

#### **[Liquor \(Consequential Amendments\) Act 2010 A2010-43 sch 1](#) [pt 1.13, sch 2 pt 2.1](#)**

notified LR 8 November 2010  
s 1, s 2 commenced 8 November 2010 (LA s 75 (1))  
amdt 1.19 commenced 9 November 2010 (s 2 (1))  
amdt 1.49 commenced 30 January 2012 (s 2 (2) and see [Personal Property Securities Act 2010 A2010-15 s 2 \(2\) \(b\)](#))  
sch 1 pt 1.13 remainder commenced 1 December 2010 (s 2 (4) and see [A2010-35, s 2 \(3\)](#) (as am by [A2010-43](#) amdt 1.19) and [CN2010-14](#))  
sch 2 pt 2.1 commenced 9 December 2010 (s 2 (3) and see [Smoking \(Prohibition in Enclosed Public Places\) Amendment Act 2009 A2009-51, s 2 \(1\) \(b\)](#) and [CN2010-4](#))

as modified by

#### **[Liquor Regulation 2010 SL2010-40 sch 4 \(as am by \[SL2010-48\]\(#\); \[SL2011-23\]\(#\)\)](#)**

notified LR 20 October 2010  
s 1, s 2 commenced 20 October 2010 (LA s 75 (1))  
sch 4 commenced 1 December 2010 (s 2 (1) and see [A2010-35, s 2 \(3\)](#))

**Liquor Amendment Regulation 2010 (No 1) SL2010-48**

notified LR 30 November 2010

s 1, s 2 commenced 30 November 2010 (LA s 75 (1))

remainder commenced 1 December 2010 (s 2 and see A2010-35, s 2 (3))

*Note* This regulation only amends the [Liquor Regulation 2010](#) SL2010-40.

as amended by

**Fair Trading (Australian Consumer Law) Amendment Act 2010****A2010-54 sch 3 pt 3.16**

notified LR 16 December 2010

s 1, s 2 commenced 16 December 2010 (LA s 75 (1))

sch 3 pt 3.16 commenced 1 January 2011 (s 2 (1))

**Administrative (One ACT Public Service Miscellaneous Amendments)****Act 2011 A2011-22 sch 1 pt 1.94**

notified LR 30 June 2011

s 1, s 2 commenced 30 June 2011 (LA s 75 (1))

sch 1 pt 1.94 commenced 1 July 2011 (s 2 (1))

as modified by

**Liquor Amendment Regulation 2011 (No 1) SL2011-23**

notified LR 4 August 2011

s 1, s 2 commenced 4 August 2011 (LA s 75 (1))

remainder commenced 5 August 2011 (s 2)

*Note* This regulation only amends the [Liquor Regulation 2010](#) SL2010-40.

as amended by

**Justice and Community Safety Legislation Amendment Act 2011****(No 3) A2011-49 sch 1 pt 1.6**

notified LR 22 November 2011

s 1, s 2 commenced 22 November 2011 (LA s 75 (1))

sch 1 pt 1.6 commenced 12 December 2011 (s 2 (2) (a) and see [Statute Law Amendment Act 2011 \(No 3\)](#) A2011-52 s 2)

## Endnotes

3 Legislation history

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**Statute Law Amendment Act 2011 (No 3) A2011-52 sch 3 pt 3.35**

notified LR 28 November 2011

s 1, s 2 commenced 28 November 2011 (LA s 75 (1))

sch 3 pt 3.35 commenced 12 December 2011 (s 2)

**Liquor Amendment Act 2012 A2012-10**

notified LR 3 April 2012

s 1, s 2 commenced 3 April 2012 (LA s 75 (1))

remainder commenced 4 April 2012 (s 2)

**Statute Law Amendment Act 2012 A2012-21 sch 3 pt 3.27**

notified LR 22 May 2012

s 1, s 2 commenced 22 May 2012 (LA s 75 (1))

sch 3 pt 3.27 commenced 5 June 2012 (s 2 (2))

**Training and Tertiary Education Amendment Act 2014 A2014-48 sch 1 pt 1.11**

notified LR 6 November 2014

s 1, s 2 commenced 6 November 2014 (LA s 75 (1))

sch 1 pt 1.11 commenced 20 November 2014 (s 2)

**Liquor Amendment Act 2015 A2015-23**

notified LR 18 August 2015

s 1, s 2 commenced 18 August 2015 (LA s 75 (1))

s 15 commenced 18 August 2016 (s 2 (3))

remainder commenced 19 August 2015 (s 2 (1))

**Red Tape Reduction Legislation Amendment Act 2015 A2015-33 sch 1 pt 1.43**

notified LR 30 September 2015

s 1, s 2 commenced 30 September 2015 (LA s 75 (1))

sch 1 pt 1.43 commenced 14 October 2015 (s 2)

**Spent Convictions (Historical Homosexual Convictions Extinguishment) Amendment Act 2015 A2015-45 sch 1 pt 1.7**

notified LR 6 November 2015

s 1, s 2 commenced 6 November 2015 (LA s 75 (1))

sch 1 pt 1.7 commenced 7 November 2015 (s 2)

