

# **Liquor Control Bill (No 2)**

## **EXPLANATORY MEMORANDUM**

### **PART 1—PRELIMINARY**

*Clause 1* cites the purpose of the Act which is to make provision relating to the sale, disposal and consumption of liquor.

*Clause 2* provides that the Act comes into operation on a day or days to be proclaimed.

*Clause 3* provides the definitions which are to apply to the Act.

*Clause 4* provides explanation to any reference in the Act to the amount paid or payable for liquor.

*Clause 5* provides the objects of this Act.

*Clause 6 (1)* provides that there is to be a Co-ordinating Council to advise the Minister on problems of liquor abuse and on other matters referred to the Council by the Minister.

(2) provides the qualifications of members who are to make up the Co-ordinating Council.

(3) provides that Co-ordinating Council members may be appointed for a period not exceeding five years.

(4) provides that members be paid travelling and other allowances as are approved by the Minister.

(5) provides that the Governor in Council may remove a member from office.

(6) provides that the Governor in Council shall appoint one of the members to be Chairperson.

(7) provides that the procedure of the Council is in its discretion.

(8) provides that members are not because of their appointment subject to the Public Service Act.

*Clause 7* provides the persons to whom and the circumstances in which the Act is not to apply.

### **PART 2—LIQUOR LICENSING COMMISSION**

#### **Division 1—The Commission**

*Clause 8 (1)* provides that there shall be a Liquor Licensing Commission.

(2) provides that the Commission shall consist of a Commissioner and two Assistant Commissioners.

(3) provides the Commission has the functions and powers conferred by this Act.

(4) provides that in addition to its other functions and powers the Commission may collect and use data for the compilation of statistics relating to the liquor industry, may maintain public awareness of the Commission and has such other powers required to carry out its functions.

(5) provides that the Commission must consult with the Minister in relation to its performance of its functions and exercise of its powers under the Act.

*Clause 9 (1)* provides that the Commission may investigate any matter relevant to the operation of this Act.

(2) provides that in making investigations the Commission may proceed in such manner it thinks fit or in accordance with Division 3 or both.

(3) provides that if the Commission proceeds wholly or in part in such manner as it sees fit, it must observe the rules of Natural Justice.

#### **Division 2—The Commissioner and Assistant Commissioners**

*Clause 10 (1)* provides that the Commissioner and each Assistant Commissioner shall be appointed by the Governor in Council.

(2) provides that the Commissioner shall be appointed as a full time Commissioner.

(3) provides that an Assistant Commissioner may be appointed as a full-time or part-time Commissioner.

(4) provides that a person who is a Commissioner or Assistant Commissioner is not in respect of that appointment subject to the *Public Service Act 1974*.

*Clause 11* provides that a person shall not be appointed as the Commissioner unless he or she is a legal practitioner of not less than five years standing.

*Clause 12 (1)* provides that a Commissioner or Assistant Commissioner holds office for a period not exceeding five years as specified in the Instrument of Appointment.

(2) provides that a person who has attained the age of 65 years shall not be appointed as a Commissioner or Assistant Commissioner.

(3) provides that the person shall not be appointed or reappointed for a term which expires after the person attains the age of 65 years.

(4) provides that each Commissioner and Assistant Commissioner holds office on such terms and conditions as are determined by the Governor in Council.

*Clause 13* provides that the Commissioner and each Assistant Commissioner shall be paid such remuneration and allowances as the Governor in Council determines.

*Clause 14* provides that if a person was an officer within the meaning of the *Superannuation Act 1958* prior to appointment as a Commissioner or Assistant Commissioner then they continue to be an officer within the meaning of that Act whilst they are a Commissioner or Assistant Commissioner.

*Clause 15 (1)* provides that the Governor in Council may appoint a person who is a legal practitioner of not less than five years standing to act as Commissioner in the Commissioner's absence.

(2) provides that the Governor in Council may appoint a person to act as an Assistant Commissioner for any period when an Assistant Commissioner is absent.

(3) provides that persons appointed to act as either a Commissioner or Assistant Commissioner hold office until they resign the appointment or the appointment is terminated by the Governor in Council and a period of twelve months elapsing from the day on which the absent person ceases to hold office whichever first occurs.

(4) provides that persons acting as Commissioner or Assistant Commissioner shall act in that capacity on such terms and conditions as the Minister determines.

(5) provides that a person acting as a Commissioner or Assistant Commissioner may resign by writing to the Governor in Council.

(6) provides that a person appointed to act as a Commissioner or Assistant Commissioner has and may exercise all the powers conferred on a Commissioner or Assistant Commissioner under this Act.

(7) provides that decisions made by a person acting as a Commissioner or Assistant Commissioner have effect even if the appointment has since terminated.

*Clause 16* provides that the Commissioner may delegate all or any of his powers to an Assistant Commissioner except the power of delegation.

*Clause 17* provides that the Commissioner or a full-time Assistant Commissioner shall not engage in paid employment outside the duties of the office of Commissioner or Assistant Commissioner except with the consent of the Minister.

*Clause 18* provides the Minister may grant leave of absence to the Commissioner or full-time Assistant Commissioner upon terms and conditions the Minister may determine.

*Clause 19* (1) provides that the Governor in Council may remove the Commissioner or an Assistant Commissioner from office.

(2) provides that if the Commissioner or an Assistant Commissioner becomes bankrupt or is convicted of an indictable offence the Governor in Council shall remove the Commissioner or Assistant Commissioner from office.

*Clause 20* provides that the Commissioner or Assistant Commissioner may resign from office by delivering a signed letter of resignation to the Governor in Council.

*Clause 21* provides that if the Commissioner or Assistant Commissioner has or acquires an interest that could conflict with the proper performance of the functions of the Commissioner or Assistant Commissioner then that person must not take part in proceedings or exercise any powers of his or her office in related proceedings and in the case of the Commissioner must disclose the interest to the Minister or to the Commissioner in the case of an Assistant Commissioner.

*Clause 22* provides that no action or suit shall be brought against the Commission or persons appointed as Commissioners or Assistant Commissioners in connection with duties performed by the Commission or in the duties of the Commissioner or an Assistant Commissioner.

### **Division 3—Proceedings of the Commission**

*Clause 23* provides that for the purpose of the exercise of its powers the Commission shall be constituted by the Commissioner or an Assistant Commissioner.

*Clause 24* provides that proceedings of the Commission are subject to this Act and the regulations, shall be conducted with as little formality and as expeditiously as possible and that the Commission is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit.

*Clause 25* (1) provides that where an application is made to the Commission for a determination of the Commission, then the Commissioner may direct the holding of a conference to review material lodged by the parties and presided over by the Commissioner or an Assistant Commissioner.

(2) provides the circumstances when a preliminary conference must be held.

(3) provides that unless the parties agree then evidence shall not be given as to statements made at a conference convened under sub-section (1).

(4) provides that where a conference is convened and a party notifies the Commission that he or she objects to the matter being heard by the Commissioner or Assistant

Commissioner then the Commission shall not be constituted by the Commissioner or the Assistant Commissioner.

