



LIQUOR ACT 2005

[Consolidated as at 8 February 2013
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

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Liquor Act 2005

An Act is to promote and encourage responsibility in the sale and consumption of liquor through the establishment of a scheme of liquor licences and permits.

BE IT ENACTED by the Legislative Assembly of Norfolk Island as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Liquor Act 2005*.

Commencement

2. (1) Section 1, this section and section 99 commence on the day on which this Act is notified in the Gazette.
(2) The remaining provisions commence on a day, or respective days, fixed by the Administrator by notice in the Gazette.

Application of Act to the Administration and Commonwealth

3. (1) Subject to subsections (2) and (3), this Act does not bind the Administration, the Commonwealth or a Commonwealth authority.
(2) The Administration, the Commonwealth or a Commonwealth authority shall not supply liquor or facilitate or permit the supply of liquor to a person who is under 18 years old.
(3) Regulations may provide that provisions of this Act, other than the requirement to hold a licence, apply to activities concerning the purchase and sale of liquor.

Interpretation

4. (1) In this Act, unless the contrary intention appears –
 - “applicant”, means an applicant for a licence;
 - “approved” means approved by the Board;
 - “approved form” means a form prescribed by Regulation or approved by the Board;
 - “bar-room” means a room specified in the application as a room proposed to be used as a bar-room or a room specified in a licence as a bar-room;
 - “Board” means the Liquor Licensing Board;
 - “Commonwealth authority” means a body established under a Commonwealth Act;
 - “inspector” means an inspector of licensed premises and includes the “chief inspector” described in subsection 13(1);
 - “licence” means licence granted under this Act;
 - “licensed premises” means the premises in respect of which a licence or special event permit is granted;

- “licensee” means the holder of a licence;
- “liquor” means wine, spirits, ale, beer, porter, stout, cider, perry and any liquid containing alcohol ordinarily used or fit for use as a beverage but does not include a beverage that is not capable of producing intoxication or contains less than 2% of proof spirit.
- “medical practitioner” means a registered medical practitioner within the meaning of the *Medical Practitioners Registration Act 1983*;
- “member” means a member of the Board;
- “member of the Police Force” has the meaning given by the *Police Force Act 1931*, section 3;
- “minor” means a person under the age of 18 years;
- “nominee” of a licensee means a person approved under this Act as the nominee of the licensee;
- “pharmaceutical chemist” means a registered pharmaceutical chemist within the meaning of the *Pharmacy Act 1956*;
- “police officer-in-charge” means the officer in charge of the Police Force;
- “premises” includes –
- (a) land; or
 - (b) buildings or a structure on or in land;
- “private residence” means –
- (a) a building or part of a building used as a separate residence; or
 - (b) any land, building or part of a building used for a purpose ancillary to the use of a building or part of a building as a separate residence,
- but does not include licensed premises;
- “proof of age document” means a document including a passport, drivers licence, or identity card containing a photograph of a person, the name of the person, and the person’s age.
- “public area” in relation to premises, is any area within those premises determined to be —
- (a) an indoor public area; or
 - (b) an outdoor public area.
- “public bar-room” means a bar-room where liquor is served to the public at a bar, not being a bar-room of a type commonly known as a private bar or saloon bar or by a name of similar import;
- “public place” means any place declared by the Minister by way of a disallowable instrument to be a public place;
- “Registrar” means the Registrar of the Liquor Licensing Board;
- “relocation” of a licence means the relocation of a licence to premises other than the licensed premises to which the licence currently applies;
- “resident”, in relation to licensed premises, means a person (other than the licensee) residing or lodging on the licensed premises;

“special event” includes —

- (a) an event of international interest to be watched by means of a television relay to a screen or screens in the licensed premises;
- (b) the celebration of a birthday or wedding of a person or persons present at the event.
- (c) a concert; or
- (d) a dance; or
- (e) New Year’s Eve celebrations; or
- (f) a series of events as part of a theme

Note: such as a “jazz festival”, “country music week”, “readers and writers festival”.

- (g) an individual tourist oriented event; or

Note: such as a progressive dinner or cliff top fish fry.

- (h) a function of a like character,

at which not less than 30 adult persons are likely to be present, whether or not a charge is made for admission and which may require an extension of hours for licensed premises or a permit for a place that is not licensed;

Note: 1. A licensee who seeks a permit to close late for a birthday or New Year party will require a special event permit.