**Statute Law Amendment Act 2015 (No 2) A2015-50 sch 3 pt 3.22**

notified LR 25 November 2015

s 1, s 2 commenced 25 November 2015 (LA s 75 (1))

sch 3 pt 3.22 commenced 9 December 2015 (s 2)

**Justice Legislation Amendment Act 2016 A2016-7 pt 4**

notified LR 29 February 2016

s 1, s 2 commenced 29 February 2016 (LA s 75 (1))

pt 4 commenced 29 August 2016 (s 2 and LA s 79)

**Red Tape Reduction Legislation Amendment Act 2016 A2016-18****sch 2 pt 2.5, sch 3 pt 3.28, sch 4 pt 4.6**

notified LR 13 April 2016

s 1, s 2 commenced 13 April 2016 (LA s 75 (1))

sch 2 pt 2.5, sch 3 pt 3.28, sch 4 pt 4.6 commenced 27 April 2016 (s 2)

**Emergencies Amendment Act 2016 A2016-33 sch 1 pt 1.13**

notified LR 20 June 2016

s 1, s 2 commenced 20 June 2016 (LA s 75 (1))

sch 1 pt 1.13 commenced 21 June 2016 (s 2)

**Statute Law Amendment Act 2017 A2017-4 sch 3 pt 3.18**

notified LR 23 February 2017

s 1, s 2 commenced 23 February 2017 (LA s 75 (1))

sch 3 pt 3.18 commenced 9 March 2017 (s 2)

**Liquor Amendment Act 2017 A2017-13 pt 2**

notified LR 17 May 2017

s 1, s 2 commenced 17 May 2017 (LA s 75 (1))

s 6, s 8, s 9, s 11, ss 14-16, s 19, ss 22-27, s 31, s 32, s 46, s 48, s 50, ss 52-54, ss 56-71, s 76, s 77, s 85, s 90, ss 92-94 commenced 1 July 2017 (s 2 (1))

pt 2 remainder commenced 18 May 2017 (s 2 (2))

**Justice and Community Safety Legislation Amendment Act 2017 (No 3) A2017-38 pt 14**

notified LR 9 November 2017

s 1, s 2 commenced 9 November 2017 (LA s 75 (1))

pt 14 commenced 16 November 2017 (s 2 (1))

## Endnotes

3 Legislation history

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**Road Transport Reform (Light Rail) Legislation Amendment Act 2018  
A2018-19 sch 1 pt 1.2**

notified LR 17 May 2018  
s 1, s 2 commenced 17 May 2018 (LA s 75 (1))  
sch 1 pt 1.2 commenced 24 May 2018 (s 2)

**Red Tape Reduction Legislation Amendment Act 2018 A2018-33 pt 7,  
sch 1 pt 1.24**

notified LR 25 September 2018  
s 1, s 2 commenced 25 September 2018 (LA s 75 (1))  
pt 7 commenced 2 October 2018 (s 2 (1))  
sch 1 pt 1.24 commenced 23 October 2018 (s 2 (4))

**Crimes (Disrupting Criminal Gangs) Legislation Amendment Act 2019  
A2019-43 pt 6**

notified LR 6 December 2019  
s 1, s 2 commenced 6 December 2019 (LA s 75 (1))  
pt 6 commenced 6 June 2020 (s 2 (2) and LA s 79)

## 4 Amendment history

### Commencement

s 2 sub [A2010-43](#) amdt 1.19  
mod [SL2010-40](#) mod 4.1 (as am by [SL2010-48](#) s 5;  
[SL2011-23](#) s 4)  
om LA s 89 (4)

### Dictionary

s 3 am [A2010-54](#) amdt 3.41

### Application of Act—generally

s 6 am [A2017-13](#) s 4

### Application of Act—supply of liquor by exempt business

s 8A ins [A2017-13](#) s 5

### What is a *licence*?

s 16 am [A2017-13](#) s 6; pars renum R26 LA

### What is a *club licence*?

s 20 am [A2017-13](#) s 7; pars renum R25 LA

### What is a *catering licence*?

s 20A ins [A2017-13](#) s 8

### Licence—application

s 25 am [A2010-43](#) amdt 1.20; [A2017-13](#) s 10, s 12, s 13; pars  
renum R25 LA; [A2017-13](#) s 9, s 11; pars renum R26 LA

### Licence—decision on application

s 27 am [A2015-23](#) s 4, s 26; pars renum R15 LA; [A2017-13](#) s 14,  
s 97

### Licence—form

s 30 am [A2017-13](#) s 15, s 16

### Licence—conditions

s 31 am [A2017-13](#) s 17, s 18, s 20, s 21; [A2017-13](#) s 19

### Licence—term

s 32 am [A2017-13](#) s 22, s 23; ss renum R26 LA

### Licences—notification and public consultation

div 2.4 hdg sub [A2017-13](#) s 24

### Application and definition—div 2.4

s 33 sub [A2017-13](#) s 25

### Licence—notice of application to certain entities

s 33A ins [A2017-13](#) s 26

### Commissioner may ask for information from commissioner for revenue

s 33B ins [A2017-13](#) s 26

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**Licence—public notification of application**

s 34 am [A2015-33](#) amdt 1.141

**What is the *public consultation period*?—div 2.4**

s 36 am [A2015-33](#) amdt 1.142

**Licence—amendment initiated by commissioner**

s 37 am [A2015-23](#) s 5; pars renum R15 LA; [A2017-13](#) s 27

**Licence—amendment on application by licensee**

s 38 am [A2015-23](#) s 6, s 26; pars renum R15 LA; [A2017-13](#) s 97;  
[A2017-13](#) s 27

