



Australian Capital Territory

# Liquor Amendment Act 2017

A2017-13

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Australian Capital Territory

# Liquor Amendment Act 2017

**A2017-13**

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An Act to amend the *Liquor Act 2010* and the *Liquor Regulation 2010*, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Liquor Amendment Act 2017*.

### 2 Commencement

(1) The following provisions commence on 1 July 2017:

- section 6
- sections 8 and 9
- section 11
- sections 14 to 16
- section 19
- sections 22 to 27
- sections 31 and 32
- sections 46, 48 and 50
- sections 52 to 54
- sections 56 to 71
- sections 76 and 77
- sections 85 and 90
- sections 92 to 94
- sections 100 to 106
- sections 108 to 110
- sections 115, 116, 118 and 119.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

(2) The remaining provisions commence on the day after this Act's notification day.



**3 Legislation amended**

This Act amends the *Liquor Act 2010* and the *Liquor Regulation 2010*.

*Note* This Act also amends other legislation (see sch 1).

## Part 2 Liquor Act 2010

### 4 Application of Act—generally Section 6, example 2

*substitute*

2 *Army and Air Force (Canteen) Regulation 2016* (Cwlth), s 34

### 5 New section 8A

*in division 1.1, insert*

#### 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

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (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.

**6 What is a *licence*?  
Section 16, definition of *licence*, new paragraph (da)**

*insert*

(da) a catering licence; or

**7 What is a *club licence*?  
Section 20, definition of *club licence*,  
new paragraph (d) (ia)**

*insert*

(ia) who is at the licensed premises as a temporary member of the club under the *Gaming Machine Act 2004*; or

**8 New section 20A**

*insert*

**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.

**9 Licence—application  
Section 25 (2) (c) (v)**

*before*

the proposed licensed premises; and

*insert*

for a licence other than a catering licence—

**10 New section 25 (2) (da)**

*insert*

(da) 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

**11 Section 25 (2) (da)**

*before*

include evidence that

*insert*

for a licence other than a catering licence—

**12 Section 25 (2) (e) (i)**

*omit*

**13 Section 25 (2) (f)**

*substitute*

(f) for an application prescribed by regulation—include a risk-assessment management plan for the premises.

**14 Licence—decision on application  
Section 27 (2) (d) and (f)**

*before*

the proposed licensed premises

*insert*

for a licence other than a catering licence—

**15 Licence—form  
Section 30 (1) (b) (iv)**

*before*

the address of the licensed premises

*insert*

for a licence other than a catering licence—

**16 Section 30 (1) (b) (v)**

*substitute*

(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;

**17 Licence—conditions  
Section 31 (1), new note**

*insert*

*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).

**18 Section 31 (2), examples and note 1**

*omit*

**19 Section 31 (2), note 2**

*omit*

Licences may be renewed under s 43.

**20 Section 31 (2), note 3**

*omit*

**21 New section 31 (3) and (4)**

*after the note, insert*

- (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).

**22 Licence—term**  
**Section 32 (2) and (3)**

*substitute*

- (2) A licence issued on or after the commencement day continues in force until it is cancelled or surrendered.
- (2A) A licence issued before the commencement day expires on the day prescribed by regulation.
- (3) However, the commissioner may decide on reasonable grounds that a licence mentioned in subsection (2A) expires on an earlier day.



**23 New section 32 (5)**

*after the note, insert*

(5) In this section:

*commencement day* means the day the *Liquor Amendment Act 2017*, section 22 commences.

**24 Division 2.4 heading**

*substitute*

**Division 2.4 Licences—notification and public consultation****25 Section 33**

*substitute*

**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.

## **26 New sections 33A and 33B**

*insert*

### **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.

**27 Sections 37 (1) (c) and 38 (4) (c)**

*before*

the licensed premises

*insert*

for a licence other than a catering licence—

**28 Licence—amendment for change to floor plan of licensed premises**  
**New section 39 (2) (aa)**

*insert*

- (aa) 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

**29 Section 39 (2) (b) (i)**

*omit*

**30 Section 39 (2) (b) (iii)**

*after*

on licence

*insert*

(other than a restaurant and cafe licence that is not required to have an approved risk-assessment management plan)

**31 Licence—application for renewal**  
**Section 42 (1)**

*omit*

A licensee

*substitute*

The licensee of a licence issued before the commencement day

**32           New section 42 (5)**

*insert*

- (5) In this section:

*commencement day* means the day the *Liquor Amendment Act 2017*, section 31 commences.

