

First print



New South Wales

Liquor and Registered Clubs Legislation Amendment Bill 1997 (No 2)

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Liquor Act 1982*:
 - (i) to dispense with ad valorem periodic licence fees under that Act and to provide for annual licence fees, and
 - (ii) to replace the existing licensing scheme for selling liquor at functions with a new scheme that provides for two classes of function licences, namely:
 - permanent on-licence (function), which authorises the sale of liquor at more than 3 functions, and
 - temporary on-licence (function), which authorises the sale of liquor at up to a maximum of 3 functions, and
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- (iii) to remove dealcoholised wine from the reach of the definition of *liquor*, and
- (iv) to allow holders of Australian wine licences to sell spirits (in addition to wine and beer) for consumption on their licensed premises, and
- (v) to ensure that liquor sold by hotels after midnight on New Year's Eve is for consumption on the licensed premises only, and
- (vi) to make other miscellaneous amendments, and
- (b) to amend the *Registered Clubs Act 1976*:
 - (i) to dispense with ad valorem periodic registration fees under that Act and to provide for annual registration fees, and
 - (ii) to vary the provisions relating to the payment by instalments on gaming machines, and
 - (iii) to make other miscellaneous amendments of an administrative character.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Liquor Act 1982* set out in Schedules 1–3.

Clause 4 is a formal provision giving effect to the amendments to the *Registered Clubs Act 1976* set out in Schedules 4 and 5.

Schedule 1 Amendment of Liquor Act 1982 with respect to licence fees

Schedule 1 [14] repeals Division 1 of Part 5 of the Act, which provides for ad valorem licence fees based on liquor sales, and replaces it with a new section 78 that provides for annual fees to be paid by licensees in an amount to be determined by regulation. The regulations may also determine the time within which the fees are to be paid and make provision for payment by instalments, penalties for late payment and other incidental matters.

The other amendments made by this Schedule are consequential.

Schedule 2 Amendment of Liquor Act 1982 with respect to on-licences to sell liquor at functions

Schedule 2 [1] amends section 4 of the Act by replacing the definition of *function*. The revised definition removes some examples of functions that are not necessary to be included in the definition and introduces a reference to social functions, which are relevant for the purposes of permanent on-licences (function).

Schedule 2 [2] amends section 4 of the Act by inserting a new definition of *on-licence to sell liquor at a function* to specify that it covers permanent and temporary on-licences (function).

Schedule 2 [3] amends section 17 of the Act to provide that, in cases where registrars can exercise functions of the Licensing Court, references to the Court extend to such a registrar. Similarly, the section is amended to make it clear that a registrar exercising functions of the Court can impose any conditions the Court could impose.

Schedule 2 [4] amends section 18 of the Act to set out the two kinds of on-licences (function). Either kind authorises the sale of liquor at functions approved by the court. A temporary on-licence (function) is limited to at most 3 functions. A permanent on-licence (function) may be extended to cover functions other than those originally approved.

Schedule 2 [5] and **[6]** make amendments that are consequential on the amendment made by Schedule 2 [7].

Schedule 2 [7] inserts new sections 23AB and 23AC.

Proposed section 23AB sets out various conditions applicable to on-licences (function). These include conditions that liquor can be served only in opened bottles or other opened containers, that a notice relating to the function has to be displayed prominently and that the licensee (or a nominee of the licensee in limited circumstances) must be present at all times during the function.

Proposed section 23AC contains provisions relating to nominees of licensees.

Schedule 2 [8] amends section 29 of the Act, which deals with trading hours for licensed premises, to provide that the section does not apply in the case of social functions conducted under a permanent on-licence (function).

Schedule 2 [9] repeals section 36 (4) of the Act. It is to be substantially re-enacted as section 37A.

Schedule 2 [10] inserts new sections 37A and 37B.

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Proposed section 37A provides that an application for an on-licence (function) can only be made on behalf of a non-proprietary association (which is in effect a non-profit organisation) unless it is for a trade fair.

Proposed section 37B deals with applications for on-licences (function) on behalf of such an association, and also for additional functions under a permanent on-licence (function), and imposes restrictions on the nature of the functions that can be conducted and the time within which applications can be made.

Schedule 2 [11] repeals and re-enacts section 51 of the Act and inserts sections 51A and 51B.

Proposed section 51 provides that on-licences (function) can only be granted by the Court, but temporary on-licences (function) can also be granted by a registrar of the Court if there has been no objection. Applications for approval to conduct additional functions under a permanent on-licence (function) can be granted by the Court, or by the Principal Registrar if there has been no objection. Various other restrictions on grants are contained in the section.

Proposed section 51A deals with the functions that can be conducted under a permanent on-licence (function). Functions can be classified as general functions and social functions (the latter are restricted as to nature and can only be conducted between noon and 10 pm). Various restrictions are imposed on the conduct of functions.

Proposed section 51B states that the function or functions covered by a temporary on-licence (function) must be specified when the on-licence is granted.

Schedule 2 [12] amends section 56 of the Act to provide that the fee for granting a permanent on-licence (function) is \$500.

Schedule 2 [13]–[21] contain amendments to various provisions of the Act relating to the investigation and discipline of non-proprietary associations in the context of on-licences (function).

Schedule 2 [22] amends section 101 of the Act to make a minor amendment relating to the way an on-licence to sell liquor at a function is described in the provision.

Schedule 2 [23] amends section 140 of the Act to allow assertions to be made in evidence to assist in establishing that a person is or was the secretary or an office holder of a non-proprietary association or that a person is or was the holder of an on-licence (function).

Schedule 3 Miscellaneous amendments of Liquor Act 1982

Schedule 3 [1] amends the definition of *liquor* in section 4 of the Act to remove dealcoholised wine from the reach of the definition.

Schedule 3 [2] and [8] update references to magistrates by removing the description "stipendiary".

Schedule 3 [3] amends section 21A of the Act to allow holders of Australian wine licences to apply for and be granted authority to sell spirits (in addition to wine and beer) for consumption on their licensed premises.

Schedule 3 [4] amends section 21A of the Act to provide that if, before the commencement of the amendment, the holder of an Australian wine licence has been granted authority to sell beer, that authority automatically extends to authorise the sale of spirits.

Schedule 3 [5] amends section 24 of the Act to make it clear that any sale of liquor by a hotel after midnight on New Year's Eve is limited to the sale of liquor for consumption only on the licensed premises. The Act currently allows hotels to trade up to 2 am on New Year's Day, but the intention is that the extra trading is limited to the sale of liquor for consumption on the premises only (ie take-away sales are prohibited).

Schedule 3 [6] and [7] amend section 57 of the Act and insert new section 61A, to provide that the Court is to refuse an application for the removal of a hotelier's licence (or an off-licence to sell liquor by retail) from one set of premises to another, or for the transfer of a licence from one person to another, unless the Court is satisfied that responsible serving practices and standards are in place at the alternative premises (or the premises of the alternative licensee). The same restriction currently applies in respect of applications for licences.

Schedule 3 [9] makes a minor amendment to section 67 of the Act by way of statute law revision.