**Licence—amendment for change to floor plan of licensed premises**

s 39 am [A2010-43](#) amdt 1.21; [A2017-13](#) ss 28-30, s 97; pars renum  
R35 LA

**Licence—decision on application to transfer licence**

s 41 am [A2015-23](#) s 7, s 26; pars renum R15 LA

**Licence—application for renewal**

s 42 am [A2016-18](#) amdt 4.8; [A2017-13](#) s 31, s 32

**Licence—decision on application for renewal**

s 43 am [A2015-23](#) s 8, s 26; pars renum R15 LA; [A2017-13](#) s 97

**Licence—replacing when lost, stolen or destroyed**

s 44 am [A2015-50](#) amdt 3.115; [A2016-18](#) amdt 3.130, amdt 3.131

**Licence—surrender**

s 45 am [A2015-50](#) amdt 3.115; [A2016-18](#) amdt 3.132, amdt 3.133

**Licence—immediate suspension for failure to pay fee**

s 46A ins [A2017-13](#) s 33

**Permit—application**

s 50 am [A2010-43](#) amdt 1.22; [A2017-13](#) s 34, s 35; pars renum  
R25 LA

**Permit—decision on application**

s 51 am [A2015-23](#) s 9, s 26; pars renum R15 LA; [A2017-13](#) s 97

**Permit—form**

s 54 am [A2015-50](#) amdt 3.116

**Permit—conditions**

s 55 am [A2010-43](#) amdt 1.23; [A2017-13](#) ss 36-38

**Permit—amendment initiated by commissioner**

s 57 am [A2015-23](#) s 10; pars renum R15 LA

**Permit—amendment on application by permit-holder**

s 58 am [A2015-23](#) s 11, s 26; pars renum R15 LA; [A2017-13](#) s 97



**Permit—amendment on application by permit-holder**

s 62 am [A2015-23](#) s 12, s 26; pars renum R15 LA; [A2017-13](#) s 97

**Permit—replacing when lost, stolen or destroyed**

s 63 am [A2015-50](#) amdt 3.117; [A2016-18](#) amdt 3.134, amdt 3.135

**Permit—surrender**

s 64 am [A2015-50](#) amdt 3.118; [A2016-18](#) amdt 3.136, amdt 3.137

**Commissioner must consider suitability information, etc**

s 68 am [A2015-23](#) s 26

**What is *suitability information* about a person?**

s 69 am [A2010-54](#) amdt 3.42

**Non-suitability—criminal activity**

s 69A ins [A2019-43](#) s 16

**What is an *eligible club*?**

s 70 am [A2017-13](#) s 39, s 40; pars renum R25 LA

**Commissioner may require police certificate or information for person etc**

s 71 hdg sub [A2015-23](#) s 13

s 71 am [A2015-23](#) s 14

**Commissioner must consider suitability information, etc**

s 76 am [A2017-13](#) s 97

**Commissioner must decide premises not suitable in some circumstances**

s 77 am [A2017-13](#) s 97

**What is *suitability information* about premises?**

s 78 am [A2010-43](#) amds 1.24-1.26

**Commissioner may require plan etc for premises**

s 79 hdg sub [A2017-13](#) s 41

s 79 am [A2017-13](#) s 42

**What is a *public area*?**

s 84 am [A2010-43](#) amdt 1.27

**Occupancy loading decision**

s 85 am [A2012-21](#) amdt 3.112; [A2016-33](#) amdt 1.34

**Fire engineering study and inspection**

s 86 am [A2012-21](#) amdt 3.113; [A2016-33](#) amdt 1.34

**Commissioner not to issue licence or permit if requirement not complied with**

s 87 am [A2012-21](#) amdt 3.114; [A2016-33](#) amdt 1.34

**Risk-assessment management plan—approval**

s 90 am [A2010-43](#) amdt 1.28

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**Risk-assessment management plan—availability**