2. A person planning a progressive dinner at various homes that are not licensed premises requires a special event permit.

3. A householder who intends to hold a birthday part at which 50 (more than 30) people have been invited is required to obtain a special event permit even if all food and liquor is supplied .

“special event permit” means a special event permit granted under Part 6;

“supply”, in relation to liquor, includes sale, offer for sale, expose for sale, exchange, dispose of, give away or supply to a person in expectation of a reward or benefit to be paid by the person or another person whether any person is under an obligation to pay or provide the reward or benefit.

(2) For the purposes of this Act, there are reasonable grounds for believing that a person is intoxicated if (irrespective of the actual belief of the licensee or special event permit holder) there are reasonable grounds for believing that the person’s speech, balance, co-ordination or behaviour is seriously affected by the consumption of liquor.

(3) Where a licence is issued in the names of 2 or more persons, a reference in this Act to a licensee shall be read as including a reference those persons jointly and severally.

Act not to apply in certain cases

5. This Act does not apply —

- (a) to the supply of spirituous or distilled perfume where the supply is as perfumery only and not for drinking; or
- (b) to liquor supplied or consumed as part of a religious service as recognised by the Minister; or
- (c) to the supply or administration of liquor as medicine or for medical purposes by or under the direction of a medical practitioner, a nurse, a pharmaceutical chemist or other person authorised by law to administer, dispense or supply medicine; or

- (d) to the supply of a beverage that is not liquor; or
- (e) to the manufacture of liquor for personal consumption only and which is not supplied; or
- (f) to the sale by retail in accordance with Regulation of gift packs of liquor manufactured and produced under a manufacturers licence; or
- (g) to the sale by auction by an auctioneer licensed under the *Auctioneers Act 1926* in good faith and in the ordinary course of business, of liquor on behalf of another person; or
- (h) to the official receiver or trustee in bankruptcy of a bankrupt estate selling liquor that is the property of that estate for the purposes of winding up that estate; or
- (i) to an executor or administrator of the estate of a deceased person selling liquor that is the property of that estate for the purposes of winding up that estate; or
- (j) to the disposal of liquor seized under this Act.

PART 2 — ADMINISTRATION

Establishment and membership

- 6. (1) The Liquor Licensing Board is established.
- (2) The Minister shall, by notice in the Gazette, appoint 3 persons to be members of the Board and shall nominate one of them to be the Chairperson.
- (3) A member of the Board shall be appointed for a period not exceeding 3 years and is eligible for re-appointment.
- (4) Each member of the Board may be paid such fees and allowances, if any, as are determined by the Minister.

Functions and powers of the Board

- 7. (1) The functions of the Board are —
 - (a) to conduct hearings in relation to licences;
 - (b) to exercise the powers and perform the functions prescribed under this Act; and
 - (c) to consider the interests of the people of Norfolk Island and of its visitors in being able to enjoy the consumption of liquor in reasonable and hygienic surroundings with due regard to the safe supply and consumption of alcohol and the avoidance of nuisance to others.
- (2) The Board may with the approval of the Minister issue directives concerning the standards that are expected of licensed premises in order that they comply with the policy of this Act and in particular must, in accordance with Regulations, issue a Licensing Standards Manual setting out the general standards that have effect as the standards to be met in relation to the construction of premises and facilities provided therein in respect of which licences are sought.

Pecuniary interests

8. If a member of the Board has or acquires an interest, pecuniary or otherwise, that could conflict with the proper performance of the functions of member in relation to any proceedings of the Board, the member -

- (a) must not take part in any such proceedings of the Board or exercise any powers in relation to his or her office to which the proceedings relate; and
- (b) in the case of the Chairperson, must disclose the nature of the interest to the Minister; and
- (c) in the case of other members, must disclose the nature of the interest to the Chairperson.

Resignation, and removal

9. (1) A member of the Board may resign by delivering a signed letter of resignation to the Minister.

- (2) The Minister must remove a member from office if the member —
- (a) in the opinion of the Minister, becomes incapable of performing the duties of the office; or
 - (b) is convicted of an indictable offence or an offence that, if committed in Norfolk Island, would be an indictable offence; or
 - (c) becomes bankrupt, applies to take the benefit of a law for the relief of insolvent debtors, compounds with his or her creditors or makes an arrangement with his or her creditors for their benefit; or
 - (d) becomes directly or indirectly interested, otherwise than as a member and in common with other members of an incorporated company or club consisting of not less than 25 persons, in a licence or an application for a licence.
 - (e) contravenes subsection 8.

