

# Liquor Control (Further Amendment) Bill

## EXPLANATORY MEMORANDUM

*Clause 1* outlines the purposes of the Bill.

*Clause 2* is the commencement provision.

*Clause 3* provides that the **Liquor Control Act 1987** is the Principal Act for the purposes of the Bill.

*Clause 4* amends section 3 of the Principal Act by adding definitions of “driver licence”, “evidence of age document” and “proof of age card”.

*Clause 5* amends section 127 (6) of the Principal Act. The effect of the amendment is to substitute the statutory definition of “reasonable enquiries” for a more restrictive statutory definition. The purpose of this amendment is to increase the care of licensees and their employees and others in the sale or supply of liquor to young people. The amendment creates the statutory defence to a charge under section 127 if the defendant can prove that at the time of the offence the defendant had sighted an evidence of age document indicating that the person who had been sold or supplied with liquor had attained the age of 18 years. The amendment also extends this statutory defence to include persons who have been charged under section 127 (2) and (3).

*Clause 6* amends section 128 of the Principal Act by inserting new sub-section (5). The purpose of this amendment is to exclude the common law defence of honest and reasonable mistake by imposing the same statutory defence as contained in section 127 (6).

*Clause 7* amends section 131 of the Principal Act by inserting new sub-section (3) the effect of which is to create the offence where a person falsely represents himself or herself as having attained the age of eighteen years for the purpose of avoiding being found to be in contravention of section 131 (1).

*Clause 8* inserts after section 130 of the Principal Act new section 131A which creates the offence where a person wrongfully deals in an evidence of age document as described in section 131A (1) or wilfully or negligently defaces or interferes with such a document as stipulated by section 131A (2) or makes a false document with the intent that the document be used as an evidence of age document as described in section 131A (3).

*Clause 9* inserts after section 151 of the Principal Act new section 151A the effect of which is to enable the Chief Executive Officer to issue a person a document indicating that person has attained the age of 18 years.

*Clause 10* inserts after section 152 of the Principal Act new section 152A, the effect of which to enable the Police, a licensee or permittee or their employee to seize an evidence of age document from the person who produced it. The purpose of sections 152A (3) and (4) casts an obligation on a member of the Police to return within twenty eight (28) days the seized evidence of age document to the person who produced it unless one of the grounds stipulated in section 152A (4) has been satisfied.

*Clause 11* inserts after section 175B of the Principal Act new section 175C which is a transitional provision the effect of which is to provide that a document issued by the Chief Executive Officer on or after 1 July 1993 as a proof of age card is deemed to be valid and

effective as if the Chief Executive Officer had the power to issued such a document and that this document is deemed to be an evidence of age document for the purposes of the Act.

*Clause 12* amends section 101 of the Principal Act by inserting new sub-section (4A) and after section 101 (5) (*da*) inserting new paragraph (*db*). The effect of the amendment is to provide an additional ground for an application to be made to the Commission for the cancellation or suspension of a licence namely where the licensee has paid a penalty for an offence for which an Infringement Notice has been issued.

*Clause 13* amends the Principal Act by introducing a new Division 4 to Part 6 which inserts new sections 145D, 145E, 145F, 145G, 145H and 145I. The effect of this amendment is to enable a member of the Police force to serve an Infringement Notice on a person who the member reasonably believes has committed an offence against those sections of the Act stipulated in section 145D. Section 145E provides for the form of the notice, section 145F provides for the withdrawal of the notice, while section 145G provides for the penalties to be paid for offences under infringement notices. The effect of section 145H means that where a person pays a penalty on an Infringement Notice within time, further proceedings may not be taken against that person in respect of the offence and that no conviction is to be recorded against the person for the offence. The effect of section 145I enables proceedings to still be taken or continued where a person has been served with an infringement notice and either has not paid the penalty within the time specified or the infringement notice has been withdrawn.

*Clause 14* amends section 43 (2) of the Principal Act by inserting new paragraph (*e*) the effect of which is to give the Chief Executive Officer the power to conduct and to enter into agreements for others to conduct courses in the responsible sale, disposal and consumption of liquor.

*Clause 15* amends section 60 (1) (*a*) of the Principal Act, the effect of which is to remove the prohibition preventing the Commission from granting licences to premises used primarily as a cinema.

*Clause 16* amends section 103 (1) of the Principal Act the effect of which is to enable the Commission to disqualify a person who directly or indirectly is concerned in or takes part in the management of licensed premises.

*Clause 17* amends section 128 (2) (*b*) and repeals section 128 (3) of the Principal Act. The effect of the amendment to section 128 (2) (*b*) is to enable a licensee or permittee without being in breach of section 128 (1) to have a person under the age of 18 years on licensed or authorised premises provided that person is engaged in a hospitality related training program or is in training for the purposes of employment or work experience. The effect of the repeal of section 128 (3) enables the Commission to broaden its approval given under section 128 (2) (*d*) to the presence on licensed or authorised premises of a person under the age of 18 years.

*Clause 18* amends section 130 of the Principal Act by inserting new sub-section (2). The effect of this amendment is to enable a licensee to lawfully permit a person under the age of 18 years to sell liquor on licensed or authorised premises without being in breach of section 130 (1) provided that person is engaged in a training program approved by the Minister.

*Clause 19* amends section 131 (1) (*c*) of the Principal Act by inserting new sub-paragraph (*v*) which creates an exemption to an offence under section 131 (1) (*c*). This exemption is similar to that created under section 128 (2) (*b*) of the Principal Act.

*Clause 20* amends section 160 of the Principal Act by inserting new sub-section (1A) the effect of which is to enable the Governor in Council to make regulations with respect to encouraging responsible practices in the service, supply and promotion of liquor.

*Clause 21* provides that the Liquor Licensing Commission shall continue to exist despite the recommendation of the Public Bodies Review Committee in its final report with regard to the Commission that the Commission cease to exist, and that section 4P (4) of the **Parliamentary Committees Act 1968** will not apply to that report.