s 90A ins [A2010-43](#) amdt 1.29  
am [A2017-13](#) s 43

**Risk-assessment management plan—direction to prepare plan**

s 90B ins [A2017-13](#) s 44

**Approved risk-assessment management plan—amendment on direction from commissioner**

s 90C ins [A2017-13](#) s 44

**Approved risk-assessment management plan—amendment on application**

s 91 hdg sub [A2010-43](#) amdt 1.30

**Approved risk-assessment management plan—decision on amendment**

s 92 hdg sub [A2010-43](#) amdt 1.31  
s 92 am [A2010-43](#) amdt 1.32

**Offence—licensee fail to comply with direction to prepare approved risk-assessment management plan**

s 92A ins [A2017-13](#) s 45

**Offence—failure to amend approved risk-assessment management plan**

s 92B ins [A2017-13](#) s 45

**Offence—supply liquor without RSA certificate—licensee or permit-holder**

s 100 am [A2017-13](#) s 47, s 96; [A2017-13](#) s 46

**Offence—supply liquor without RSA certificate—employee**

s 101 am [A2017-13](#) s 96; [A2017-13](#) s 48

**Offence—crowd controller without RSA certificate**

s 102 am [A2017-13](#) s 96

**Offence—fail to keep RSA certificates**

s 103 am [A2017-13](#) s 49; [A2017-13](#) s 50

**What is *intoxicated*?**

s 104 am [A2017-13](#) s 51

**Offence—supply liquor to intoxicated person—licensee or permit-holder**

s 105 am [A2015-50](#) amdt 3.119; [A2017-13](#) s 52

**Offence—supply liquor to intoxicated person—employee**

s 106 am [A2015-50](#) amdt 3.119; [A2017-13](#) s 52

**Offence—supply liquor to intoxicated person—other person**

s 107 am [A2017-13](#) s 53, s 54; pars renum R26 LA

**Offence—fail to display sign about abuse offence**

s 109 om [A2017-13](#) s 55

**Offence—supply liquor to child or young person—licensee or permit-holder**

s 110 am [A2015-50](#) amdt 3.119; [A2017-13](#) s 56

- Offence—supply liquor to child or young person—employee**  
s 111 am [A2015-50](#) amdt 3.119; [A2017-13](#) s 56, s 57
- Offence—supply liquor to child or young person—other person**  
s 112 am [A2017-13](#) ss 58-60; pars renum R26 LA
- Offence—child or young person consume liquor—licensee or permit-holder**  
s 114 am [A2017-13](#) s 61
- Offence—child or young person consume liquor**  
s 115 am [A2017-13](#) s 62; pars renum R26 LA
- Offence—child or young person possess liquor—licensee or permit-holder**  
s 116 am [A2017-13](#) s 63, s 64
- Offence—child or young person possess liquor**  
s 117 am [A2017-13](#) s 65, s 66; pars renum R26 LA
- Offence—send child or young person to obtain liquor**  
s 119 am [A2017-13](#) s 67, s 68; pars renum R26 LA
- Licensee, permit-holder, etc may seize false identification document**  
s 124 am [A2010-43](#) amdt 1.33-1.36; pars and ss renum R2 LA
- Offence—exceed occupancy loading**  
s 125 am [A2010-43](#) amdt 1.37
- Offence—fail to display occupancy loading sign**  
s 126 am [A2010-43](#) amdt 1.38
- Offence—fail to make risk-assessment management plan available**  
s 128 om [A2010-43](#) amdt 1.39
- Offence—disclose confidential provision of risk-assessment management plan**  
s 129 om [A2010-43](#) amdt 1.40
- What is an *incident*?—div 8.6**  
s 130 am [A2010-43](#) amdt 1.41; pars renum R2 LA
- Incident reporting**  
s 131 am [A2010-43](#) amdt 1.42; pars renum R2 LA  
sub [A2017-13](#) s 69
- Offence—fail to report incident**  
s 132 hdg sub [A2017-13](#) s 70  
s 132 am [A2017-13](#) s 71
- Offence—conduct prohibited promotional activities**  
s 137 am [A2010-43](#) amdt 1.43; ss renum R2 LA
- Offence—remain in or re-enter vicinity of premises**  
s 138 sub [A2017-13](#) s 72

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**Offence—take liquor from on licensed premises**

s 139A ins [A2017-13](#) s 73

**Offence—fail to comply with direction to display sign**

s 143A ins [A2017-13](#) s 74

**Excluding people from premises**

div 8.9 hdg ins [A2017-13](#) s 75

**Excluding people from premises**

s 143B ins [A2017-13](#) s 75  
am [A2017-13](#) s 76, s 77

**Exclusion orders**

div 8.10 hdg ins [A2019-43](#) s 17

**Definitions—div 8.10**

s 143C ins [A2019-43](#) s 17  
def *excluded person* ins [A2019-43](#) s 17  
def *exclusion order* ins [A2019-43](#) s 17  
def *exclusion period* ins [A2019-43](#) s 17

**Meaning of *exclusion order*, *excluded person* and *exclusion period***

s 143D ins [A2019-43](#) s 17

**Application for exclusion order**

s 143E ins [A2019-43](#) s 17

**Making of exclusion order**

s 143F ins [A2019-43](#) s 17

**Offence—excluded person on premises contrary to exclusion order**

s 143G ins [A2019-43](#) s 17

**Display of notice about effect of exclusion order**

s 143H ins [A2019-43](#) s 17

**Amending or revoking exclusion order**

s 143I ins [A2019-43](#) s 17

**Commissioner may direct licensee, permit-holder, employee etc**

s 144 am [A2017-13](#) s 78

**Direction to give security camera images**

div 9.1A hdg ins [A2017-13](#) s 79

**Commissioner or police may direct licensee to give security camera images**

s 145A ins [A2017-13](#) s 79

**Offence—fail to comply with direction to give security camera images**

s 145B ins [A2017-13](#) s 79

**Definitions—div 9.3**

- s 149 def **caution offence** am [A2016-7](#) s 34  
 def **CYP chief executive** om [A2011-22](#) amdt 1.288  
 def **CYP director-general** ins [A2011-22](#) amdt 1.288