**33           New section 46A**

*in division 2.5, insert*

**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)).

**34 Permit—application  
New section 50 (2) (ba)**

*insert*

- (ba) 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

**35 Section 50 (2) (c) (i)**

*omit*

**36 Permit—conditions  
Section 55 (1), new note**

*insert*

*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).

**37 Section 55 (2), examples and notes**

*omit*

**38 New section 55 (3)**

*insert*

- (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.

**39 What is an *eligible club*?  
Section 70, definition of *eligible club*, paragraph (b) (iv)**

*before*

prohibits the supply

*insert*

subject to paragraph (ba),

**40 Section 70, definition of *eligible club*, new paragraph (ba)**

*insert*

- (ba) 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



**41 Section 79 heading**

*substitute*

**79 Commissioner may require plan etc for premises****42 Section 79 (2) (a)**

*substitute*

- (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](#);

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

*after*

an approved risk-assessment

*insert*

a management

**44 New sections 90B and 90C**

*insert*

**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.

**45 New sections 92A and 92B**

*in part 6, insert*

**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.

**46 Offence—supply liquor without RSA certificate—licensee or permit-holder**  
**Section 100 (1) (c) and (3) (c)**

*substitute*

- (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

**47 New section 100 (6)**

*insert*

- (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.

**48 Offence—supply liquor without RSA certificate—employee**  
**Section 101 (1) (c)**

*substitute*

- (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

**49 Offence—fail to keep RSA certificates  
Section 103 (1) (b) and (2) (b)**

*omit*

copy of an

*insert*

copy of a current

**50 Section 103 (1) (b) (ii)**

*substitute*

- (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;

**51 What is *intoxicated*?  
Section 104 (b)**

*substitute*

- (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).

**52           Sections 105 (1) (d) and (3) (d) and 106 (1) (d)**

*substitute*

- (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.

**53           Offence—supply liquor to intoxicated person—other person  
New section 107 (1) (c) (ia)**

*insert*

- (ia) catered premises; or

**54           Section 107 (3) (a)**

*after*

licensed premises

*insert*

or catered premises

**55           Offence—fail to display sign about abuse offence  
Section 109**

*omit*

**56 Sections 110 (1) (d) and (3) (d) and 111 (1) (d)**

*substitute*

- (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.

**57 Section 111 (4)**

*after*

licensed premises

*insert*

or catered premises

**58 Offence—supply liquor to child or young person—other person  
New section 112 (1) (c) (ia)**

*insert*

- (ia) catered premises; or

**59 Section 112 (1) (d) (i)**

*after*

licensed premises

*insert*

or catered premises

**60           Section 112 (3)**

*after*

licensed premises

*insert*

or catered premises

**61           Offence—child or young person consume liquor—  
licensee or permit-holder  
Section 114 (1) (b)**

*omit everything after*

low-alcohol liquor

*substitute*

at—

(i) if the licensee holds a catering licence—the catered premises;  
or

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

**62           Offence—child or young person consume liquor  
New section 115 (b) (ia)**

*insert*

(ia) catered premises; or



**63 Offence—child or young person possess liquor—licensee or permit-holder  
Section 116 (1) (b)**

*omit everything after*

low-alcohol liquor

*substitute*

at—

- (i) if the licensee holds a catering licence—the catered premises;  
or
- (ii) in any other case—the licensed premises; and

**64 Section 116 (4) (a)**

*omit everything after*

employment at the

*substitute*

premises; or

**65 Offence—child or young person possess liquor  
New section 117 (1) (b) (ia)**

*insert*

- (ia) catered premises; or

**66 Section 117 (2) (a)**

*omit everything after*

employment at the

*substitute*

premises; or

**67 Offence—send child or young person to obtain liquor  
New section 119 (1) (a) (ia) and (2) (a) (ia)**

*insert*

- (ia) catered premises; or

**68 Section 119 (3) (a)**

*omit everything after*

employment at the

*substitute*

premises; or

**69 Section 131**

*substitute*

**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.

**70 Section 132 heading**

*substitute*

**132 Offence—fail to report incident**

**71 Section 132 (1) (b) and (2) (b)**

*substitute*

- (b) does not give the commissioner a report under section 131 within 24 hours after an incident happened.

**72 Section 138**

*substitute*

**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.

**73 New section 139A**

*insert*

**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).

**74 New section 143A**

*in division 8.8, insert*

**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.

**75 New division 8.9***insert***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, 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 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, licensed premises or permitted premises.
- (4) In this section:  
*authorised person* means—
  - (a) a police officer; and
  - (b) for 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.