Annual meetings of the Board

10. (1) The annual meeting of the Board shall be held on the first Tuesday in the month of June in each year or on a later day in that month fixed by the Board.

(2) If the annual meeting of the Board is to be held on a day other than the first Tuesday in the month of June, the Registrar shall not later than 7 days before the meeting publish in the Gazette notice of the day, time and location fixed for the meeting.

(3) The Board must, in accordance with this section and the *Annual Reports Act 2004*, prepare and deliver to the Minister by 30 September in every year, an annual report of the activities of the Board during the previous 12 months ending 30 June which report must be signed by the Chairperson and one other member of the Board.

(4) The annual report prepared under subsection (3) shall include information in such manner as may be directed by the Minister or by regulations or any other enactment, about the revenue and expenditure derived from or incurred by the activities conducted by the Board, the number of licences of each kind that have been granted, the number and kind of prosecutions commenced and completed, the steps taken by the Board in connection with the responsible serving of liquor by licensees, the general standard and quality of licensed premises and steps taken to improve the same and such other matters as the Board may consider appropriate or as it may be directed.

Special meetings of the Board

11. (1) If the Board holds a special meeting to consider a grant, variation or relocation of a licence, the Registrar shall publish in the Gazette, not later than 14 days before the special meeting, a notice of the date, time and place fixed for the special meeting.

(2) If the Board holds a special meeting to consider an application other than a grant, variation or relocation of a licence, the Registrar is not required to publish in the Gazette a notice of the date, time and place fixed for the special meeting.

Quorum

12. (1) The quorum for a meeting of the Board is 2 members.

(2) Meetings of the Board may be conducted by teleconference or videoconference.

(3) If the Chairperson is not present at a meeting of the Board, the 2 members present shall choose one of themselves to be the acting Chairperson for that meeting.

Registrar of the Board

13. (1) The chief executive officer shall, by notice in the Gazette, appoint a person to be the Registrar of the Board.

(2) The Registrar must —

(a) keep a record of licences and special event permits that are in force; and

(b) issue licences granted by the Board; and

(c) issue special event permits; and

(d) collect the fees payable under this Act; and

(e) set down applications relating to licences for hearing by the Board; and

(f) exercise such powers and perform such functions as directed by the Board and as are within the powers of the Board to so direct.

(3) The chief executive officer may appoint a person to be the Acting Registrar during a period of absence or incapacity of the Registrar.

Note: The chief executive officer is defined in the *Interpretation Act 1979* subsection 12(1).

Inspectors of licensed premises

14. (1) The police officer-in-charge shall be the chief inspector of licensed premises for the purpose of this Act.

(2) The chief executive officer may appoint other persons to be inspector of licensed premises.

Delegation by Minister and police officer-in-charge

15. (1) The Minister may, by instrument, delegate all or any of the powers and functions of the Minister under this Act (other than this power of delegation).

(2) The police officer-in-charge may, by instrument, delegate all or any of his powers and functions as chief inspector under this Act (other than this power of delegation) to a member of the Police Force.

(3) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(4) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister or the police officer-in-charge.

PART 3 — LICENCES

Division 1 — Licences

Categories of licences

16. (1) The Board may issue licences in the following categories —

- (a) general licence which may be issued as a —
 - (i) tavern licence; or
 - (ii) hotel licence; or
 - (iii) guest house licence;
- (b) restaurant licence;
- (c) club licence;
- (d) manufacturer's licence;
- (e) BYO licence.

(2) A person may apply for and hold a restaurant licence and a BYO licence in respect of the same area.

(3) Except as provided in subsection (2), a person may apply for only one category of licence for the same area in premises to which an application relates unless the Board grants special authority.

Applications for licences

17. (1) A body corporate or a person who is not less than 18 years of age, and not disqualified from holding a licence, may apply to the Board for the grant of a licence or licences.

(2) An application for a licence or licences must be in an approved form lodged with the Registrar accompanied by —

- (a) the prescribed fee; and
- (b) testimonials from at least 2 persons as to the applicant's character, fitness and capacity to hold a licence; and
- (c) a plan that outlines, to the satisfaction of the Registrar, the area to be covered by the licence, and, where the applicant has applied for another licence to which the premises relate, indicate the area to which each licence applies; and
- (d) if a planning permit is required for the use of the premises for the purpose to be proposed by the applicant, evidence to satisfy the Registrar that such planning approval has been granted; and
- (e) if an applicant is applying for a club licence -
 - (i) two copies of the rules of the club certified by the applicant to be true copies; and

- (ii) a statutory declaration by the applicant containing the names and addresses of all persons over 18 years who are members of the club at the date of the declaration, being a date not more than 7 days before lodging the application.