*Clause 26 (1)* provides that hearing of proceedings before the Commission shall be in public.

(2) provides that if the Commission is satisfied that by reason of the confidential nature of any evidence the Commission may by order direct that a hearing or part of a hearing be heard in private and give directions restricting the publication of evidence given before the Commission.

(3) provides that in deciding whether the hearing of a proceeding should be in private or whether publication or disclosure should be prohibited or restricted the Commission must have regard to the desirability of holding hearings publicly but should consider reasons given for holding hearings privately or why publication or disclosure of the evidence should be prohibited or restricted.

*Clause 27* provides that the Commission must ensure that each party to a proceeding before the Commission is given reasonable opportunity to present its case and inspect documents the Commission proposes to use to assist in arriving at a decision.

*Clause 28 (1)* provides that the Commission may take evidence on oath or affirmation, proceed in the absence of a person given reasonable notice of the proceeding and adjourn the proceedings from time to time.

(2) provides that the Chief Executive Officer if directed by the Commissioner must summon a person to appear and give evidence and produce such documents as the Commissioner or an Assistant Commissioner who is to preside at the hearing directs.

(3) provides that the person who presides at the hearing of a proceedings may require persons appearing to give evidence to take an oath or make an affirmation and that the person presiding may administer the oath or affirmation.

(4) provides that the oath or affirmation to be taken or made by a person under this section is an oath or affirmation that the answers given to question asked will be true.

(5) provides that persons summoned to appear before the Commission may request to be represented by a legal practitioner and on making this request the Commission may in its discretion allow the person to be so represented.

(6) provides that the power of the Commission to take evidence on oath or affirmation may be exercised by the person who is to preside at the hearing with such limitations as the Commission might determine.

(7) provides that persons authorised by the Commission to take evidence who are not to preside at the hearing have the same power to hear that evidence as the Commission.

*Clause 29* provides that persons who are summonsed to appear before the Commission must appear unless a reasonable excuse is provided and also provides the penalty for non-compliance with the section.

*Clause 30* provides that persons appearing before the Commission must take an oath or make an affirmation if required. Must not refuse or fail to answer a question if required to do so and must not refuse or fail to produce a document required by a summons to produce and provides a penalty for non-compliance.

*Clause 31* provides that a person shall not insult the Commissioner or an Assistant Commissioner, repeatedly interrupt proceedings, create a disturbance in or near a place where the Commission is sitting or do any other act which in a Court of record would constitute a contempt. It also provides a penalty for non-compliance.

*Clause 32 (1)* provides that if all parties to a proceeding before the Commission consent or the Commission decides that the application is vexatious or frivolous the Commission may dismiss the application without a hearing or during the course of a hearing.

(2) provides that if a party to a hearing before the Commission fails to appear at a preliminary conference convened under section 25 the Commission may if the party is the applicant dismiss the application or direct the person who failed to appear to cease to be a party to the proceedings.

*Clause 33 (1)* provides that the Commission must give reasons for its decision.

(2) provides that where the Commission does not give reasons then a party to the proceeding may within 28 days of receiving the decision request a statement of the reasons be provided by the Commission.

(3) provides that if the Commission give its reasons for decision in writing those reasons shall include its findings on material questions of fact and a reference to the evidence or other material on which the findings were based.

(4) provides that the Commission shall cause a copy of its decision to be served on each party to the proceedings.

(5) provides that a copy of a decision or order endorsed as a true and correct copy by the Chief Executive Officer is in any proceeding evidence of the decision or order.

(6) provides that sub-sections (4) and (5) apply for decisions in writing.

(7) provides that decisions of the Commission come into operation forthwith upon the giving of the determination.

(8) provides that the Commission may specify a later date on which the determination comes into operation and that if it does so the decision comes into operation on that date.

*Clause 34 (1)* provides that if the Commission is of the opinion in a particular case that circumstances justify then orders for costs may be made.

(2) provides that if no order is made under sub-section (1) each party to a proceeding bears his or her own costs.

#### **Division 4—Chief Executive Officer and Staff**

*Clause 35* provides that there shall be a Chief Executive Officer of the Commission who shall be appointed by the Governor in Council and provides that the Chief Executive Officer is not in respect of the office of Chief Executive Officer subject to the provisions of the *Public Service Act 1974*.

*Clause 36 (1)* provides that the Chief Executive Officer holds office for the period specified in the order of appointment not exceeding five years and is eligible for reappointment.

(2) provides that a person who has attained the age of 65 years shall not be appointed Chief Executive Officer.

(3) provides that a person shall not be appointed or reappointed if he or she attains the age of 65 years during the period of the appointment.

(4) provides that the Chief Executive Officer holds office on such terms and conditions as are determined by the Governor in Council.

*Clause 37* provides that the Chief Executive Officer shall be paid remuneration and allowances as are determined by the Governor in Council.

*Clause 38* provides that if the Chief Executive Officer was prior to his or her appointment an officer within the meaning of the *Superannuation Act 1958* the Chief Executive Officer continues subject to that Act to be an officer within the meaning of that Act.

*Clause 39 (1)* provides that the Governor in Council may appoint a person to act as Chief Executive Officer during any period for which the Chief Executive Officer is absent.

(2) provides that if a person has been appointed to act as Chief Executive Officer and the Chief Executive Officer ceases to hold office without resuming duty the period for which the person acting as the Chief Executive Officer holds office is until the person resigns the appointment, or the appointment is terminated or the period of twelve months elapses whichever is the sooner.

(3) provides that a person acting a Chief Executive Officer shall act in that capacity on such terms and conditions as the Minister determines.

(4) provides that a person acting as the Chief Executive Officer, may resign by signed letter to the Governor in Council.

(5) provides that a person acting as Chief Executive Officer may exercise all the powers and shall perform all the functions and duties conferred by this Act on the Chief Executive Officer.

(6) provides that decisions of an Acting Chief Executive Officer shall not be called into question in any proceeding on the grounds that they are no longer acting in that capacity.

*Clause 40* provides that the Chief Executive Officer may delegate all of or any of the powers granted under this Act to an officer or employee of the Commission or the Clerk of a Magistrates Court.

*Clause 41* provides that the Governor in Council may remove the Chief Executive Officer.

*Clause 42* provides that the Chief Executive Officer may resign his position by signed letter forwarded to the Governor in Council.

*Clause 43 (1)* provides that the Chief Executive Officer has the powers conferred on the Chief Executive Officer under this Act.

(2) provides that the Chief Executive Officer shall provide Administrative support, advice on the licensing system, assess fees, be responsible for staff and shall assign duties to licensing fund assessors on behalf of the Commission.

*Clause 44 (1)* provides that the Chief Commissioner of Police shall from time to time appoint officers of Police to be licensing inspectors.

(2) provides that each licensing inspector shall be appointed in respect of a division or part of a division of a police district.

(3) provides that a licensing inspector has the powers conferred on a licensing inspector under this Act in the district in respect of which he or she is appointed.