**76 Section 143B (1) to (3)**

*before*

licensed premises

*insert*

catered premises,

**77 Section 143B (4), definition of *authorised person***

*substitute*

*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.

**78 Commissioner may direct licensee, permit-holder, employee etc  
Section 144 (2), new example**

*insert*

- 3 to a licensee to remove or discontinue a promotion that is a prohibited promotional activity under s 137



**79 New division 9.1A***insert***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.

**80 Form of complaint  
Section 177 (3)**

*omit*

**81 Grounds for occupational discipline—licensee  
New section 183 (3)**

*insert*

- (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.

**82 New part 11A**

*insert*

## **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)

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (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

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

## **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

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**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.

**83 Section 193**

*substitute*

**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.



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**84 Prohibited liquor products  
Section 213 (1) and examples**

*substitute*

- (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

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**85 New division 14.4**

*insert*

**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.

**86 New section 224B**

*insert*

**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.

**87 Dictionary, definitions of *ACTPLA certificate* and *applicant***

*omit*

**88 Dictionary, new definitions**

*insert*

*approved procedures*, for part 11A (Compliance testing)—see section 187A.

*approved program*, for part 11A (Compliance testing)—see section 187A.

**89 Dictionary, definition of *authorised person***

*substitute*

*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.

**90 Dictionary, new definitions**

*insert*

*catered premises* means premises where liquor is authorised to be sold under a catering licence.

*catering licence*—see section 20A.

**91 Dictionary, new definition of *compliance test***

*insert*

*compliance test*, for part 11A (Compliance testing)—see section 187B.

**92 Dictionary, definition of *incident register***

*omit*

**93 Dictionary, definition of *licensed premises***

*after*

licence

*insert*

(other than a catering licence)

**94 Dictionary, definition of *licensed times***

*after*

licensed premises

*insert*

or catered premises

**95 Dictionary, new definition of *purchase assistant***

*insert*

*purchase assistant*, for part 11A (Compliance testing)—see section 187B (a).

**96 Further amendments, mentions of *hold an RSA certificate***

*omit*

hold an RSA certificate

*substitute*

hold a current RSA certificate

*in*

- sections 100 to 102

**97   Further amendments, mentions of *section 79***

*omit*

section 79 (Commissioner may require certificate, plan, etc for premises)

*substitute*

section 79 (Commissioner may require plan etc for premises)

*in*

- section 27
- sections 38 and 39
- section 43
- section 51
- section 58
- section 62
- sections 76 and 77
- section 186

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## Part 3                      Liquor Regulation 2010

### 98            **New section 5A**

*in part 2, insert*

#### 5A            **Licence application—Act, s 25 (2) (f)**

An application for any of the following licences is prescribed:

- (a) a general licence for the sale of liquor in open containers for consumption at licensed premises;
- (b) an on licence (other than a restaurant and cafe licence with standard licensed times);
- (c) a club licence for the sale of liquor in open containers for consumption at the licensed premises;
- (d) a special licence for the sale of liquor in open containers for consumption at the licensed premises.

### 99            **New section 7A**

*insert*

#### 7A            **Licence conditions—requirements for security cameras— Act, s 31 (4)**

- (1) A security camera must—
  - (a) capture images continuously at a minimum rate of 6 frames per second; and
  - (b) be connected to a video recorder that—
    - (i) stores images captured by the camera; and
    - (ii) complies with subsection (2).

- (2) A video recorder must—
- (a) for a digital video recorder—
    - (i) record continuously at a minimum rate of 6 frames per second for each security camera connected to the video recorder; and
    - (ii) be in open format whether or not the recorder can produce exported images in a proprietary format; and
  - (b) for a video cassette recorder—record continuously the images captured by each security camera connected to the video recorder; and
  - (c) put the following on the recording in legible and retrievable form:
    - (i) the time and date of the capture of images;
    - (ii) the identity of the camera that captured the images, sufficient to identify the camera's location.
- (3) Security camera images must—
- (a) be of adequate quality and detail to enable identification of a person; and
  - (b) be recorded from the time the licensed premises is open to the public until 1 hour after the licensed premises is closed; and
  - (c) be stored by the licensee for at least 30 days.
- (4) In this section:
- video recorder*** means a digital video recorder or video cassette recorder that records video images from a security camera.