Schedule 3 [10] inserts a new section 86NA to enable the Board to reassess licensees' returns in respect of gaming machine duty.

Schedule 3 [11] makes a minor amendment to section 101 of the Act by way of statute law revision.

Schedule 3 [12] amends section 116A of the Act in respect of a prosecution of a minor for entering into or remaining in a restricted area of a hotel. The amendment provides a defence if the minor is there as a trainee undergoing work training (other than as a trainee in the sale, supply or service of liquor).

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Schedule 3 [13] amends section 116B of the Act in respect of a prosecution of a licensee for allowing a minor to enter into or remain in a restricted area of a hotel and similar offences. The amendment provides the same defence as a minor has under the last preceding amendment.

Schedule 3 [14] amends section 117C of the Act in respect of a prosecution of a licensee for allowing a minor to use a gaming machine. The amendment provides the licensee with a similar defence to the one now available under section 117D—namely, that the minor is there as a trainee undergoing work training (other than as a trainee in the sale, supply or service of liquor) from the holder of an amusement device technician's licence.

Schedule 3 [15] amends section 156 of the Act so as (when read together with section 69 of the *Interpretation Act 1987*) to allow the regulations to adopt, apply or incorporate publications as in force from time to time.

Schedule 3 [16] and **[17]** amend Schedule 1 to the Act in respect of transitional matters arising from amendments contained in the proposed Act.

Schedule 4 Amendment of Registered Clubs Act 1976 with respect to licence fees

Schedule 4 [5] repeals section 15 of the Act, which provides for ad valorem registration fees based on liquor sales, and replaces it with a new section 15 that provides for annual fees to be paid by registered clubs in an amount to be determined by regulation. The regulations may also determine the time within which the fees are to be paid and make provision for payment by instalments, penalties for late payment and other incidental matters.

The other amendments made by this Schedule are consequential.

Schedule 5 Miscellaneous amendments of Registered Clubs Act 1976

Schedule 5 [1] amends section 17 of the Act by way of statute law revision.

Schedule 5 [2]–[4] and **[8]** amend sections 18, 19, 19A and 33 of the Act to provide that the Court must not grant an application for new club premises, for the removal of club premises to other premises, for the acquisition of additional club premises, or for the approval of a club secretary, unless the Court is satisfied that responsible serving practices and standards are in place at the premises concerned. The same restriction currently applies in respect of applications for certificates of registration for clubs.

Schedule 5 [5], [6], [13]–[15], [17]–[22], [25] and [27] update references to poker machines to the new generic term “approved gaming devices” (this term covers both poker machines and approved amusement devices). These amendments are consequential on the amendments made by the *Liquor and Registered Clubs Legislation Further Amendment Act 1996*.

Schedule 5 [7] amends section 26 of the Act to provide that an objection may be taken against the granting of an application for an approval under section 22A of the Act (which allows for access to club premises by junior members). Such a provision is currently contained in the *Registered Clubs Regulation 1996*, and it is included in the Act mainly for reasons of consistency.

Schedule 5 [9]–[12] enable trainees (as well as apprentices) who are under 18 to have access to certain restricted areas (eg bar areas) in registered clubs for the purpose of receiving trade training, and also provide a defence to registered clubs and other persons in cases where apprentices and trainees who are under 18 happen to be present in those restricted areas for the purpose of receiving trade training. The defence afforded by the amendments does not apply where the training concerned is training in the sale, supply or service of liquor.

Schedule 5 [16] amends section 73 of the Act so as (when read together with section 69 of the *Interpretation Act 1987*) to allow the regulations to adopt, apply or incorporate publications as in force from time to time.

Schedule 5 [23] amends section 87A of the Act so as to vary the amount of instalments of gaming machine duty payable, in certain cases, by registered clubs. The amendments are consequential on amendments to duty rates made by the *State Revenue Legislation Amendment Act 1997*.

Schedule 5 [26] inserts a new section 87EA to enable the Board to reassess a registered club’s returns in respect of gaming machine duty. **Schedule 5 [24]** and **[28]** make minor changes with respect to those returns.

Schedule 5 [29] clarifies the operation of section 97 of the Act, which relates to objections to applications for gaming-related licences.

Schedule 5 [30] and [31] deal with transitional issues arising from the amendments contained in the Bill. In particular, special provision is made with respect to instalment payments of gaming machine duty in the quarter commencing 1 December 1997.



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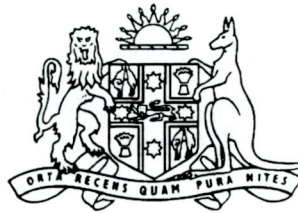
Liquor and Registered Clubs Legislation Amendment Bill 1997 (No 2)

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New South Wales

Liquor and Registered Clubs Legislation Amendment Bill 1997 (No 2)

No , 1997

A Bill for

An Act to amend the *Liquor Act 1982* with respect to licence fees, on-licences to sell liquor at functions and administrative matters; to amend the *Registered Clubs Act 1976* with respect to licence fees and administrative matters; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Liquor and Registered Clubs Legislation Amendment Act 1997*.

2 Commencement

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This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Liquor Act 1982 No 147

The *Liquor Act 1982* is amended as set out in Schedules 1–3.

4 Amendment of Registered Clubs Act 1976 No 31

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The *Registered Clubs Act 1976* is amended as set out in Schedules 4 and 5.

Schedule 1 Amendment of Liquor Act 1982 with respect to licence fees

(Section 3)

[1] Section 4 Definitions

Omit the definition of *assessment period* from section 4 (1). 5

[2] Section 4 (1), definition of "licence fee"

Omit the definition. Insert instead:

licence fee means a fee payable under section 78.

[3] Section 4 (1), definition of "licensing period"

Omit the definition. Insert instead: 10

licensing period means a period of 12 months in respect of which a licence fee is payable.

[4] Part 3, Division 2, heading

Omit the heading to the Division.

Insert instead "**Division 2 Duration and conditions of licences**". 15

[5] Section 19A

Insert before section 20:

19A Duration of licences

- (1) A licence remains in force until its surrender in writing is accepted by the Board, except as provided by this section. 20

- (2) A temporary on-licence (function) expires at the latest time at which liquor may be sold or supplied under the licence.
- (3) A licence ceases to be in force:
- (a) for the duration of the period of suspension, if it is suspended, or
 - (b) permanently, if it is cancelled,
- except as provided by section 149 or by the terms of any order made under Part 9.
- [6] Section 22 Off-licence—miscellaneous conditions** 10
- Omit “, subject to this section,” from section 22 (2).
- [7] Section 22 (2A) and (3)**
- Omit the subsections.
- [8] Section 55 Issue of licence etc**
- Omit “for the licence” from section 55 (3A). 15
Insert instead “prescribed under section 56”.
- [9] Section 61 Grant of transfer of licence**
- Omit section 61 (6), (6A) and (6B).
- [10] Section 67 Summons to show cause against taking of disciplinary action** 20
- Omit section 67 (6).
- [11] Section 68 Grounds for complaint**
- Omit “section 80 (2) (a) (ii)” from section 68 (1) (g) (i).
Insert instead “Division 4 of Part 5”.