(4) provides that licensing inspectors may report to the Chief Executive Office any matter which may affect the attainment of the objects of the Act, take proceedings in respect of offences under the Act and appear in proceedings under this Act.

*Clause 45 (1)* provides that subject to the Public Service Act there shall be a Registrar and such licensing fund assessors and other officers and employees as required to perform the functions required by this Act.

(2) provides that the number of persons employed by the Commission must not exceed the number fixed by the Minister in respect of any specified period.

## **PART 3—SALE DISPOSAL AND CONSUMPTION OF LIQUOR**

### **Division 1—Licences and Permits**

*Clause 46* (1) provides that a residential licence authorises the licensee to sell and dispose of liquor on the licensed premises—

- (a) if the licensed premises have between 20–149 bedrooms at any time to a resident of the licensed premises or a guest of such a resident for consumption on the licensed premises;
- (b) if the licensed premises have at least 150 bedrooms at any time to a resident or guest and to any other person during ordinary trading hours and at other times in accordance with an extended hours permit—for consumption on or off the licensed premises.

(2) provides that the Commission must not grant a residential licence unless it is satisfied that the primary purpose of the business is the provision of accommodation and the premises have at least twenty bedrooms.

*Clause 47* (1) provides that a general licence authorises the licensee to sell and dispose of liquor on the licensed premises for consumption on or off the premises during ordinary trading hours and at any other times in accordance with any extended hours permit which is held by the licensee in respect of the licensed premises.

(2) provides that the Commission must not grant a general licence unless it is satisfied that the primary purpose of the business to be carried on under the licence is the provision of liquor for consumption on and off the premises.

*Clause 48* (1) provides that a club licence authorises the licensee to sell and dispose of liquor to members and their guests and provides the hours which full clubs and restricted clubs may remain open.

(2) provides that the Commission must not grant a club licence unless the Commission is satisfied that the primary business of the premises is that of a club and that the rules of the club comply with Schedule 1 or that they comply to an extent which is satisfactory to the Commission.

*Clause 49* (1) provides that a producer's or distributor's licence authorises the licensee to sell and dispose of liquor for consumption off the licensed premises during ordinary trading hours and at any other time in accordance with any extended hours permit held by the licensee. This Clause also provides the hours which distributors and producers (and vigneron) may dispose of liquor from licensed premises.

(2) provides that the Commission must not grant a producer's or distributor's licence unless the Commission is satisfied that the primary purpose of the business to be carried on by the licensee is the business of producing or distributing liquor.

(3) provides that the Commission must not grant a producer's or distributor's licence to a vigneron unless it is satisfied that the vigneron owns or occupies the land that is a cultivated vineyard of a size appropriate to the requirements of the vigneron as a licensee.

(4) provides that the Commission must not grant a producer's or distributor's licence to a licensee who is a distributor of liquor unless the Commission is satisfied that the business of selling and supplying liquor to licensees represents 90 per centum of the business carried on.

*Clause 50* (1) provides that an on premises licence authorises the licensee to sell and dispose of liquor in association with an activity that is carried on on the licensed premises and is the primary purpose of the business carried on on the premises either on the licensed premises for consumption on the licensed premises or if the Commission so determines and specifies in the licence on any other premises in association with any such activity

carried on these premises or consumption on those premises during ordinary trading hours and at any other times for which an extended hours permit is in force.

(2) provides that the Commission must not grant an on premises licence unless it is satisfied that the primary purpose of the business to be carried on falls within certain categories.

(3) provides that if the premises which form part of the licensed premises under an on premises licence are used as a restaurant the Commission may determine that the licensee may sell and dispose of liquor in a part of the premises that is not more than 25 per centum of the part of the premises in which liquor is sold and disposed of and is set apart in accordance with any conditions specified in the licence for the supply of liquor otherwise than in association with the serving of meals.

(4) provides that the Commission must not grant an on premises licence if it considers that the sale and disposal of liquor to be carried on under the licence would be more appropriately carried on under a licence of another kind.

*Clause 51 (1)* provides that a packaged liquor licence authorises the licensee to sell and dispose of liquor in sealed containers, bottles or cans on the premises and provides the hours during which business under the licence may be carried on.

(2) provides the Commission may with the approval of the Minister grant an extended hours permit to a packaged liquor licensee if the Minister is satisfied the area in which the premises are situated is a tourist area or an area with special needs.

(3) provides that the Commission must not grant a packaged liquor licence unless it is satisfied that the primary purpose of the business is to sell by retail liquor in sealed containers, bottles or cans.

*Clause 52 (1)* provides that a limited licence authorises the licensee to sell and dispose of liquor on terms and conditions specified in the licence.

(2) provides that the Commission must not grant a limited licence unless it is satisfied that it is required for a limited purpose and that the sale and disposal proposed to be carried on under the licence would not more appropriately be carried on under a licence of another kind.

*Clause 53* provides that an extended hours permit authorises a licensee to sell and dispose of liquor in accordance with the terms and conditions of the permit.

*Clause 54* provides that a BYO restaurant permit authorises liquor to be consumed and possessed at such times and on such conditions as specified in the permit.

## **Division 2—Additional Authority of Licences and Permits**

*Clause 55* provides that a licence which authorises the licensee to sell and dispose of liquor during any period and also allows for liquor to be consumed up to 30 minutes after the expiration of the period.

*Clause 56* provides that a licence which authorises the licensee to sell liquor for consumption off the premises also authorises the licensee to supply liquor gratuitously for consumption on the premises.

*Clause 57* provides that if a licence authorises the licensee to sell and dispose of liquor for consumption on licensed premises and the primary purpose of the business is that of a restaurant and the licensee consents then persons may bring liquor on to the premises for consumption with a meal.



### **Division 3—Special Provisions Applying to Clubs**

*Clause 58 (1)* provides the conditions to which club licences are subject.

(2) provides that the Commission may by notice in writing given to the club secretary disallow any amendment to club rules within 28 days of receiving a certified copy of the proposed rule amendment.

(3) provides that the Secretary of a club must not fail to comply with the condition referred to in sub-section 1 (c) or wilfully make false entry in the register and provides a penalty for non-compliance.

(4) provides that a person must not prevent or obstruct a person exercising powers of inspection in accordance with the condition referred to in sub-section 1 (d).

*Clause 59* provides that if the management of a club is vested in trustees appointed by the Governor in Council the Governor in Council may by proclamation declare that the trustees shall be deemed to be the management committee of the club and that paragraphs (e), (f) and (g) (iv) of Schedule 1 do not apply to the club.

### **Division 4—Restrictions on Applications and Grant of Licences and Permits**

*Clause 60 (1)* provides that the Commission must not grant a licence or permit in respect of a cinema, drive in cinema, petrol station, milk bar, convenience store or mixed business.

(2) provides that the Commission may with the approval of the Minister grant a limited licence in respect of a milk bar, convenience store or mixed business if the Minister is satisfied that the area in which the premises are situated is a tourist area or an area with special needs.

*Clause 61 (1)* provides that the Commission must not grant to a person or corporation a general licence or a packaged liquor licence if at the time of the application the person or corporation holds more than 8 per centum of all general or packaged liquor licences in force under this Act.