**Police may caution children and young people**

- s 150 am [A2011-22](#) amdt 1.289

**Police must caution and release child or young person as soon as practicable**

- s 151 am [A2011-22](#) amdt 1.289

**Chief police officer may revoke cautions**

- s 152 am [A2011-22](#) amdt 1.289

**Power to enter premises**

- s 154 am [A2010-43](#) amdt 1.44; pars renum R2 LA

**Consent to entry**

- s 156 am [A2010-43](#) amdt 1.45

**Warrants—application made other than in person**

- s 160 am [A2018-33](#) amdt 1.45, amdt 1.46

**Return of things seized**

- s 167 am [A2011-22](#) amdt 1.289

**Forfeiture of seized things**

- s 168 am [A2011-22](#) amdt 1.289

**Application for order disallowing seizure**

- s 170 am [A2011-22](#) amdt 1.289; [A2017-4](#) amdt 3.93

**Order for return of seized thing**

- s 171 am [A2011-22](#) amdt 1.289

**Form of complaint**

- s 177 am [A2016-18](#) amdt 2.5; [A2017-13](#) s 80

**Further information about complaint etc**

- s 179 am [A2011-52](#) amdt 3.131; [A2015-50](#) amdt 3.118; [A2016-18](#) amdt 3.138

**Meaning of *person of concern*—div 11.3**

- s 182A ins [A2019-43](#) s 18

**Grounds for occupational discipline—licensee**

- s 183 am [A2010-43](#) amdt 2.3; [A2017-13](#) s 81; [A2019-43](#) s 19

**Grounds for occupational discipline—commercial permit-holder**

- s 184 am [A2010-43](#) amdt 2.6; [A2019-43](#) s 20

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**ACAT must consider suitability information, etc about licensee or commercial-permit holder**

s 185 am [A2015-23](#) s 26

**ACAT must consider suitability information, etc about premises**

s 186 am [A2017-13](#) s 97

**Application to ACAT for occupational discipline**

s 187 am [A2010-43](#) amdt 1.46

**Compliance testing**

pt 11A hdg ins [A2017-13](#) s 82

**Definitions—pt 11A**

s 187A ins [A2017-13](#) s 82  
def **approved procedures** ins [A2017-13](#) s 82  
def **approved program** ins [A2017-13](#) s 82  
def **authorised person** ins [A2017-13](#) s 82  
def **compliance test** ins [A2017-13](#) s 82  
def **purchase assistant** ins [A2017-13](#) s 82

**What is a compliance test?—pt 11A**

s 187B ins [A2017-13](#) s 82

**Approval of compliance testing programs**

s 187C ins [A2017-13](#) s 82

**Approval of compliance testing procedures**

s 187D ins [A2017-13](#) s 82

**Carrying out compliance testing**

s 187E ins [A2017-13](#) s 82

**Lawfulness of compliance testing**

s 187F ins [A2017-13](#) s 82

**Indemnification of authorised people and purchase assistants**

s 187G ins [A2017-13](#) s 82

**Cancellation of licence or permit for criminal activity**

pt 11B hdg ins [A2019-43](#) s 21

**Definitions—pt 11B**

s 187H ins [A2019-43](#) s 21  
def **cancellation order** ins [A2019-43](#) s 21  
def **involved**, with a licence ins [A2019-43](#) s 21  
def **involved**, with a permit ins [A2019-43](#) s 21

**Application for cancellation order**

s 187I ins [A2019-43](#) s 21

**Cancellation order**

s 187J ins [A2019-43](#) s 21

**Cancellation order—revocation**s 187K ins [A2019-43](#) s 21**Offences—cancellation order—involvement of person engaged in criminal activity**s 187L ins [A2019-43](#) s 21**Definitions—div 12.1**s 188 def *registered training organisation* sub [A2014-48](#) amdt 1.22**What is an *RSA certificate*?**s 193 am [A2017-4](#) amdt 3.94  
sub [A2017-13](#) s 83**RSA training providers must give RSA certificates**s 194 hdg sub [A2017-4](#) amdt 3.95  
s 194 am [A2017-4](#) amdt 3.96**Offence—consume liquor at certain public places**s 199 am [A2015-50](#) amdt 3.119; [A2018-19](#) amdts 1.2-1.4; pars  
renum R29 LA**Offence—possess open container of liquor at certain public places**s 200 am [A2015-50](#) amdt 3.119; [A2018-19](#) amdts 1.5-1.7; pars  
renum R29 LA**Offence—supply liquor to child or young person by parent etc—private place**s 204A ins [A2015-23](#) s 15**Police officer may ask for identification document**s 207 am [A2010-43](#) amdt 1.47**What is a *proof of identity card*?—div 14.2**s 209 sub [A2016-7](#) s 35**Proof of identity cards**s 210 hdg sub [A2016-7](#) s 36  
s 210 am [A2016-7](#) s 37**Offence—child or young person use false identification to obtain proof of identity card**s 211 hdg sub [A2016-7](#) s 38  
s 211 am [A2016-7](#) s 39**Prohibited liquor products**s 213 am [A2017-13](#) s 84**Authorisation for extended trading**div 14.4 hdg ins [A2017-13](#) s 85**Extended trading—application**s 214A ins [A2017-13](#) s 85