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- [12] **Section 68 (1) (g) (ii)**
Omit the subparagraph.
- [13] **Part 5, heading**
Omit the heading to the Part.
Insert instead "**Part 5 Licence fees and duty on gaming machines**". 5
- [14] **Part 5, Division 1**
Omit the Division. Insert instead:
Division 1 Licence fees
78 Annual licence fee to be paid to the Board 10
(1) An annual fee is payable to the Board for a licence while it remains in force or is under suspension.
(2) The regulations may prescribe the fees payable under this section and may make provision for or with respect to: 15
(a) times for payment of the fees, and
(b) payment of the fees by instalments, and
(c) the circumstances in which such a fee, or a proportion of such a fee, may be refunded.
- [15] **Section 86B Application of Division** 20
Omit section 86B (1).
- [16] **Section 86D Penalty for late payment of licence fee**
Omit section 86D (1). Insert instead:
(1) The regulations may make provision for or with respect to the imposition of penalties for late payment of a licence fee or any instalment of a licence fee. 25

- [17] Section 86E Cancellation for late payment after 2 months**
Omit "provided for by" wherever occurring in section 86E (4) (a) and (5).
Insert instead "prescribed under".
- [18] Section 86E (4) (b)** 5
Omit "section 86H (2)". Insert instead "the regulations".
- [19] Section 86G Order for reinstatement**
Omit "section 86D" wherever occurring in section 86G (7).
Insert instead "the regulations".
- [20] Section 86H Partial refund of instalment when reinstatement refused** 10
Omit the section.
- [21] Section 86J Application for reinstatement of cancelled AAD licence**
Omit section 86J (6) and (7). 15
- [22] Section 86JB Duty on approved gaming devices**
Insert "the times for payment of duty, the payment of duty by instalments," before "the deferral" in section 86JB (2).
- [23] Part 5, Division 5**
Omit the Division. 20

[24] Section 141 Evidence of certain matters

Omit section 141 (1A).

[25] Section 154 Liability of lessor for proportion of licence fee

Omit the section.

[26] Section 154D

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Insert after section 154C:

154D Records

- (1) A licensee must keep and maintain such records as the regulations may prescribe.

Maximum penalty: 20 penalty units.

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- (2) Every holder of an off-licence to sell liquor to persons authorised to sell liquor and every holder of an off-licence for a brewer must keep and maintain records of:

(a) the quantity of low alcohol liquor sold or supplied, and

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(b) amounts paid or payable for each such quantity sold or supplied.

Maximum penalty: 20 penalty units.

- (3) The regulations may prescribe the manner and form of any records required to be kept by or under this section.

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[27] Section 156 Regulations

Omit "and the period in respect of which the information required by section 84 is to be furnished" from section 156 (1) (a).

Schedule 2 Amendment of Liquor Act 1982 with respect to on-licences to sell liquor at functions

(Section 3)

- [1] **Section 4 Definitions** 5
- Omit the definition of *function* from section 4 (1).
Insert instead:
- function* means:
- (a) except as provided by paragraph (b)—any dinner, ball, convention, seminar, sporting event, exhibition, performance, trade fair or other fair, fete or carnival, or any similar event or activity, that is conducted for public amusement or entertainment, or 10
 - (b) in the case of a social function conducted by a non-proprietary association pursuant to a permanent on-licence (function)—a gathering of members of the association for social purposes. 15
- [2] **Section 4 (1)**
- Insert in alphabetical order: 20
- on-licence to sell liquor at a function* means:
- (a) a permanent on-licence (function), or
 - (b) a temporary on-licence (function).
- [3] **Section 17 Registrars of the court**
- Insert after section 17 (4): 25
- (5) A reference in this Act to the court includes, if the jurisdiction of the court is exercised by a registrar in accordance with this Act or the regulations, a reference to the registrar, except as otherwise provided by this Act.

- (6) If a registrar grants a licence or exercises any other function of the court in accordance with this Act or the regulations, the registrar may impose any conditions that the court could impose in those circumstances, except as otherwise provided by this Act. 5

[4] Section 18 Court may grant licences

Omit section 18 (5). Insert instead:

- (5) An on-licence to sell liquor at a function may be:
- (a) an on-licence (referred to in this Act as a *permanent on-licence (function)*) that is granted on a permanent basis for the purposes of functions to be held while the licence is in force, or 10
 - (b) an on-licence (referred to in this Act as a *temporary on-licence (function)*) that is granted on a temporary basis for the purposes of not more than 3 functions to be held during the year in which the licence is in force, none of which is a large scale function. 15
- (5A) An on-licence to sell liquor at a function may only be granted to: 20
- (a) a person on behalf of a non-proprietary association, or
 - (b) a person in respect of a trade fair.
- (5B) A permanent on-licence (function) authorises the licensee to sell and supply liquor at: 25
- (a) the functions approved by the court when granting the licence to be held within the first year during which the licence is in force, and
 - (b) any additional functions approved by the court on application subsequently made by the licensee. 30
- (5C) A temporary on-licence (function) authorises the licensee to sell and supply liquor at not more than 3 functions approved by the court when granting the licence.

[5] Section 20 Conditions of licences

Omit "or 23AA" from section 20 (3).
Insert instead ", 23AA or 23AB".

[6] Section 23 On-licence—miscellaneous conditions

Omit section 23 (1).

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[7] Sections 23AB and 23AC

Insert after section 23AA:

23AB On-licence to sell liquor at function—miscellaneous conditions

- (1) Liquor must not be sold or supplied under the authority of an on-licence to sell liquor at a function except at, or as ancillary to, a function to which the licence relates. 10
- (2) Liquor must not be sold or supplied on the licensed premises to which an on-licence to sell liquor at a function relates except by way of opened cans, opened bottles or other opened containers. 15
- (3) It is a condition of an on-licence to sell liquor at a function that a notice complying with subsection (4) must, at all times when the function is being held, be prominently displayed on a part of the licensed premises accessible to all persons attending the function. 20
- (4) The notice must be in a form approved by the Board in relation to the function (or to the class of functions to which the function belongs), must include any information required by the form and must include the following details: 25
 - (a) the date of the court's approval for the function,
 - (b) the approved date for the function,

- (c) the approved trading hours for the function,
- (d) the approved location for the function,
- (e) the approved nature of the function.

In paragraphs (b)–(e), *approved* means approved by the court.