(2) provides a reference to a licence in sub-section (1) includes a reference to a licence issued under the *Liquor Control Act 1968*.

*Clause 62* provides that if the Commission refuses an application for the grant of a licence or permit or an applicant withdraws an application prior to its determination by the Commission then that person is not entitled to apply for the same type of licence or permit for the same premises for a period of one year after the refusal or withdrawal.

### **Division 5—Grant, Variation, Transfer and Removal of Licences and Permits**

*Clause 63 (1)* provides that persons over the age of 18 and bodies corporate who are disqualified by this Act or a previous enactment may apply to the Commission for the grant of a licence or BYO restaurant permit.

(2) provides that applications must be made by persons or in the case of bodies corporate by two directors of the body corporate.

(3) provides the details which must be included when making application for a licence or permit.

(4) provides that where any change of address or particulars relating to a Body Corporate occurs then the applicant must within 14 days give notice of the change to the Chief Executive Officer.

(5) provides the items, documents and certificates which must be lodged at the time of making an application.

(6) provides that the Commission may request further information from applicants and that on request such information must be provided.

*Clause 64* (1) provides that applicants for licences and permits under section 63 or licensees may apply to the Commission for an extended hours permit.

(2) provides that the application must be in writing and must specify the periods in respect of which the permit is sought, the purposes for which it is sought and any terms and conditions sought in relation to the permit.

(3) provides that applicants under this section must be accompanied by the prescribed fee plans and approvals.

(4) provides that if the Commission requests any further information from applicants then such information must be provided by applicants.

(5) provides that nothing in the relevant planning law restricts the use of the premises under an extended hours permit. However, before an extended hours permit is granted the local municipality must be consulted.

*Clause 65* (1) provides that a licensee, permittee, licensing inspector or the Chief Executive Officer may apply to the Commission for variation of a licence permit or extended hours permit by amendment revocation or addition of a term or condition.

(2) provides that applications under sub-section (1) must be in writing, be signed, state the name and address of the applicant, state the address of the premises to which the application relates, give details of the variation sought and if the applicant is a licensee or permittee be accompanied by the prescribed fee and any other approvals required.

(3) provides that the Commission may request other information to support the application and on such a request the information must be provided.

*Clause 66* provides that if a licensing inspector or the Chief Executive Officer applies for a variation of a licence or permit the Registrar must provide the licensee or permittee with a copy of the application within 14 days. The section also provides for the licensee or permittee to object to the variation and if an objection is received then the applicant for the variation must be provided with a copy of the objection within 7 days of receiving the objection.

*Clause 67* (1) provides that a licensee or permittee may apply to the Commission for removal of the licence or permit from the licensed premises to other premises.

(2) provides that an application under sub-section (1) must be accompanied by copies of documents, evidence and certificates referred to in section 63 (5) (a)-(f) and the prescribed fee.

*Clause 68* provides that where an application for the grant, variation or removal of a licence, permit or extended hours permit is accompanied by applicants under relevant planning law or requests for certificates or reports under the *Health Act 1958* the Registrar must give them without delay to the person to whom they are addressed and the persons to whom they are addressed must approve or refuse them within 30 days.

*Clause 69* (1) provides that a licence together with any extended hours permit or a BYO restaurant permit may be transferred by the Commission to a qualified person upon application by the holder and the transferee jointly or by the owner or mortgagee and the transferee jointly under certain conditions.

(2) provides that applications under sub-section (1) must be in writing, be signed, state the name and address of the applicants, give particulars of the licence or permit and state the address of the premises to which the application relates.

(3) provides that applications under sub-section (1) must be accompanied by the prescribed fee unless the Commission otherwise determines the application is for the transfer of a producer's or distributor's licence granted to a vigneron—a statutory declaration by the transferer and the liquor purchases register.

*Clause 70* provides that the Registrar on receiving an application for a licence, permit, variation of a licence or permit or transfer of a licence or permit must give a copy of the application to the Chief Commissioner of Police and the local municipality.

*Clause 71 (a)* provides that the Chief Commissioner of Police must notify the Registrar within 21 days whether he or she objects to the grant of the application.

(b) provides that if the Chief Commissioner of Police objects to the granting of the application he or she must give a statement of the grounds of the objection to the applicant and the Commission not later than 14 days before the date fixed for the preliminary conference.

*Clause 72 (1)* provides an applicant under section 70 must advertise in a newspaper circulating in the area of the licensed premises.

(2) provides that an applicant for the grant, variation, transfer or removal of a licence or permit must ensure that a notice of application is displayed on the premises for 28 days prior to the application being lodged.

(3) provides that the notice must be displayed in a manner which invites public attention.

(4) provides if it is not practicable to display the notice on the premises it is sufficient compliance with (2) if the notice is conspicuously displayed on any adjoining premises.

(5) provides that an applicant shall be deemed to have complied with this section if the Commission is satisfied that the applicant took all reasonable steps to ensure the continuous display of the notice and that any failure to do so was not the fault of the applicant.

*Clause 73* provides the details which are to be contained in a notice of application for display at the premises and advertisement in the newspaper.

*Clause 74 (1)* provides that a person may object to the Chief Executive Officer to the grant, variation, transfer or removal of a licence or permit within 14 days of the notice appearing in a newspaper if the person considers that it is not in the public interest and may provide particulars of the grounds on which the person considers the grant, variation, transfer or removal is not the public interest.

(2) provides that the Chief Executive Officer may request further information from a person who gives notice under sub-section (1).

(3) provides that unless the Chief Executive Officer gives notice within 21 days to the person who gives notice under sub-section (1) that the application has been refused then the person may apply to the Commission for a determination.

(4) provides that the Commission must within 21 days of receiving an application under sub-section (3) determine the question and give notice to the applicant and the Chief Executive Officer.

(5) provides that if the Commission decides that the application for the grant, variation, transfer or removal of a licence or permit is not in the public interest the Chief Executive Officer must refuse the application.

*Clause 75 (1)* provides that the Chief Executive Officer or a licensing inspector may give the Commission notice in writing of an objection to the grant or transfer of a licence or permit on the ground that the applicant is not a suitable person to hold the licence or permit.

(2) provides that a Notice of Objection under sub-section (1) must be lodged with the Commissioner within 28 days after the lodging of the application.

(3) provides that the Registrar must notify the applicant of any Notice of Objection under this section.

(4) provides the nature of the grounds under which an objection under this section may be given.

*Clause 76 (1)* provides that the Chief Executive Officer may give the Commission notice in writing of his recommendation as to whether the grant, variation or removal of a licence or permit is in the community interest.

(2) provides the criteria for the Chief Executive Officer in making the recommendation under this section.

(3) provides that if the Chief Executive Officer states that it is not in the community interest to grant the application he must give a copy of his recommendation to the applicant.

*Clause 77* provides that if the Commission is satisfied that the application for the grant, variation, transfer or removal of a licence or permit or extended hours permit has been made in accordance with the Act and the appropriate fees have been paid and that no Notice of Objection has been given then the Commission must grant, vary, transfer or remove the licence or permit or extended hours permit.