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### **Extended trading—decision on application**

s 214B ins [A2017-13](#) s 85

### **Membership of liquor advisory board**

s 216 am [A2015-23](#) ss 16-20; pars renum R15 LA; [A2017-38](#)  
ss 43-45; pars renum R28 LA

### **Liquor advisory board function**

s 217 sub [A2015-23](#) s 21

### **Liquor advisory board procedure**

s 218 am [A2015-23](#) s 22

### **Reimbursement of expenses for liquor advisory board members**

s 219 am [A2015-23](#) s 22

### **Criminal intelligence**

pt 16A hdg ins [A2015-23](#) s 23

### **Definitions—pt 16A**

s 222A ins [A2015-23](#) s 23  
def *criminal intelligence* ins [A2015-23](#) s 23  
def *maintain* ins [A2015-23](#) s 23

### **Disclosure of criminal intelligence—chief police officer**

s 222B ins [A2015-23](#) s 23  
am [A2019-43](#) s 22

### **Disclosure of criminal intelligence—commissioner for fair trading and ACAT**

s 222C ins [A2015-23](#) s 23

### **Whether information is criminal intelligence—application and decision**

s 222D ins [A2015-23](#) s 23  
am [A2019-43](#) s 23; ss renum R33 LA

### **Appeal—applicant may withdraw information**

s 222E ins [A2015-23](#) s 23

### **Confidentiality of criminal intelligence—commissioner and ACAT**

s 222F ins [A2015-23](#) s 23  
am [A2019-43](#) s 24; ss renum R33 LA

### **Confidentiality of criminal intelligence—courts**

s 222G ins [A2015-23](#) s 23

### **Delegation by chief police officer**

s 222H ins [A2015-23](#) s 23

### **Liquor guidelines**

s 223 am [A2010-43](#) amdt 1.48; ss renum R2 LA

### **Licences and permits not personal property—PPS Act**

s 224A ins [A2010-43](#) amdt 1.49



**Evidentiary certificates—licensees and permit holders**s 224B ins [A2017-13](#) s 86**Determination of fees**s 227 am [A2012-10](#) s 4; ss renum R10 LA**Legislation repealed**

s 230 om LA s 89 (3)

**Transitional**pt 20 hdg ins [A2010-43](#) amdt 1.50  
exp 1 December 2013 (s 259)**Definitions—pt 20**s 250 ins [A2010-43](#) amdt 1.50  
exp 1 December 2013 (s 259)  
def **commencement day** ins [A2010-43](#) amdt 1.50  
exp 1 December 2013 (s 259)  
def **new licence** ins [A2010-43](#) amdt 1.50  
exp 1 December 2013 (s 259)  
def **old licence** ins [A2010-43](#) amdt 1.50  
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def **repealed Act** ins [A2010-43](#) amdt 1.50  
exp 1 December 2013 (s 259)**Modification—s 2 (Commencement)**s 250A ins as mod [SL2010-40](#) mod 4.1 (as am by [SL2010-48](#) s 5;  
[SL2011-23](#) s 4)  
mod exp 1 December 2013 (SL2010-40 s 101 (2))**Transitional—old licensees applying for new licences**s 251 ins [A2010-43](#) amdt 1.50  
mod SL2010-40 mod 4.2 (as am by SL2010-48 s 5)  
mod exp\_1 December 2013 (SL2010-40 s 101 (2))  
exp 1 December 2013 (s 259)**Transitional—old licences and new applications**s 252 ins [A2010-43](#) amdt 1.50  
exp 1 December 2013 (s 259)**Transitional—old licences and occupancy loading**s 253 ins [A2010-43](#) amdt 1.50  
exp 1 December 2013 (s 259)**Transitional—old liquor permits taken to be commercial permits**s 254 ins [A2010-43](#) amdt 1.50  
exp 1 December 2013 (s 259)**Transitional—old non-profit organisation wine permits taken to be non-commercial permits**s 255 ins [A2010-43](#) amdt 1.50  
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**Transitional—old tourism wine permits taken to be commercial permits**

s 256 ins [A2010-43](#) amdt 1.50  
exp 1 December 2013 (s 259)

**Transitional—RSA certificates**

s 257 ins [A2010-43](#) amdt 1.50  
exp 1 December 2013 (s 259)

**Transitional regulations**

s 258 ins [A2010-43](#) amdt 1.50  
exp 1 December 2013 (s 259)

**Expiry—pt 20**

s 259 ins [A2010-43](#) amdt 1.50  
exp 1 December 2013 (s 259)

**Transitional**

pt 21 hdg ins [A2015-23](#) s 24  
exp 19 February 2016 (s 262)

**Meaning of *commencement day*—pt 21**

s 260 ins [A2015-23](#) s 24  
exp 19 February 2016 (s 262)

**Liquor advisory board member representing liquor consumers**

s 261 ins [A2015-23](#) s 24  
exp 19 February 2016 (s 262)

**Expiry—pt 21**

s 262 ins [A2015-23](#) s 24  
exp 19 February 2016 (s 262)