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- (5) Liquor must not be sold or supplied on the licensed premises to which an on-licence to sell liquor at a function relates unless:

- (a) the licensee is present on those premises at all times while liquor is being provided under the authority of the licence (except when a person referred to in paragraph (b) is present in the circumstances referred to in that paragraph), or 10
- (b) a person nominated under section 23AC by the licensee as the person in charge of the sale and supply of liquor at the function is present on the premises at any time when the licensee cannot, because of exceptional circumstances, be present on those premises. 15

- (6) If liquor is sold or supplied on the licensed premises to which an on-licence to sell liquor at a function relates: 20

- (a) neither the licensee nor any nominee under section 23AC is to be intoxicated while liquor is being provided at the function, and
- (b) the licensee and any such nominee must maintain proper and responsible supervision and control over the sale and supply of liquor at the function, and 25
- (c) no person who is intoxicated, or who is under the age of 18 years, is to be involved in selling, supplying or serving liquor at the function. 30

23AC On-licence to sell liquor at function—nominee of licensee in exceptional circumstances

- (1) For the purposes of exercising the authority of an on-licence to sell liquor at a function from which (or at any time during which) the licensee, by reason of exceptional circumstances, is obliged to be absent, the licensee may, at any time before his or her absence, nominate any person who consents to do so to take the place of the licensee and to be in charge of the sale and supply of liquor at the function in the absence of the licensee. 5 10
- (2) A person nominated in accordance with this section is taken to be the licensee for the purposes of this Act in respect of the function (or, if the nomination relates only to a portion of the function, that portion). 15
- (3) In any proceedings, a licensee relying on a nomination under this section bears the onus of establishing that the nomination was in all respects authorised by and effected in accordance with this section.

[8] Section 29 On-licence to sell liquor at function—trading hours 20

Insert after section 29 (2):

- (3) This section does not apply to a social function referred to in section 51A.

[9] Section 36 Restrictions on liquor licence applications

Omit section 36 (4). 25

[10] Sections 37A and 37B

Insert after section 37:

37A On-licence to sell liquor at function—applicant for licence

An application for an on-licence to sell liquor at a function other than a trade fair may be made only by a person acting on behalf of, and with the authority of, a non-proprietary association and only in respect of a function of the association. 30

37B On-licence to sell liquor at function (other than a trade fair)—application for licence or additional function

- (1) This section applies to:
- (a) an application for an on-licence to sell liquor at a function, or 5
 - (b) an application for approval to conduct an additional function under a permanent on-licence (function),
being a function that is not a trade fair.
- (2) An application to which this section applies may be made only in respect of a function that: 10
- (a) is conducted under the auspices of the non-proprietary association concerned, and
 - (b) is in conformity with the association's constitution or any law that governs its activities, and 15
 - (c) will directly promote specific objects or purposes of the association.
- (3) Except as provided by subsection (4), an application to which this section applies must be made no later than 28 days before any function to which the application relates is to be held. 20
- (4) The court or person determining an application to which this section applies may permit the application to be made at a later time than the period referred to in subsection (3), but only if satisfied that the special circumstances of the case warrant the shorter period. 25
- (5) An application to which this section applies may not be made if the date on which the function or any function to which the application relates is to be held is more than 18 months after the date of the application. 30

[11] Sections 51, 51A and 51B

Omit section 51. Insert instead:

51 Grant of on-licence to sell liquor at function or of approval for additional function

- (1) An application for a permanent on-licence (function), a temporary on-licence (function) or approval to conduct an additional function under a permanent on-licence (function) may be granted by the court or:
- (a) in the case of a temporary on-licence (function) to which no objection is made, by the registrar, or
 - (b) in the case of an approval to conduct an additional function under a permanent on-licence (function) to which no objection is made, by the Principal Registrar.
- (2) An application for a permanent on-licence (function) must not be granted unless the court is satisfied that more than 3 functions are proposed to be held, under the authority conferred by the licence, within the first year during which the licence is in force.
- (3) An application for a temporary on-licence (function) or for approval to conduct an additional function under a permanent on-licence (function) must not be granted unless the court or person granting the application:
- (a) is satisfied that both the local consent authority and the local police have been provided, in such manner (if any) as is prescribed by the regulations, with a copy of the application, or
 - (b) is satisfied that, in the circumstances of the case, it is not necessary for the local consent authority or police to be given a copy and has waived that requirement.

- (4) An application for a permanent on-licence (function), a temporary on-licence (function) or approval to conduct an additional function under a permanent on-licence (function) may not be granted if it is proposed to sell or supply liquor at the function concerned after midnight, unless the court or person determining the application is satisfied that the granting of the application will not result in undue disturbance of the quiet and good order of the neighbourhood of the licensed premises. 5
- (5) An applicant for approval to conduct an additional function under a permanent on-licence (function) may be required to provide a description of the additional function, state the date on which it is to be held and provide such other information as the court or person determining the application may require. 10
15
- (6) An application for an on-licence to sell liquor at a function or for approval to conduct an additional function under a permanent on-licence (function) must not be granted unless the court or person determining the application is satisfied that any approval required under Part 1 of Chapter 7 of the *Local Government Act 1993* in respect of the premises to which the application relates is in force. 20

51A Functions authorised by permanent on-licence (function)

- (1) A permanent on-licence (function) authorises the sale and supply of liquor at: 25
- (a) functions that are specified in the licence when granted, and
- (b) additional functions that are approved after the licence has been granted. 30
- (2) Functions (whether specified in the licence or additional functions) may be general functions or social functions.
- (3) General functions are functions identified as such in the licence or a later approval. General functions are not subject to the restrictions applying to social functions. 35

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- (4) Social functions are functions identified as such in the licence or a later approval. Social functions are subject to the restrictions as to time and other matters specified in relation to them in this section.
- (5) The number of general functions at which liquor may be sold or supplied under the licence is not to exceed the following limits:
 - (a) not more than 1 function during any period of 7 days and not more than 26 functions during any period of one year, 10
 - (b) such other limits as to the number of functions as may be specified by the court in relation to the licence.
- (6) The Principal Registrar, when acting under the power conferred by section 51 (1) (b), may not exceed any limits specified under subsection (5) (b). 15
- (7) The number of social functions at which liquor may be sold or supplied under the licence is not to exceed the following limits:
 - (a) not more than 2 functions during any period of 7 days and not more than 52 functions during any period of one year, 20
 - (b) such lower limits as to the number of functions as may be specified by the court in relation to the licence. 25
- (8) An application for approval to conduct additional social functions under the licence may only be granted in respect of the premises specified in the approval, being premises that the licensee occupies on a regular basis.
- (9) The licence is subject to:
 - (a) a condition that the licensee must ensure that liquor is sold or supplied in accordance with any regulations made for the purposes of section 125C, and 30

- (b) a condition that the licensee must not permit activities that encourage misuse or abuse of liquor (such as binge drinking or excessive consumption), and
 - (c) such other conditions as may be prescribed by the regulations, or as are imposed by the court when granting the licence or by the Principal Registrar when granting an approval to conduct an additional function. 5
- (10) It is a condition of the licence that the sale or supply of liquor at a social function will be subject to the following additional restrictions: 10
 - (a) the function must be social in nature and limited to members of the non-proprietary association and their guests, 15
 - (b) liquor may be sold or supplied only during the limited period that is specified in the licence or approval and:
 - (i) that does not exceed 3 hours on any day, and 20
 - (ii) no part of which is earlier than noon or later than 10 pm,
 - (c) the premises at which the function is held must not be occupied by any person other than the members of the non-proprietary association and their guests at any time when liquor is being sold or supplied. 25
- (11) The court may, at any time (on the application of the licensee, the local consent authority, the Director or the Commissioner of Police): 30
 - (a) revoke an approval to conduct a social function, or
 - (b) revoke or vary a condition applicable to an additional social function or impose a condition in relation to a social function.
- (12) An approval to conduct additional functions under the licence has effect as if it were part of the authority conferred under the licence. 35

Schedule 2 Amendment of Liquor Act 1982 with respect to on-licences to sell liquor at functions

- (13) Any condition in force under this section in relation to an additional function is, for the purposes of this Act, taken to be a condition to which the permanent on-licence (function) is subject.
- (14) The premises at which an additional function is being held are, for the purposes of this Act, taken to be licensed premises when the additional function is being held. 5
- (15) Nothing in this section prevents a function that has the attributes of a social function being specified or approved as a general function. 10

51B Functions authorised by temporary on-licence (function)

The authority conferred by a temporary on-licence (function) is limited to the function or functions to which the licence relates. The function or functions are to be specified by the court or registrar when granting the licence. 15

[12] Section 56 Fee for grant of licence

Omit section 56 (1) (h). Insert instead:

- (h) in the case of a permanent on-licence (function)— 20
\$500,

[13] Section 66A Director may investigate licensee and others

Omit “or close associate” from section 66A (1).
Insert instead “, close associate or non-proprietary association”.