*Clause 78* provides that if the Commission is satisfied that the application for the grant, variation, transfer or removal of a licence, permit or extended hours permit has been made in accordance with the Act and Notice of Objection has been received then the Commission must hold a hearing before determining the application.

*Clause 79* provides that in proceedings before the Commission to determine whether or not an application should be granted the Commission must consider the grounds of objections made under this Act and could consider any other grounds on which an objection could have been made under this Part.

*Clause 80 (1)* provides that if the construction or alteration of premises to which an application for the grant, variation or removal of a licence, permit or extended hours permit relates the Commission may conditionally grant the application subject to the alteration being completed and approved within a period fixed by the Commission and also provides that the licence or permit will be cancelled if the condition is not met.

(2) provides that the period fixed by the Commission under sub-section (1) for the completion of works may be extended by the Commission on application.

*Clause 81* provides that the Commission may make its approval of the grant, transfer or removal of a licence or permit subject to such terms and conditions as it thinks fit.

*Clause 82* provides that the Commission must not grant a licence, permit or extended hours permit unless the fee payable under Part 5 in respect of that licence or permit has been paid.

*Clause 83 (1)* provides that a licence (other than a limited licence) or a BYO restaurant permit has effect on the day it is granted and continues in force until 31 December next.

(2) provides that a limited licence or extended hours permit has effect in accordance with its terms.

*Clause 84 (1)* provides that a licence or permit granted under this part shall be issued by the Chief Executive Officer in a form approved by the Commission and shall be signed by the Chief Executive Officer.

(2) provides that if an extended hours permit is granted or varied under this part, the Chief Executive Officer may cause an endorsement to be made on the licence in the approved form.

(3) provides that if a licence or permit is varied, removed or transferred under this part the Chief Executive Officer may cause an endorsement to be made on the licence in the approved form.

*Clause 85* provides that the Chief Executive Officer may on application from the licensee or permittee provide a copy of the licence or permit or part of the licence or permit to the licensee or permittee on payment of a fee.

*Clause 86* provides that if a licence or permit is granted or transferred to two or more persons, those persons are severally liable and in the case of bodies corporate or a club the nominee and if there is no nominee then the directors or managing committee are liable.

*Clause 87* provides that if a copy of a Certificate of Incorporation is lodged with the Chief Executive Officer then any licence or permit held by the association, society, club or institution prior to incorporation shall be deemed to be transferred to the incorporated body and the Chief Executive Officer shall amend the licence or permit accordingly.

*Clause 88* provides that if an applicant for the removal of a licence is also a joint applicant in a transfer then the matters of removal and transfer shall be dealt with at the same time.

*Clause 89* (1) provides that a transfer of a licence, permit or extended hours permit operates as a like licence or permit granted to the transferee for the residue of the term for which the licence or permit was granted and if made at the time of renewal for the period for which the licence or permit is to be renewed.

(2) provides that if the Commission approves a removal of a licence or permit the licence or permit has effect as if it had been granted for the premises to which it is removed.

#### **Division 6—Renewal of Licences and Permits**

*Clause 90* provides that if within 21 days after the day on which the licence or permit would expire the licensee or permittee pays the fee payable under Part 5 then the licence or permit is renewed accordingly.

*Clause 91* provides that if a licensee fails to apply for renewal of the licence the Chief Executive Officer must give notice of the failure to the owner, mortgagee or any other person who, to his or her knowledge may be prejudicially affected by the failure.

*Clause 92* (1) provides that if the licensee has failed to renew the licence, the owner or the mortgagee of the licensed premises may within three months, if he or she is entitled to possession of the premises, apply to the Commission for renewal of a licence.

(2) provides that if the Commission is satisfied that the owner, mortgagee or other person is suitable to carry on the business of the licensee and the fee payable under Part 5 in respect of the licence is paid the Commission may grant the renewal.

#### **Division 7—Executors etc.**

*Clause 93* (1) provides that representatives may apply to have his or her name or the name of a nominee endorsed on the licence or permit in the event of the death, bankruptcy or the person becoming a represented person under the *Guardianship and Administration Board Act 1986*.

(2) provides that if the Commission is satisfied that the applicant under sub-section (1) is a suitable person to carry on the business of the licensee or permittee and a fee is paid the Commission must cause the licence to be appropriately endorsed.

(3) provides that if in any of the circumstances referred to in sub-section (1) an application is not made the Commission may cause the licence or permit to be endorsed with the name of a nominee of the Commission.

*Clause 94* provides that a person whose name is endorsed on a licence or permit may carry on the business under the licence or permit until the permit is transferred or renewed and is subject to the same conditions as if he or she were a licensee or permittee.

*Clause 95* provides that the Commission may renew a licence permit or extended hours permit in the name of a person as agent, nominee, executor or any other person entitled to the renewal.

*Clause 96* provides that unless a licence or permit is endorsed in accordance with section 93 within 90 days the licence or permit has no force unless the Commission allows a longer period in a particular case.

*Clause 97* provides that a licence or permit confers on personal representatives the same rights and duties as those of a deceased licensee or permittee.

#### **Division 8—Surrender, Cancellation etc.**

*Clause 98* (1) provides that a licensee or permittee may request the Commission to accept a surrender of the licence or permit.

(2) provides that a request under sub-section (1) must be in writing and accompanied by a statutory declaration, a copy of the liquor purchases register and other documents relevant to particular types of licences.

(3) provides that the Commission must give notice to any persons considered likely to be affected by a surrender under sub-section (1).

(4) provides that persons given notice under sub-section (3) may oppose the surrender and if so must specify the grounds for opposition to the Chief Executive Officer.

(5) provides that the Chief Executive Officer must decide whether to recommend to the Commission that a surrender not be accepted on receipt of any submission under sub-section (3).

(6) provides the Commission must decide having considered a recommendation under sub-section (5) and if it thinks fit hold a hearing, approve or refuse the surrender.

(7) provides that if no submission opposing the surrender is received the Commission must accept the surrender.

*Clause 99* provides that on application of the licensee or permittee who desires to vacate the licensed premises the Commission may decide to release the licensee or permittee and suspend the licence or permit until it has been transferred or an agent of the owner of the licensed premises has been authorised to carry on the business.

*Clause 100* provides that if it is proved to the Commission that a member of a partnership that is a licensee has no intention of returning to be a licensee or permittee then the Commission may remove the name of that person from the licence or permit and the remaining members of the partnership shall be deemed to be the licensees or permittees.

*Clause 101* (1) If the Chief Executive Officer considers that a licensee or permittee is unsuitable, that it is not in the public interest or a licence or permit has not been used for 12 months then the Chief Executive Officer may apply at any time to the Commission for cancellation or suspension of the licence or permit.

(2) provides that if a licensing inspector considers a licensee or permittee unsuitable the licensing inspector may apply to the Commission for the cancellation or suspension of the permit.

(3) if an application is made under sub-section (1) of (2) the Commission after holding a hearing must determine whether or not to cancel or suspend the licence or permit or extended hours permit.