**Transitional—proof of age cards**

pt 22 hdg ins [A2016-7](#) s 40  
exp 29 August 2017 (s 265)

**Meaning of *commencement day*—pt 22**

s 263 ins [A2016-7](#) s 40  
exp 29 August 2017 (s 265)

**Proof of age cards**

s 264 ins [A2016-7](#) s 40  
exp 29 August 2017 (s 265)

**Expiry—pt 22**

s 265 ins [A2016-7](#) s 40  
exp 29 August 2017 (s 265)

**Transitional—liquor advisory board appointments**

pt 23 hdg ins [A2017-38](#) s 46  
exp 15 October 2018 (s 269)

**Meaning of *commencement day*—pt 23**

s 266 ins [A2017-38](#) s 46  
exp 15 October 2018 (s 269)

**Existing Clubs ACT appointment**

s 267 ins [A2017-38](#) s 46  
exp 15 October 2018 (s 269)

**Existing Australian Hotels Association (ACT branch) appointment**

s 268 ins [A2017-38](#) s 46  
exp 15 October 2018 (s 269)

**Expiry—pt 23**

s 269 ins [A2017-38](#) s 46  
exp 15 October 2018 (s 269)

**Reviewable decisions**

sch 1 am [A2010-43](#) amdt 1.51

**Dictionary**

dict am [A2010-54](#) amdt 3.43; [A2011-22](#) amdt 1.290; [A2011-52](#) amdt 3.132; [A2012-21](#) amdt 3.115; [A2016-33](#) amdt 1.35; [A2017-4](#) amdt 3.97, amdt 3.98; [A2018-33](#) s 86  
def **ACAT Act** ins [A2010-43](#) amdt 1.52  
def **ACTPLA certificate** om [A2017-13](#) s 87  
def **applicant** om [A2017-13](#) s 87  
def **approved procedures** ins [A2017-13](#) s 88  
def **approved program** ins [A2017-13](#) s 88  
def **authorised person** sub [A2017-13](#) s 89  
def **cancellation order** ins [A2019-43](#) s 25  
def **catered premises** ins [A2017-13](#) s 90  
def **catering licence** ins [A2017-13](#) s 90  
def **compliance test** ins [A2017-13](#) s 91  
def **confidential provision** om [A2010-43](#) amdt 1.53  
def **criminal intelligence** ins [A2015-23](#) s 25  
def **CYP chief executive** om [A2011-22](#) amdt 1.291  
def **CYP director-general** ins [A2011-22](#) amdt 1.291  
def **designated outdoor smoking area** ins [A2010-43](#) amdt 2.7  
def **enclosed public place** sub [A2010-43](#) amdt 2.8  
def **excluded person** ins [A2019-43](#) s 25  
def **exclusion order** ins [A2019-43](#) s 25  
def **exclusion period** ins [A2019-43](#) s 25  
def **identification document** am [A2016-7](#) s 41  
sub [A2018-33](#) s 87  
def **identity card** am [A2010-54](#) amdt 3.44  
def **incident register** om [A2017-13](#) s 92  
def **interstate proof of age card** om [A2016-7](#) s 42  
def **interstate proof of identity card** ins [A2016-7](#) s 43

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def **investigator** am [A2010-54](#) amdt 3.44  
def **involved**, with a licence ins [A2019-43](#) s 25  
def **involved**, with a permit ins [A2019-43](#) s 25  
def **licensed premises** ins [A2010-43](#) amdt 1.54  
am [A2017-13](#) s 93  
def **licensed times** am [A2017-13](#) s 94  
def **liquor advisory board** ins [A2017-4](#) amdt 3.99  
def **low-alcohol liquor** am [A2010-43](#) amdt 1.55  
def **maintain** ins [A2015-23](#) s 25  
def **outdoor eating or drinking place** ins [A2010-43](#) amdt 2.9  
def **permit-holder** sub [A2017-4](#) amdt 3.100  
def **permitted premises** ins [A2010-43](#) amdt 1.56  
def **police certificate** am [A2011-49](#) amdt 1.11, amdt 1.12;  
[A2011-52](#) amdt 3.133; [A2015-45](#) amdt 1.7; [A2017-4](#)  
amdt 3.101  
def **proof of age card** om [A2016-7](#) s 44  
def **proof of identity card** ins [A2016-7](#) s 45  
def **purchase assistant** ins [A2017-13](#) s 95  
def **reviewable decision** am [A2017-4](#) amdt 3.102  
def **smoke** sub [A2010-43](#) amdt 2.10