[14] Section 66A (2) 25

Omit “or close associate to whom”.
Insert instead “, close associate or non-proprietary association to whom or to which”.

[15] Section 66A (3)

Omit “or a close associate who”.

Insert instead “, a close associate or a non-proprietary association who or which”.

[16] Section 67 Summons to show cause against taking of disciplinary action 5

Omit section 67 (1C). Insert instead:

(1C) A complaint in relation to a non-proprietary association is an authorised complaint for the purposes of this section if: 10

- (a) it is made in writing by a person referred to in subsection (1), and
- (b) it specifies, as the ground on which it is made, either or both of the grounds specified in section 68 (3). 15

(1D) Complaints that are severally made:

- (a) against a licensee and a close associate, or
- (b) against a licensee holding an on-licence to sell liquor at a function and the non-proprietary association on whose behalf the licence was held, 20

and any other several complaints that are in some manner associated may, if it appears to the court to be just and expedient so to proceed, be heard and determined together.

[17] Section 67 (5) (d) 25

Insert after section 67 (5) (c):

- (d) if the complaint is in relation to a non-proprietary association—on the person who holds or held the licence on behalf of the association,

[18] Section 68 Grounds for complaint

Insert after section 68 (2):

- (3) The grounds on which a complaint may be made under section 67 (1C) in relation to a non-proprietary association on whose behalf an on-licence to sell liquor at a function is or was held are: 5
 - (a) that the non-proprietary association did not exercise proper control and supervision over a function to which the licence applied, or
 - (b) that it is not in the public interest for liquor to be sold or supplied at functions conducted by or under the auspices of the association. 10

[19] Section 69 Disciplinary powers of court

Insert after section 69 (1AA):

- (1AB) On the appearance of a person appearing to be authorised by the association concerned in response to a summons under section 67, or after proof of service of the summons on the association by service on the secretary or other proper officer or in any other manner authorised by law, the court may proceed to hear and determine the matter of a complaint made under section 67 (1C) in relation to a non-proprietary association on whose behalf an on-licence to sell liquor at a function is held. If it is satisfied that the ground on which the complaint was made has been made out, the court may do any one or more of the following: 15 20 25
 - (a) suspend or cancel the licence,
 - (b) order that an on-licence to sell liquor at a function must not, at any time during a period of not more than 3 years from the making of the order, be granted to any person on behalf of the non-proprietary association, 30
 - (c) reprimand the non-proprietary association,

(d) give directions as to the conduct of functions to which such an on-licence relates,

(e) take no action, if the court is of the opinion that other action under this subsection is not warranted in the circumstances. 5

(1AC) In the case of a complaint referred to in subsection (1AB), a Magistrate or licensing magistrate, or the Principal Registrar, may summon the secretary or another office holder of the non-proprietary association to which the complaint relates to appear before the court to answer the complaint and show cause why an order should not be made under that subsection. 10

(1AD) If the court makes an order under subsection (1AB) preventing any person from being granted an on-licence to sell liquor at a function on behalf of a non-proprietary association, an application may be made by or on behalf of the non-proprietary association to the court for the revocation of the order. However, the court must not revoke the order unless it is satisfied that: 15

(a) the persons responsible for the management of the non-proprietary association will be able to exercise proper control and supervision over any function of the kind for which the on-licence is required, and 20

(b) the circumstances of the case justify the revocation of the order. 25

[20] Section 69 (1A)

Insert "or (1AB)" after "subsection (1)".

[21] Section 69 (1A) (a) (i)

Omit "(b) or (c)". Insert instead "(b), (c) or (d)". 30

[22] Section 101 Control of licensed premises

Omit "to sell" from section 101 (5).

Insert instead "to or in respect of an on-licence to sell".

[23] Section 140 Averments

Insert after section 140 (1) (c1):

5

(c2) that a specified person is or was the secretary or an office holder of a specified non-proprietary association at a specified time or during a specified period,

(c3) that a specified on-licence to sell liquor at a function is or was held by a specified person on behalf of a specified non-proprietary association at a specified time or during a specified period,

10

Schedule 3 Miscellaneous amendments of Liquor Act 1982

(Section 3)

[1] Section 4 Definitions

Omit “, wine” from paragraph (b) of the definition of *liquor* in section 4 (1). 5

[2] Sections 8, 9, 10 and 75

Omit “stipendiary magistrate” wherever occurring in sections 8 (1), (4) and (8), 9 (1) (b), 10 (1) (b) and 75 (1).
Insert instead “Magistrate”. 10

[3] Section 21A Australian wine licences

Insert “or spirits (or both)” after “beer” in section 21A (3).

[4] Section 21A (4A)

Insert after section 21A (4):

(4A) If the court has granted an application under subsection (3) in respect of an Australian wine licence before the commencement of this subsection, the grant of the application has, in addition to varying the conditions of the licence so as to permit the sale of beer on the licensed premises for consumption on those premises, the effect of varying the conditions so as to permit the sale of spirits on the licensed premises for consumption on those premises. 15
20

[5] Section 24 Hotelier's licence—trading hours

Insert after section 24 (2):

- (2A) The sale or supply of liquor on the licensed premises is permitted between midnight on 31 December and 2 am on the next succeeding day only if the liquor is sold or supplied for consumption on the licensed premises. 5

[6] Section 57 Removal of hotelier's licence or off-licence (retail)

Insert after section 57 (1):

- (1A) The court is to refuse an application for removal of a hotelier's licence unless the court is satisfied that: 10
- (a) practices will, as soon as the removal of the licence takes effect, be in place at the premises to which the licence is proposed to be removed that ensure, as far as reasonably practicable, that liquor is sold, supplied and served responsibly on those premises and that all reasonable steps are taken to prevent intoxication on those premises, and 15
- (b) those practices will remain in place.
- (1B) The court is to refuse an application for removal of an off-licence to sell liquor by retail unless the court is satisfied that: 20
- (a) practices will, as soon as the removal of the licence takes effect, be in place at the premises to which the licence is proposed to be removed that ensure, as far as reasonably practicable, that liquor is sold and supplied responsibly on those premises, and 25
- (b) those practices will remain in place.