(4) provides that if the Commission is satisfied that a licensee or permittee has contravened a term of the licence or permit, been convicted of an offence against this Act, the *Health Act 1958* or the *Police Regulation Act 1958* or obtained the licence or permit by fraud then the Commission may after holding a hearing cancel, suspend or vary the licence, permit or extended hours permit or impose a fine not exceeding 100 penalty units on the licensee.

(5) The Commission must cancel a licence or permit if the licensee or permittee is convicted whether in Victoria or elsewhere of an offence punishable by a term of imprisonment of 3 years or more.

(6) provides that if a licence other than a producer's or distributor's licence granted to a vigneron is cancelled then the person who was the holder must give the Chief Executive Officer the liquor purchases register and all other documents required by this Act.

*Clause 102 (1)* provides that if a licensee or permittee becomes a disqualified person or a licence or permit is cancelled the Commission may authorise the owner or a person to act as his or her agent until the end of the period for which the licence or permit was granted.

(2) provides that an agent authorised under sub-section (1) is subject to the same duties and obligations as the licensee or permittee.

(3) provides that if the owner or his agent has been authorised to carry on business under the licence or permit becomes the occupier of the premises the Commission may subject to this Act grant a renewal of the licence or permit to the owner or the nominee.

*Clause 103* provides that the Commission may if it exercises or could exercise its power under section 98 may also disqualify the licensee or permittee from holding a licence or permit for a specified period.

*Clause 104* provides that a licensee who sells liquor whilst suspended is deemed to have sold liquor without a licence.

#### **Division 9—Appeals**

*Clause 105* provides that applicants, licensees or members of the Police Force may apply to the Administrative Appeals Tribunal for review of a decision of the Commission to grant a licence, refuse to grant a licence, impose a condition on a licence, vary a licence or impose a condition on the transfer of a licence.

#### **PART 4—OBLIGATIONS OF OWNERS AND LICENSEES AND PERMITTEES**

*Clause 106* provides that owners must supply the Chief Executive Officer with an address for service of notices and must notify any change of address. Also provides a penalty for non-compliance.

*Clause 107* provides that licensees whose licence authorises sale of liquor for consumption on the premises or on any other premises must at all times when liquor is available, have available and provide on request refreshments.

*Clause 108* provides that under a residential licence the licensee must keep a register in the form approved by the Commission on the premises must enter prescribed particulars and must not make false entry in it. Also it provides a penalty for non-compliance.

*Clause 109* provides that licensees must keep a liquor purchases register in a form approved by the Commission, enter in it the prescribed particulars, keep the register on the

premises and not make false entries and provides a penalty for non compliance. Also it provides a 7-year limitation on keeping records.

*Clause 110* provides an offence if a false entry in the register under section 109 is made with the effect of reducing the licence fee payable and provides a penalty for non compliance.

*Clause 111* provides that a licensee must have painted or fixed a notice on the front of the premises of his or her name and the type of licence or permit held.

*Clause 112* If a person ceases to be or is appointed a director of a body corporate that is a licensee or permittee, the licensee or permittee must notify the Registrar within 14 days after the change and particulars.

## **PART 5—FEES**

*Clause 113* provides the fees which are payable for all licences and permits under the Act and the means for calculating fees if the basis of the fee is to be calculated as a percentage of liquor purchases and provides for fees to be prescribed in certain instances.

*Clause 114* provides that fees payable on the grant of a licence are to be calculated by estimating the probable cost of liquor purchased or disposed of for the year or balance of the year to the nearest whole dollar and provides that liquor purchases or disposed of under certain conditions is to be disregarded when calculating fees.

*Clause 115* (1) provides that all fees payable other than those where there is a fixed amount are to be determined by the Commission.

(2) provides that fees are not reviewable except in accordance with section 118.

(3) provides that the Commission shall determine such fee as it thinks reasonable if no information or insufficient information is available.

*Clause 116* provides that applicants may pay fees in quarterly instalments and provides the times at which the instalments must be paid and the method for calculation of instalments and for suspension in the event of non-payment of instalments.

*Clause 117* (1) provides that each person who holds a producer's or distributor's licence must provide the Chief Executive Officer with a statutory declaration before the 1st August each year setting out the quantity, nature and the names and addresses of licensees to whom liquor was supplied and the amount paid or payable for the liquor by licensees and other persons.

(2) provides that persons who hold a residential, general, on premises or limited licence where the amount paid or payable for liquor exceeds \$10 000 in a year must give the Chief Executive Officer a statutory declaration giving details of the amount and to whom liquor has been sold or supplied.

(3) provides that vigneron must provide a statutory declaration to the Chief Executive Officer giving details of liquor sold or supplied.

(4) provides that statutory declarations required must be lodged within 14 days after the required date under the section or a late fee may be payable.

(5) provides that an additional penalty may be applied for late lodgement of declaration.

(6) provides that late lodgement fees and penalties are debts due to the Crown.

*Clause 118* (1) provides power for the Commission to reassess a fee for the grant or renewal of a licence on the basis of information given in the application on statutory declaration if the Commission believes its details are incorrect.

(2) provides that if on reassessment the Commission is of the opinion that the reassessed fee is greater than the fee originally determined or the person knew or ought to have known



the declaration was incorrect the person will be liable to pay the Commission an amount determined by the Commission being not less than the amount by which the re-assessed fee exceeds the original fee and not more than twice that amount.

(3) provides for payment by installments of an amount determined under sub-section (2).

(4) provides that payment by installments under sub-section (3) are subject to such terms as the Commission determined including interest and the payment of security.

(5) provides that the Commission may remit interest paid.

(6) provides that if payment of an installment is not made the whole amount and interest accrued is payable.

(7) provides that if the Commission determines a payment may be postponed and the amount is not paid in accordance with the determination the amount is payable together with interest.

(8) provides that action cannot be taken for recovery of amounts under sub-section (3) unless the person has become liable under sub-section (6) or (7).

*Clause 119* provides power for the Commission to assess a discontinuance fee in the event of surrender or cancellation of a licence and provides the method by which that amount is to be calculated.

## **PART 6—OFFENCES AND LEGAL PROCEEDINGS**

*Clause 120* (1) provides that it is an offence to sub-let any part of a licensed premises or the right to sell or dispose of liquor without the Commission's consent and provides a penalty.

(2) provides that the Commission must not consent unless notice of the application has been given in the prescribed manner and considered any objections in the prescribed manner.

(3) provides that consent under sub-section (2) is valid for a period specified in the consent.

*Clause 121* provides that a licensee or permittee must not permit any other person to carry on business of supplying food or liquor on the licensed premises. It provides also for procedures to obtain permission from the Commission to do this.

*Clause 122* provides that it is an offence for licensees and permittees to sell or cause to be sold or disposed of liquor or permit liquor to be consumed except in accordance with the conditions of the licence or permit and also provides that it is an offence to use premises other than the licensed premises, supply liquor to intoxicated, drunken or disorderly persons or allow an unlawful game to be played on the premises and provides a penalty for non compliance.