**100 Licence term—Act, s 32 (2)  
Section 8 (1)**

*after*

A licence

*insert*

issued before the commencement day

**101 New section 8 (3)**

*insert*

(3) In this section:

*commencement day* means the day the *Liquor Amendment Act 2017*, section 100 commences.

**102 Public notice requirements—Act, s 34 (2) (b)  
Section 9 (2)**

*omit everything before*

section 34 (1) (b)

*substitute*

A notice given for the [Act](#), section 33A (1) or published for the [Act](#),

**103 Licence maximum renewal period—Act, s 42 (1)  
Section 12**

*after 1st mention of*

A licence

*insert*

issued before the commencement day

**104 New section 12 (2)**

*insert*

- (2) In this section:

***commencement day*** means the day the *Liquor Amendment Act 2017*, section 103 commences.

**105 Suitability of premises—cumulative impact  
Section 15 (2) (c)**

*substitute*

- (c) the number of incidents recorded in the incident registers of existing licensed premises and existing permitted premises near the proposed premises;
- (ca) the number of incidents reported after the commencement date for existing licensed premises and existing permitted premises near the proposed premises;

*Note* A licensee or permit-holder must give the commissioner a report about any incident that happens at premises—see the [Act](#), s 131.

**106 New section 15 (3)**

*insert*

- (3) In this section:

***incident register*** means the incident register required under the [Act](#), section 131 as in force immediately before the commencement of the *Liquor Amendment Act 2017*, section 105.

**107 Abuse offence sign—Act, s 109 (1) (b) and (2) (b)  
Section 22**

*omit*

**108 Sections 25 and 26**

*omit*

**109 Section 32**

*substitute*

**32 Licensed times and permitted times—definitions—  
Act, s 229 (2) (a)**

In this regulation:

***1am licensed times***, for a licence, means the licensed times in schedule 2, part 2.1, column 5 for the class of licence and case (if any) mentioned in column 2.

***1am permitted times***, for a permit, means the permitted times in schedule 2, part 2.2, column 4 for the class of permit mentioned in column 2.

***2am licensed times***, for a licence, means the licensed times in schedule 2, part 2.1, column 6 for the class of licence and case (if any) mentioned in column 2.

***2am permitted times***, for a permit, means the permitted times in schedule 2, part 2.2, column 5 for the class of permit mentioned in column 2.

***3am licensed times***, for a licence, means the licensed times in schedule 2, part 2.1, column 7 for the class of licence and case (if any) mentioned in column 2.

***3am permitted times***, for a permit, means the permitted times in schedule 2, part 2.2, column 6 for the class of permit mentioned in column 2.

***4am licensed times***, for a licence, means the licensed times in schedule 2, part 2.1, column 8 for the class of licence and case (if any) mentioned in column 2.

*4am permitted times*, for a permit, means the permitted times in schedule 2, part 2.2, column 7 for the class of permit mentioned in column 2.

*5am licensed times*, for a licence, means the licensed times in schedule 2, part 2.1, column 9 for the class of licence and case (if any) mentioned in column 2.

*5am permitted times*, for a permit, means the permitted times in schedule 2, part 2.2, column 8 for the class of permit mentioned in column 2.

*early licensed times*, for a licence, means the licensed times in schedule 2, part 2.1, column 3 for the class of licence and case (if any) mentioned in column 2.

*standard licensed times*, for a licence, means the licensed times in schedule 2, part 2.1, column 4 for the class of licence and case (if any) mentioned in column 2.

*standard permitted times*, for a permit, means the permitted times in schedule 2, part 2.2, column 3 for the class of permit mentioned in column 2.

**110 Licensed times and permitted times—Act, s 229 (2) (a)  
New section 33 (2) (aa)**

*before paragraph (a), insert*

(aa) early licensed times;

**111 Toilet facilities and toilet rooms  
Schedule 1, section 1.2 (5) and (6) (d)**

*omit*

**112 Toilet cubicles and toilet rooms  
Schedule 1, section 1.3 (b)**

*omit*

**113 Toilet facilities and toilet rooms outside premises  
Schedule 1, section 1.4 (2)**

*omit*

**114 Telephones  
Schedule 1, section 1.16**

*omit*

**115 Purchase report to commissioner—off licensees  
Schedule 1, section 1.19 (2)**

*omit*

1 month after the relevant date, give the commissioner the following information, in writing, about liquor purchased by the licensee during the reporting period

*substitute*

2 months after the end of each financial year, give the commissioner the following information, in writing, about liquor purchased by the licensee during the financial year

**116 Schedule 1, section 1.19 (3), definitions of *relevant date*  
and *reporting period***

*omit*

**117 Schedule 1, section 1.26**

*substitute*

**1.26 Glasswashers**

Glasses used at the premises must be washed in a glasswasher.