[7] Section 61A

Insert after section 61:

**61A Refusal of application for transfer of licence—
responsible service standards**

The court is to refuse an application for the transfer of a licence unless satisfied: 5

(a) that practices will be in place at the licensed premises of the transferee as soon as the licence is transferred that ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and 10

(b) that those practices will remain in place.

[8] Sections 67, 105 and 151 15

Omit “licensing or stipendiary magistrate” wherever occurring in sections 67 (2), 105 and 151 (4).

Insert instead “Magistrate or licensing magistrate”.

[9] Section 67 (5) (b) (ii)

Omit “section 101 (4)”. Insert instead “section 101 (4A)”. 20

[10] Section 86NA

Insert after section 86N:

86NA Reassessment of duty on approved gaming devices

(1) The Board may, from time to time, reassess a return by a licensee under section 86L in order to determine the duty payable on approved gaming devices kept by the hotelier during the period in respect of which the return was required. 25

- (2) The Board may carry out a reassessment for such reasons as it thinks fit (including where it is of the opinion that the information provided in the return might be incorrect).
- (3) The Board may, after making such inquiries as it thinks fit and taking into account such information as may be available to it, reassess the return provided under section 86L and determine the amount of duty that is payable by the licensee for the duty period concerned. 5
- (4) The amount of duty payable by a licensee as determined by the Board under this section is, for the purposes of this Division, the amount that is payable by the licensee, and is payable within the period specified by the Board in its determination. 10
- (5) Section 86M does not apply to duty determined under this section. 15
- (6) If the amount of duty as determined by the Board under this section is less than the amount paid by the licensee for the duty period concerned, the Board is required to hold the money in credit for the licensee or to refund the difference to the licensee or to any person who, in the opinion of the Board is entitled to it, as determined by the Board. 20
- (7) If:
 - (a) the amount of duty as determined by the Board under this section would, but for this subsection, be greater than the amount of duty paid by the licensee for the duty period concerned, and 25
 - (b) the information in the return is incorrect and the Board is of the opinion that there was no reasonable excuse for its being incorrect, 30the Board may determine the duty at an amount not exceeding the sum of:
 - (c) the amount at which, but for this subsection, the duty would have been determined, and 35
 - (d) an amount not exceeding the difference between the amount of duty paid and the amount referred to in paragraph (c).

-
- (8) If:
- (a) the amount of duty as determined by the Board under this section after the licensee has paid the duty as previously determined for the duty period concerned, and 5
 - (b) at the time the Board notifies the determination under this section:
 - (i) the premises to which the licence related are no longer licensed premises, or
 - (ii) the licensee at that time is not the same person as the licensee at the time of payment of the duty previously determined, 10
- responsibility for payment to the Board of the amount of the duty previously determined and the duty determined under this section may be apportioned by the Board, in such manner as it thinks fit, between any one or more of the following: 15
- (c) the licensee at the time the duty was previously determined,
 - (d) the persons who, at the time of payment of the duty previously determined, were directly or indirectly interested in the business, or the profits of the business, carried on under the licence at the time of payment of the duty previously determined, 20
 - (e) the person who furnished the incorrect information. 25
- (9) Each amount apportioned under subsection (8) is a debt due to the Crown by the person to whom the amount is so apportioned. 30
- (10) A reference in this section:
- (a) to a previous determination of duty extends to a previous determination of the duty under this section, and
 - (b) to a licensee includes a reference to a former licensee. 35

- [11] Section 101 Control of licensed premises**
Omit “(4)” from section 101 (5). Insert instead “(4A)”.
- [12] Section 116A Offences by minors in hotels and nightclub premises**
Insert after section 116A (1): 5
(1A) It is a defence to a prosecution for an offence arising under subsection (1) if it is proved that the minor concerned was, at the material time, an apprentice or trainee (within the meaning of the *Industrial and Commercial Training Act 1989*) and that the minor entered or remained in the restricted area for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee. 10
- [13] Section 116B Offences by licensees in relation to minors** 15
Insert after section 116B (3):
(4) It is a defence to a prosecution for an offence arising under subsection (1) (a) or (2) (a) if it is proved that the minor concerned was, at the material time, an apprentice or trainee (within the meaning of the *Industrial and Commercial Training Act 1989*) and that the minor entered or was in the restricted area for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee. 20
25
- [14] Section 117C Licensees liable for use of approved amusement device by minor**
Insert after section 117C (2):
(3) It is a defence to a prosecution for an offence arising under this section if it is proved that the person who used or operated the approved amusement device did so under the supervision of the holder of an amusement device technician’s licence for the purpose only of receiving training and instruction in respect of the servicing, repair or maintenance of approved amusement devices. 30
35

[15] Section 156 Regulations

Insert after section 156 (2A):

(2B) A regulation may apply, adopt or incorporate any publication as in force from time to time.

[16] Schedule 1 Savings and transitional provisions

5

Insert at the end of clause 1 (1):

Liquor and Registered Clubs Legislation Amendment Act 1997

[17] Schedule 1, Part 11

Insert after Part 10:

10

Part 11 Liquor and Registered Clubs Legislation Amendment Act 1997

52 Definitions

In this Part:

ad valorem licence fee means a fee, calculated as a proportion of the amount paid or payable for any liquor, in respect of a licence.

15

amending Act means the *Liquor and Registered Clubs Legislation Amendment Act 1997*.

53 Duration of licences

20

The repeal by the amending Act of any provision of Part 5 does not affect the duration or suspension of any licence.

54 Records

Records that, immediately before the repeal by the amending Act of sections 86 and 86A, were required to be kept under those sections must be retained until a date prescribed by the regulations.

25

55 Abolition of ad valorem licence fees

- (1) Nothing in this Act is to be construed as requiring or having required the payment, assessment or collection of:
- (a) the whole or part of any ad valorem licence fee, or 5
 - (b) any part of a fee prescribed by or under section 80 (2) (b) or (c) or 82 (4A),
after 6 August 1997.
- (2) It is not the duty of the Board to reassess any licence fee in pursuance of an application for reassessment made after 6 August 1997 (whether made before or after the commencement of this clause). 10
- (3) Nothing in this clause affects:
- (a) the suspension or cancellation of a licence, or
 - (b) the imposition or collection of any penalty, 15
- at any time after 6 August 1997 on account of a failure to pay, or to pay in due time, a fee or any portion of a fee that was payable before that date.