*Clause 123* (1) provides that it is an offence for a person to sell liquor unless a licensee and provides a penalty for doing so.

(2) provides that sub-section (1) does not apply to employees of licensee.

(3) provides that a court must also order all liquor to be forfeited if an offence under sub-section (1) occurs.

(4) provides that if a person is convicted of a second or subsequent offence under sub-section (1) he or she shall be declared a disqualified person by the Commission for eighteen months.

(5) and (6) provide evidentiary provisions to apply to the section.

(7) provides that sub-sections (5) and (6) do not apply if the court is satisfied that the premises are used solely for residential purposes.

*Clause 124* provides that it is an offence for a person to hold himself or herself out as being prepared to purchase packaged liquor on behalf of another person and provides a penalty.

*Clause 125* provides that it is an offence for a licensee, employee or agent of a licensee to take or receive an order for liquor at any premises of the licensee that is not licensed and provides a penalty.

*Clause 126* (1) provides that it is an offence to procure the transfer of a licence or permit by fraud and provides a penalty.

(2) provides that the Commission may following a conviction under sub-section (1) declare the transfer void, may revoke the licence or permit and may declare the convicted person disqualified for a period not exceeding three years.

*Clause 127* (1) provides that it is an offence for a licensee or permittee to sell or supply or permit to be sold or supplied liquor to a person under 18 years of age and provides a penalty for doing so.

(2) provides that a licensee or permittee is guilty of an offence if liquor is sold or supplied to any person under 18 years of age on licensed or authorised premises of the licensee or permittee and provides a penalty.

(3) provides that persons (other than licensee, permittee or employee of a licensee acting in the course of his or her employment) are guilty of an offence if they supply liquor to a person under 18 and provides a penalty.

(4) provides an offence of an employee of licensee acting in the course of his or her employment supplying liquor to a person under 18 and penalty.

(5) provides the exceptions which apply to the provisions of sub-sections (1), (2), (3) and (4).

*Clause 128* (1) provides that if a person under 18 years of age is on any licensed or authorised premises and is not in the company of a spouse over 18 years or there to partake of a meal the licensee or permittee is guilty of an offence and provides a penalty.

(2) provides exceptions which apply to the provisions of sub-section (1).

*Clause 129* provides that it is an offence to send a person under 18 years of age to obtain liquor and provides a penalty.

*Clause 130* provides that the licensee is guilty of an offence if they allow a person under 18 years of age to sell or supply liquor on the licensed premises and provides a penalty.

*Clause 131* (1) provides that persons under 18 years of age are guilty of an offence if they purchase, receive possess, consume liquor or remain on any part of premises where liquor is served by a licensee who holds a residential licence except to partake of a meal, or is a servant or agent of the licensee and provides a penalty.

(2) provides the circumstances where sub-section (1) does not apply.

*Clause 132* provides that it is an offence to bring in to, consume, supply or have in possession or under control or permit this to happen on any licensed premises at any time otherwise than is allowed by the licence or permit and provides a penalty.

*Clause 133* provides that it is an offence if liquor is kept for sale, supply or consumption in an unlicensed club and that the secretary and members of the Management Committee are guilty of the offence unless the liquor is on the premises without their consent or against their orders and provides a penalty.

*Clause 134* provides that a person is guilty of an offence if they obtain or consume liquor except at a time and in the manner authorised by the licence or procure or aid a person in procuring liquor if they are intoxicated and provides a penalty.

*Clause 135* provides that it is an offence to consume, supply, be in possession of or permit or allow any liquor to be consumed or supplied in a milk bar, convenience store, mixed business or unlicensed club and provides a penalty.

*Clause 136* (1) provides that it is an offence to gamble or allow a person to gamble on licensed premises.

(2) provides the circumstances in which sub-section (1) does not apply.

*Clause 137* provides an offence to indicate premises are licensed if there is no licence or permit.

*Clause 138* (1) provides that a person must not make in relation to an application under this Act a false or misleading statement and provides a penalty.

(2) provides defences which are available to persons prosecuted under sub-section (1).

### **Division 2—Legal Proceedings**

*Clause 139* provides that a person is taken to be the holder of that licence or permit until the contrary is shown.

*Clause 140* provides that certain statements when made are evidence the statements are true.

*Clause 141* provides that if an informant avers certain things that the averment is evidence as the case requires.

*Clause 142* provides that proof of certain things occurring provides proof that payment for, sale, disposal or consumption of liquor.

*Clause 143* (1) provides that a Magistrates Court may order the forfeiture of liquor.

(2) provides that a person may appeal to the County Court against an order to forfeit.

(3) provides that forfeited liquor must be sold or disposed of in accordance with an order of the Court.

*Clause 144* provides that the Magistrates Court does not have the power to give a person guilty of an offence against this Act a bond.

*Clause 145* provides that the Commission may make a determination despite the bringing of other proceedings under the Act.

*Clause 146* (1) provides that the Clerk of the Magistrates Court or County Court Registrar must as soon as practicable give notice of convictions against licensees or permittees to the Chief Executive Officer.

(2) provides that if a conviction against sub-section (1) relates to a licensee or permittee who is not the owner the Chief Executive Officer must provide the owner with a copy of the Notice.

### **PART 7—GENERAL**

*Clause 147* (1) provides that applications under this Act may be lodged with the Chief Executive Officer or the Clerk of the Magistrates Court.

(2) provides that the Clerk of the Magistrates Court must give the Chief Executive Officer each application lodged within 7 days.

(3) provides that the Clerk of the Magistrates Court must make a record of each application received.

(4) provides that the Clerk of the Magistrates Court must keep records of applications received for seven years.

*Clause 148* provides that the council or municipality may apply for and be granted a licence or permit under this Act.

*Clause 149* provides the powers which apply to trustees with respect to compliance with this Act.

*Clause 150* (1) provides that the Chief Executive Officer may by notice in writing require any person to provide a Statutory Declaration about the sale and supplying of liquor to licensees or permittees.

(2) provides the matters which a declaration under sub-section (1) must contain.

(3) provides that a person must comply within 14 days with a request under sub-section (1) and provides a penalty for non-compliance.

(4) provides the circumstances in which sub-section (3) does not apply.

*Clause 151* provides the details of how the *Lotteries Betting and Gaming Act 1966* is to apply.

*Clause 152* provides the methods by which notices or documents required to be served by this Act may be served.

*Clause 153* (1) provides that if a member of the Police Force, the licensee, permittee or his agent suspects that a person appearing to be under 18 years has requested, received or consumed liquor on licensed premises a member of the Police Force, licensee, permittee, servant or agent may demand particulars of the persons age, name and address.

(2) provides that a person demanding information under sub-section (1) may require the person to sign a statement in the prescribed form as to the particulars provided.

(3) provides that if the person demanding particulars under sub-section (1) believes the information provided is false he may demand proof.

(4) provides that a person who refuses to provide proof or sign a statement under sub-section (2) or (3) must leave the premises immediately and provides a penalty for non-compliance.

(5) provides that a person may be arrested if they persist in their refusal to supply their name or address and provides a penalty for non-compliance.