**118 Schedule 2, part 2.1***substitute***Part 2.1 Licensed times**

(see s 32)

<b>column 1 item</b>	<b>column 2 licence class and case (if any)</b>	<b>column 3 early licensed times</b>	<b>column 4 standard licensed times</b>	<b>column 5 1am licensed times</b>	<b>column 6 2am licensed times</b>	<b>column 7 3am licensed times</b>	<b>column 8 4am licensed times</b>	<b>column 9 5am licensed times</b>
1	general licence <ul style="list-style-type: none"> <li>• sale of liquor to be consumed at the premises</li> </ul>		7am – midnight 7am – 1am the following day on: <ul style="list-style-type: none"> <li>• 25 April</li> <li>• 24 December</li> <li>• 31 December</li> </ul>	7am – 1am the following day	7am – 2am the following day	7am – 3am the following day	7am – 4am the following day	7am – 5am the following day

column 1 item	column 2 licence class and case (if any)	column 3 early licensed times	column 4 standard licensed times	column 5 1am licensed times	column 6 2am licensed times	column 7 3am licensed times	column 8 4am licensed times	column 9 5am licensed times
	<ul style="list-style-type: none"> <li>sale of liquor to be consumed off the premises</li> </ul>		7am – 11pm					
2	on licence		7am – midnight 7am – 1am the following day on: <ul style="list-style-type: none"> <li>25 April</li> <li>24 December</li> <li>31 December</li> </ul>	7am – 1am the following day	7am – 2am the following day	7am – 3am the following day	7am – 4am the following day	7am – 5am the following day
3	off licence	7am – 6pm	7am – 11pm					

## Section 118

column 1 item	column 2 licence class and case (if any)	column 3 early licensed times	column 4 standard licensed times	column 5 1am licensed times	column 6 2am licensed times	column 7 3am licensed times	column 8 4am licensed times	column 9 5am licensed times
4	club licence		7am – midnight 7am – 1am the following day on: <ul style="list-style-type: none"> <li>• 25 April</li> <li>• 24 December</li> <li>• 31 December</li> </ul>	7am – 1am the following day	7am – 2am the following day	7am – 3am the following day	7am – 4am the following day	7am – 5am the following day
5	special licence <ul style="list-style-type: none"> <li>• sale of liquor to be consumed at the premises</li> </ul>		7am – midnight 7am – 1am the following day on: <ul style="list-style-type: none"> <li>• 25 April</li> <li>• 24 December</li> <li>• 31 December</li> </ul>	7am – 1am the following day	7am – 2am the following day	7am – 3am the following day	7am – 4am the following day	7am – 5am the following day



column 1 item	column 2 licence class and case (if any)	column 3 early licensed times	column 4 standard licensed times	column 5 1am licensed times	column 6 2am licensed times	column 7 3am licensed times	column 8 4am licensed times	column 9 5am licensed times
	<ul style="list-style-type: none"> <li>sale of liquor to be consumed off the premises</li> </ul>		7am – 11pm					
6	catering licence		7am – midnight 7am – 1am the following day on: <ul style="list-style-type: none"> <li>25 April</li> <li>24 December</li> <li>31 December</li> </ul>	7am – 1am the following day	7am – 2am the following day	7am – 3am the following day	7am – 4am the following day	7am – 5am the following day

**119   Dictionary, note 3**

*omit*

- incident register

## Schedule 1 Consequential Amendments

(see s 3)

### Part 1.1 Magistrates Court (Liquor Infringement Notices) Regulation 2010

#### [1.1] Schedule 1, item 38

*omit*

#### [1.2] Schedule 1, new items 40A and 40B

*insert*

40A	139A (1)	20	440
40B	139A (2)	10	220

#### [1.3] Schedule 1, new items 44A and 44B

*insert*

44A	143A (1)	10	220
44B	143A (2)	10	220

### Part 1.2 Major Events Act 2014

#### [1.4] Section 24 (8), definition of *ban order offence*, paragraph (c) (ii)

*substitute*

- (ii) section 138 (Offence—remain in or re-enter vicinity of premises).

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 23 March 2017.

**2 Notification**

Notified under the [Legislation Act](#) on 17 May 2017.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Liquor Amendment Bill 2017, which was passed by the Legislative Assembly on 11 May 2017.

Clerk of the Legislative Assembly

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