56 Existing on-licences to sell liquor at function

- (1) An on-licence to sell liquor at a function that was in force immediately before the amendment made by the amending Act to section 18 took effect, being an on-licence to sell liquor at more than 3 functions, is taken to be a permanent on-licence (function) and has effect as if it had been granted under this Act as amended by the amending Act. 20 25
- (2) This Act applies to any other on-licence to sell liquor at a function that was in force immediately before the amendment made by the amending Act to section 18 took effect as if that amendment (and the other amendments contained in Schedule 2 to the amending Act) had not been made. 30

57 Pending applications

- (1) The amendments contained in Schedule 2 to the amending Act extend to an application for an on-licence to sell liquor at a function that was made, but had not been granted, before the amendment made by that Act to section 18 took effect. Any such application is to be dealt with as if it had been made under this Act as amended by the amending Act. 5
- (2) An application that was pending under section 21A (3) immediately before the amendment made to that section by the amending Act took effect is taken to be an application relating to spirits as well as to beer. 10
- (3) The amendments made to sections 57 and 61A by the amending Act do not apply to an application that was pending under this Act at the time the amendments concerned took effect. 15

**Schedule 4 Amendment of Registered Clubs Act
1976 with respect to licence fees**

(Section 4)

[1] Section 4 Definitions

Omit the definition of *assessment period* from section 4 (1). 5

[2] Section 4 (1), definition of "registration fee"

Omit the definition. Insert instead:

registration fee means a fee payable under section 15.

[3] Section 4 (1), definition of "registration period"

Omit the definition. Insert instead: 10

registration period means a period of 12 months in respect of which a registration fee is payable.

[4] Section 4AA Freight costs to brewers' regional depots not to be included in price of beer

Omit the section. 15

[5] Sections 15–15AA

Omit the sections. Insert instead:

15 Annual registration fee to be paid to the Board

- (1) An annual fee is payable to the Board by a registered club while its registration remains in force or is under suspension. 20

- (2) The regulations may prescribe the fees payable under this section and may make provision for or with respect to:
- (a) times for payment of the fees, and
 - (b) payment of the fees by instalments, and 5
 - (c) penalties for late payment of fees or instalments, and
 - (d) the circumstances in which such a fee, or a proportion of such a fee, may be refunded.
- [6] Section 16 Duration of certificate of registration 10**
Omit section 16 (4).
- [7] Section 17 Determination of complaints against registered clubs**
Omit section 17 (1AA) (a) (xia).
- [8] Section 17AB Interpretation 15**
Omit “fee payable for a certificate of registration”.
Insert instead “registration fee”.
- [9] Section 17AC Penalty for late payment of registration fee 20**
Omit section 17AC (1). Insert instead:
- (1) The regulations may make provision for or with respect to the imposition of penalties for late payment of a registration fee or any instalment of a registration fee.
- [10] Section 17AD Cancellation for late payment after 2 months 25**
Omit “provided for by” wherever occurring in section 17AD (4) (a) and (5).
Insert instead “prescribed under”.

- [11] Section 17AD (4) (b)**
Omit "section 17AG (2)". Insert instead "the regulations".
- [12] Section 17AG Partial refund of instalment when reinstatement refused**
Omit the section. 5
- [13] Section 23A Procedure for grant of functions authority**
Omit "15 January" from section 23A (4).
Insert instead "the prescribed date".
- [14] Section 27 Statement of liquor purchases**
Omit the section. 10
- [15] Sections 27A and 27B**
Omit the sections. Insert instead:
- 27A Records**
- (1) A registered club must keep and maintain such records as the regulations may prescribe. 15
Maximum penalty: 20 penalty units.
- (2) The regulations may prescribe the manner and form of any records required to be kept under this section.
- [16] Section 63 Evidentiary provisions**
Omit section 63 (2). 20
- [17] Sections 69 and 70**
Omit the sections.

**Schedule 5 Miscellaneous amendments of
Registered Clubs Act 1976**

(Section 4)

[1] Section 17 Determination of complaints against registered clubs

Omit "licensing or stipendiary magistrate" from section 17 (1). 5
Insert instead "Magistrate or licensing magistrate".

**[2] Section 18 Conditional application in relation to new premises
or premises to be added to or altered**

Insert at the end of section 18 (4) (b):

, and 10

(c) it is satisfied that practices will be in place at the
new premises (or at the premises as added to or
altered) as soon as the application is granted to
ensure as far as reasonably practicable that liquor
is sold, supplied and served responsibly on the 15
premises and that all reasonable steps are taken to
prevent intoxication on the premises, and that
those practices will remain in place.

[3] Section 19 Removal of club to other existing premises

Insert after section 19 (3): 20

(3A) The Licensing Court must not grant the application
unless satisfied that practices will be in place at the other
premises as soon as the application is granted to ensure
as far as reasonably practicable that liquor is sold,
supplied and served responsibly on the premises and that 25
all reasonable steps are taken to prevent intoxication on
the premises, and that those practices will remain in
place.

- [4] Section 19A Acquisition of additional existing premises**
Insert at the end of section 19A (4) (b):
 , and
 (c) it is satisfied that practices will be in place at the additional premises as soon as the application is granted to ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place. 5
10
- [5] Section 22A Access to club premises by junior members**
Omit "poker machines" from section 22A (6) (d).
Insert instead "approved gaming devices".
- [6] Section 23AA Conditions of functions authority**
Omit "poker machine" from section 23AA (2) (a). 15
Insert instead "approved gaming device".
- [7] Section 26 Taking of objection**
Insert ", 22A" after "22" in section 26 (1) (g).
- [8] Section 33 Approval of secretary of registered club**
Insert after section 33 (3): 20
 (3A) The Licensing Court must not grant the application unless satisfied that practices will be in place at the registered club as soon as the application is granted to ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place. 25
- [9] Sections 45 and 51**
Insert "or trainee" after "apprentice" wherever occurring in sections 45 (3) and 51 (3). 30

[10] Section 50 Restrictions on sales etc of liquor by registered clubs

Insert after section 50 (3):

- (4) It is a sufficient defence to a prosecution for an offence arising under subsection (1) (b) if it is proved that the minor concerned was, at the material time, an apprentice or trainee (within the meaning of the *Industrial and Commercial Training Act 1989*) and that the minor was present in the bar for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee. 5
10

[11] Section 50A Minors not permitted in poker machine areas

Insert after section 50A (2):

- (3) It is a sufficient defence to a prosecution for an offence arising under subsection (1) if it is proved that the minor concerned was, at the material time, an apprentice or trainee (within the meaning of the *Industrial and Commercial Training Act 1989*) and that the minor was present in the poker machine area for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee. 15
20

[12] Section 52 Prohibition on persons under 18 years being in bars

Omit section 52 (3). Insert instead:

- (3) It is a sufficient defence to a prosecution for an offence arising under subsection (1) if it is proved that the minor concerned was, at the material time, an apprentice or trainee (within the meaning of the *Industrial and Commercial Training Act 1989*) and that the minor was present in the bar for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee. 25
30

[13] Section 73 Regulations

Omit "poker machines" wherever occurring from section 73 (1A).
Insert instead "approved gaming devices".

[14] Section 73 (1A) (m), (n) and (t)

Omit "a poker machine" wherever occurring.
Insert instead "an approved gaming device".

5

[15] Section 73 (1A) (n)

Omit "the machine". Insert instead "the device".

[16] Section 73 (2B)

Insert after section 73 (2A):

10

(2B) A regulation may apply, adopt or incorporate any
publication as in force from time to time.

[17] Part 10, heading

Omit "poker machines".
Insert instead "approved gaming devices".

15

[18] Part 10, Division 2, heading

Omit "poker machines".
Insert instead "approved gaming devices".