(6) provides a person must not refuse to give particulars of name, age or address or give false particulars. Also provides a penalty.

*Clause 154* provides that a member of the Police Force may seize liquor from a person he or she reasonably believes to be under 18 years of age.

*Clause 155* (1) provides that the Commissioner, an Assistant Commissioner, an authorised officer or employee of the Commission, an authorised member of the Police Force or a licensing inspector may demand entry at any time to any licensed premises.

(2) provides that a person must not refuse or delay admittance of a person authorised to demand entrance.

(3) provides that if refusal or wilful delay occurs the person demanding entrance may break in.

(4) provides the circumstances in which sub-section (3) is not to apply.

(5) provides an offence of preventing a person from entering or obstruction and penalty.

*Clause 156* (1) provides that if a Magistrate is satisfied that there is reasonable grounds that in any premises liquor is being sold by a person without a licence or by an unlicensed club the Magistrate may issue a warrant to enter, search, take liquor or take possession of books.

(2) provides that it is an offence to obstruct a person exercising a warrant under this section and provides a penalty.

(3) provides that persons must provide members of the Police Force with their names and addresses if asked under this section and provides a penalty for non compliance.

*Clause 157* (1) provides that a member of the Police Force may seize or cause to be seized liquor not authorised to be sold under this Act.

(2) provides that a member of the Police Force may seize liquor from a restaurant or club if he or she reasonably believes that any liquor has been brought into, consumed or possessed not in accordance with this Act.

*Clause 158* provides that all members of the Police Force are required at request of licensee or permittee to expel any person whose presence on the licensed premises would subject licensee or permittee to a penalty under this Act.

*Clause 159* (1) provides the powers which are to apply to a licensing fund assessor authorised by the Commissioner in writing to enter and remain on licensed premises, take copies of books, seize books, request that books be produced and answer questions.

(2) provides that a person must not prevent a licensing fund assessor from exercising his or her power under sub-section (1) or hinder, obstruct a licensing fund assessor and provides penalties for non-compliance.

(3) provides a circumstance in which a person is not guilty of an offence under sub-section 2 (c).

(4) provides that if a licensing fund assessor makes a report with respect to licensed premises a copy must be provided to the licensee.

(5) provides that any report under sub-section (4) shall be available at all times at the Commission's office during usual business hours.

*Clause 160* (1) provides that if a Magistrate is satisfied on oath or affirmation laid by the Chief Executive Officer that books on certain premises are relevant to the assessment or collection of licence fees the Magistrate may issue a member of the Police Force and any other person named in the warrant a warrant to search, take possession of and deliver books to the Chief Executive Officer.

(2) provides that a warrant under sub-section (1) may be in the form of Schedule 2.

(3) provides that having taken possession and delivery of any books a person may make copies of, retain and inspect the books.

(4) provides that a person is guilty of an offence if they hinder or obstruct a person executing a warrant under this section and provides a penalty.

*Clause 161* provides the Regulation making powers applicable to the Act.

## **PART 8—TRANSITIONAL PROVISIONS**

*Clause 162* provides the definitions which are to apply to this Part.

*Clause 163* provides the transitional provisions to apply to the the Liquor Control Commission.

*Clause 164* provides the transitional provisions which are to apply to licences issued under the *Liquor Control Act 1968* and in particular provides the licences which are equivalent to these in this Act in Schedule 3.

*Clause 165* provides that licences equivalent to a residential licence have effect subject to the present conditions of the licence as if they are a residential licence under this Act.

*Clause 166* provides that licences equivalent to a general licence have effect subject to present conditions including if applicable extended hours as if they were a general licence under this Act.

*Clause 167* provides that existing licences equivalent to a club licence under this Act have effect subject to present conditions as if they were a club licence under this Act.

*Clause 168* provides the transitional provisions applicable to licences which are equivalent to producer's or distributor's licences under this Act.

*Clause 169* provides the transitional provisions applicable to licences which are equivalent to an on premises licence under this Act.

*Clause 170* provides the transitional provisions applicable to licences which are equivalent to a packaged liquor licence under this Act.

*Clause 171* provides the transitional provisions applicable to licences and permits which are equivalent to limited licences under this Act.

*Clause 172* provides the transitional provisions applicable to permits which are equivalent to BYO restaurant permits under this Act.

*Clause 173* provides that no licences be granted for a period of two years in electoral districts where a resolution exists that no licence be granted unless the council of the municipality has resolved to revoke the resolution.

*Clause 174 (1)* provides that in spite of section 60 the Commission may grant a limited licence to a person who was a licensee under a theatre for premises used primarily as a cinema in respect of those premises.

(2) provides that a limited licence granted under this section may not be transferred, varied or revoked.

*Clause 175* provides that despite its repeal section 89 of the *Liquor Control Act 1968* continues to have effect for a period of two years after the commencement of this Part.

*Clause 176* provides that despite its repeal sections 157 and 158 of the *Liquor Control Act 1968* continue to have effect for a period of two years after the commencement of this Part.

## **PART 9—AMENDMENT OF PLANNING**

*Clause 177* provides for the insertion of a new section 55A in the *Planning and Environment Act 1987* to make the Liquor Licensing Commission a referral authority in respect of planning schemes relating to the use of premises primarily for a purpose requiring a licence or permit under the *Liquor Control Act 1987*. It also provides appeal mechanism by Liquor Licensing Commission against decision of responsible authority.

*Clause 178* provides for the insertion after Part II of the *Town and Country Planning Act 1961* of a new section 52D to ensure that responsible authorities provide a copy of each application which relates to the use of premises primarily for purposes for which a licence or permit may be sought under this Act to the Liquor Licensing Commission. It also provides appeal mechanism by Liquor Licensing Commission against decision of responsible authority.

## PART 10—AMENDMENT OF OTHER ACTS

*Clause 179* provides that the *Liquor Control Act 1968* is repealed.

*Clause 180* provides for the amendment of the *Food Act 1984*.

*Clause 181* provides amendment of section 8 (2) of the *Audit Act*.

*Clause 182* provides amendment to *Auction Sales Act 1958*, the *Drugs, Poisons and Controlled Substances Act 1981*, the *Estates Agents Act 1980*, the *Fundraising Appeals Act 1984*, the *Geelong Performing Arts Centre Trust Act 1980*, the *Health Act 1958*, the *House Contracts Guarantee Act 1987*, the *Lotteries Gaming and Betting Act 1966*, the *Local Government Act 1958*, the *Metropolitan Fire Brigades Act 1958*, the *Public Safety Preservation Act 1958*, the *Summary Offences Act 1966*, the *Sunday Entertainment Act 1967*, the *Vagrancy Act 1966*, the *Victorian Arts Centre Act 1979*, the *Weights and Measures Act 1958* and the *Zoological Parks and Gardens Act 1967*.

*Schedule 1* provides the rules of a club required for a club licence under section 58.

*Schedule 2* provides the warrant to enter premises form required under section 160.

*Schedule 3* provides the licences and permits having effect as licences and permits under this Act required under section 164.