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 9 Nov 2010	9 Nov 2010– 30 Nov 2010 (not in force)	<a href="#">A2010-43</a>	amendments by <a href="#">A2010-43</a> to commencement section only
R2 1 Dec 2010	1 Dec 2010– 8 Dec 2010	<a href="#">A2010-43</a>	new Act, modifications by <a href="#">SL2010-40</a> as am by <a href="#">SL2010-48</a> and amendments by <a href="#">A2010-43</a>
R3 9 Dec 2010	9 Dec 2010– 31 Dec 2010	<a href="#">A2010-43</a>	amendments by <a href="#">A2010-43</a>
R4 1 Jan 2011	1 Jan 2011– 31 May 2011	<a href="#">A2010-54</a>	amendments by <a href="#">A2010-54</a>
R5 1 June 2011	1 June 2011– 30 June 2011	<a href="#">A2010-54</a>	commenced provisions
R6 1 July 2011	1 July 2011– 4 Aug 2011	<a href="#">A2011-22</a>	amendments by <a href="#">A2011-22</a>
R7 5 Aug 2011	5 Aug 2011– 11 Dec 2011	<a href="#">SL2011-23</a>	modifications by <a href="#">SL2010-40</a> as amended by <a href="#">SL2011-23</a>
R8 12 Dec 2011	12 Dec 2011– 29 Jan 2012	<a href="#">A2011-52</a>	amendments by <a href="#">A2011-49</a> and <a href="#">A2011-52</a>
R9 30 Jan 2012	30 Jan 2012– 3 Apr 2012	<a href="#">A2011-52</a>	amendments by <a href="#">A2010-43</a>

## Endnotes

5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R10 4 Apr 2012	4 Apr 2012– 31 May 2012	<a href="#">A2012-10</a>	amendments by <a href="#">A2012-10</a>
R11 1 June 2012	1 June 2012– 4 June 2012	<a href="#">A2012-10</a>	commenced provisions
R12 5 June 2012	5 June 2012– 1 Dec 2013	<a href="#">A2012-21</a>	amendments by <a href="#">A2012-21</a>
R13 2 Dec 2013	2 Dec 2013– 19 Nov 2014	<a href="#">A2012-21</a>	expiry of transitional provisions (pt 20) and modifications (s 250A, s 251 (4A))
R14 20 Nov 2014	20 Nov 2014– 18 Aug 2015	<a href="#">A2014-48</a>	amendments by <a href="#">A2014-48</a>
R15 19 Aug 2015	19 Aug 2015– 13 Oct 2015	<a href="#">A2015-23</a>	amendments by <a href="#">A2015-23</a>
R16 14 Oct 2015	14 Oct 2015– 6 Nov 2015	<a href="#">A2015-33</a>	amendments by <a href="#">A2015-33</a>
R17 7 Nov 2015	7 Nov 2015– 8 Dec 2015	<a href="#">A2015-45</a>	amendments by <a href="#">A2015-45</a>
R18 9 Dec 2015	9 Dec 2015– 19 Feb 2016	<a href="#">A2015-50</a>	amendments by <a href="#">A2015-50</a>
R19 20 Feb 2016	20 Feb 2016– 26 Apr 2016	<a href="#">A2015-50</a>	expiry of transitional provision (pt 21)
R20 27 Apr 2016	27 Apr 2016– 20 June 2016	<a href="#">A2016-18</a>	amendments by <a href="#">A2016-18</a>
R21 21 June 2016	21 June 2016– 17 August 2016	<a href="#">A2016-33</a>	amendments by <a href="#">A2016-33</a>
R22 18 Aug 2016	18 Aug 2016– 28 Aug 2016	<a href="#">A2016-33</a>	amendments by <a href="#">A2015-23</a>

Republication No and date	Effective	Last amendment made by	Republication for
R23 (RI) 23 Jan 2018	29 Aug 2016– 8 Mar 2017	<a href="#">A2016-33</a>	amendments by <a href="#">A2016-7</a> reissued for textual correction in dictionary
R24 (RI) 23 Jan 2018	9 Mar 2017– 17 May 2017	<a href="#">A2017-4</a>	amendments by <a href="#">A2017-4</a> reissued for textual correction in dictionary
R25 (RI) 23 Jan 2018	18 May 2017– 30 June 2017	<a href="#">A2017-13</a>	amendments by <a href="#">A2017-13</a> reissued for textual correction in dictionary
R26 (RI) 23 Jan 2018	1 July 2017– 29 Aug 2017	<a href="#">A2017-13</a>	amendments by <a href="#">A2017-13</a> reissued for textual correction in dictionary
R27 (RI) 23 Jan 2018	30 Aug 2017– 15 Nov 2017	<a href="#">A2017-13</a>	expiry of transitional provisions (pt 22) reissued for textual correction in dictionary
R28 (RI) 23 Jan 2018	16 Nov 2017– 23 May 2018	<a href="#">A2017-38</a>	amendments by <a href="#">A2017-38</a> reissued for textual correction in dictionary
R29 24 May 2018	24 May 2018– 1 Oct 2018	<a href="#">A2018-19</a>	amendments by <a href="#">A2018-19</a>
R30 2 Oct 2018	2 Oct 2018– 15 Oct 2018	<a href="#">A2018-33</a>	amendments by <a href="#">A2018-33</a>
R31 16 Oct 2018	16 Oct 2018– 22 Oct 2018	<a href="#">A2018-33</a>	expiry of transitional provisions (pt 23)

## Endnotes

### 6 Expired transitional or validating provisions

Republication No and date	Effective	Last amendment made by	Republication for
R32 23 Oct 2018	23 Oct 2018– 5 June 2020	<a href="#">A2018-33</a>	amendments by <a href="#">A2018-33</a>

## 6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see [Legislation Act 2001](#), s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation ‘exp’ followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

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