[19] Section 85 Duty on approved gaming devices

Omit "poker machines" from section 85 (1).
Insert instead "approved gaming devices".

20

[20] Section 86 Definitions

Omit "the machine" from the definition of *jackpot payment* in section 86 (1).
Insert instead "the device".

[21] Section 86 (1), definitions of "cancelled credits payment" and "jackpot payment" 5

Omit "a poker machine" wherever occurring.
Insert instead "an approved gaming device".

[22] Section 86 (2)

Omit "a poker machine" and "the machine" wherever occurring. 10
Insert instead "an approved gaming device" and "the device" respectively.

[23] Section 87A Payment by instalments

Omit section 87A (4A) and (4B). Insert instead:

(4A) If the profits from all approved gaming devices kept by a registered club in an instalment period exceed \$50,000 but do not exceed \$250,000, the instalment payable is: 15

- (a) the sum of \$250, and
- (b) an amount equal to 22.5% of the amount by which the profits exceed \$50,000 but do not exceed \$250,000. 20

(4B) If the profits from all approved gaming devices kept by a registered club in an instalment period exceed \$250,000, the instalment payable is:

- (a) the sum of \$45,250, and 25
- (b) an amount equal to 30% of the amount by which the profits exceed \$250,000.

[24] Section 87D Penalty for late return or payment of duty

Insert "(if any)" after "instalment" in section 87D (2).

[25] Sections 87E-87H

Omit "poker machines" wherever occurring.

Insert instead "approved gaming devices".

5

[26] Section 87EA

Insert after section 87E:

87EA Reassessment of duty on approved gaming devices

- (1) The Board may, from time to time, reassess a return by a registered club under section 87H in order to determine the duty payable on approved gaming devices kept by the registered club during the period in respect of which the return was required. 10
- (2) The Board may carry out a reassessment for such reasons as it thinks fit (including where it is of the opinion that the information provided in the return might be incorrect). 15
- (3) The Board may, after making such inquiries as it thinks fit and taking into account such information as may be available to it, reassess the return provided under section 87H and determine the amount of duty that is payable by the registered club for the duty period concerned. 20
- (4) The amount of duty payable by a registered club as determined by the Board under this section is, for the purposes of this Division, the amount that is payable by the registered club, and is payable within the period specified by the Board in its determination. 25
- (5) Section 87D does not apply to duty determined under this section.

-
- (6) If the amount of duty as determined by the Board under this section is less than the amount paid by the registered club for the duty period concerned, the Board is required to hold the money in credit for the registered club or to refund the difference to the registered club, as determined by the Board. 5
- (7) If:
- (a) the amount of duty as determined by the Board under this section would, but for this subsection, be greater than the amount of duty paid by the registered club for the duty period concerned, and 10
 - (b) the information in the return is incorrect and the Board is of the opinion that the person who furnished the information knew, or ought to have known, it to be incorrect or that the information was furnished with reckless indifference as to whether it was correct or incorrect, 15
- the Board may determine the duty at an amount not exceeding the sum of:
- (c) the amount at which, but for this subsection, the duty would have been determined, and 20
 - (d) an amount not exceeding the difference between the amount of duty paid and the amount referred to in paragraph (c).
- (8) An amalgamated club is liable for the payment of the amount of any duty as determined by the Board under this section that has not been paid by a registered club that was a party to the amalgamation. 25
- (9) An amalgamated club is entitled to any amount of refund to which a registered club that was a party to the amalgamation was entitled, but which was not paid before the cancellation of registration of that registered club. 30

[27] Section 87H Records and returns

- Omit "poker machine" from section 87H (5). 35
Insert instead "approved gaming device".

- [28] Section 87H (5)**
Omit "time when each quarterly instalment is payable in accordance with this Division".
Insert instead "end of each instalment period".
- [29] Section 97 Who may object** 5
Omit "under this Act" from section 97 (1).
Insert instead "for a gaming-related licence".
- [30] Schedule 2 Transitional provisions**
Insert at the end of clause 1A (1):
Liquor and Registered Clubs Legislation Amendment Act 1997 10
- [31] Schedule 2, Part 12**
Insert after Part 11:
- Part 12 Liquor and Registered Clubs Legislation Amendment Act 1997** 15
- 71 Definitions**
- In this Part:
- ad valorem registration fee* means a fee, calculated as a proportion of the amount paid or payable for any liquor, in respect of a certificate of registration. 20
- amending Act* means the *Liquor and Registered Clubs Legislation Amendment Act 1997*.
- 72 Records**
- Records that, immediately before the repeal by the amending Act of sections 27A and 27B, were required to be kept under those sections must be retained until a date prescribed by the regulations. 25

73 Abolition of ad valorem registration fees

- (1) Nothing in this Act is to be construed as requiring or having required the payment, assessment or collection of the whole or part of any ad valorem registration fee after 6 August 1997. 5
- (2) It is not the duty of the Board to reassess any registration fee in pursuance of an application for reassessment made after 6 August 1997 (whether made before or after the commencement of this clause).
- (3) Nothing in this clause affects: 10
- (a) the suspension or cancellation of registration, or
- (b) the imposition or collection of any penalty,
- at any time after 6 August 1997 on account of a failure to pay, or to pay in due time, a fee or any portion of a fee that was payable before that date. 15

74 Duty on poker machines—instalment for the quarter ending 28 February 1998

- (1) This clause applies to the payment of an instalment of duty on profits derived from approved gaming devices kept by a registered club in the period commencing on 1 December 1997 and ending on 28 February 1998 (the *relevant instalment period*), and so applies to the exclusion of section 87A (4A) and (4B). 20
- (2) Unless section 87A (3) or (4) applies to the relevant instalment period, the instalment payable in respect of that period is the sum of the amounts payable under subclauses (3)–(6). 25
- (3) If the profits from all approved gaming devices kept by a registered club in the period commencing on 1 December 1997 and ending on 31 January 1998 exceed \$33,333 but do not exceed \$416,667, the amount payable under this subclause is: 30
- (a) the sum of \$167, and
- (b) an amount equal to 22.5% of the amount by which the profits exceed \$33,333 but do not exceed \$416,667. 35

- (4) If the profits from all approved gaming devices kept by a registered club in the period referred to in subclause (3) exceed \$416,667, the amount payable under this subclause is:
- (a) the sum of \$86,417, and 5
 - (b) an amount equal to 24.75% of the amount by which the profits exceed \$416,667.
- (5) If the profits from all approved gaming devices kept by a registered club in the month of February 1998 exceed \$16,667 but do not exceed \$83,333, the amount payable under this subclause is: 10
- (a) the sum of \$83, and
 - (b) an amount equal to 22.5% of the amount by which the profits exceed \$16,667 but do not exceed \$83,333. 15
- (6) If the profits from all approved gaming devices kept by a registered club in the month of February 1998 exceed \$83,333, the amount payable under this subclause is:
- (a) the sum of \$15,083, and
 - (b) an amount equal to 30% of the amount by which the profits exceed \$83,333. 20

75 Effect of amending Act on pending applications

The amendments made to sections 18, 19, 19A and 33 by the amending Act do not apply to an application that was pending under this Act when those amendments took effect. 25