(6) An applicant for a BYO licence must have permitted planning use under the *Planning Act 2002* as a Restaurant.

(7) An applicant for a manufacturer's licence must have permitted planning use under the *Planning Act 2002*.

(8) An applicant for a licence, except a manufacturer's licence, must provide a proposal for compliance with any requirements prescribed for the promotion of responsible supply and consumption of alcohol.

Inspector's report for application for licence

18. (1) The Registrar shall give a copy of each application to the chief inspector not later than 3 days after the Registrar receives it.

(2) The chief inspector shall, within 14 days after receiving a copy of the application, report in writing to the Registrar on investigations into the character of the applicant, the fitness and capacity of the applicant to hold the licence applied for and the weight to be given to the value of the testimonials accompanying the application.

(3) The Registrar shall, as soon as practicable after receiving the report of the chief inspector, give a copy of the report to the applicant.

(4) The applicant may, within 7 days after receiving a copy of the report, lodge with the Registrar a response to the report before the Board considers the application.

General licence

19. (1) A general licence authorises the licensee to sell liquor on the licensed premises —

- (a) if issued as a tavern licence —
 - (i) to any person between the hours of 11.00 am and midnight for consumption on or off the licensed premises of the tavern;
 - (ii) with or without meals.
- (b) if issued as a hotel licence —
 - (i) at any time to a resident of the hotel or a guest of such a resident for consumption on the licensed premises; and
 - (ii) to any person between the hours of 11.00 am and midnight for consumption on or off the licensed premises;
- (c) if issued as a guest house licence —
 - (i) at any time to a resident of the guesthouse or a guest of such a resident for consumption on or off the licensed premises; and
 - (ii) to any person between the hours of 11.00 am and midnight for consumption with a substantial meal at a restaurant within the licensed premises

subject to such terms and conditions (if any) as the Board determines and specifies in the licence.

(2) In addition to the matters in subsection (1) a general licence authorises the licensee to supply liquor on the licensed premises for the purpose of the following activities —

- (a) catering associated with a social reception or function; or
- (b) conferences, conventions or meetings; or
- (c) live entertainment; or
- (d) a restaurant where meals are prepared and served for consumption on the licensed premises; or
- (e) such other activities as approved by the Board.

(3) Under a general licence a resident in a residential hotel or a guest house may take liquor from outside the licensed premises into the licensed premises, keep the liquor in the resident's room and remove the liquor from the licensed premises when the resident vacates the room.

Restaurant licence

20. (1) A restaurant licence authorises the licensee to sell liquor on the licensed premises for consumption in the dining room or public area on the licensed premises between the hours of 11.00 am and midnight.

(2) Under a restaurant licence, liquor is to be supplied by the glass or open container.

(3) A restaurant licence authorises the licensee to supply liquor on the licensed premises for the purpose of the following activities —

- (a) a restaurant where meals are prepared and served for consumption on the licensed premises; or
- (b) catering associated with a social reception or function; or
- (c) conferences, conventions or meetings; or
- (d) live entertainment; or
- (e) such other activities as approved by the Board.

(4) If the licensee of a restaurant licence obtains planning approval to conduct dining facilities in a public area immediately outside of the building in which the restaurant is situated, the Board shall upon application by the licensee extend the area of the licensed premises to include the area in respect of which such approval is granted and may impose such reasonable conditions upon the use and occupation of the area as the Board considers appropriate in the circumstances.

Club licence

21. (1) A club licence authorises the licensee in relation to which the licence is held to supply liquor on the licensed premises of the club to —

- (a) members of the club; and
- (b) persons on the club premises at the invitation of a member of the club who is also present on the club premises; and
- (c) visitors to the club whose ordinary residence is in a place other than Norfolk Island.

(2) A club licence authorises the licensee to supply liquor on the licensed premises between 11.00 a.m. and midnight for consumption during those hours on the licensed premises or for removal from the premises.

Manufacturer's licence

22. (1) A manufacturer's licence authorises the licensee to carry on all or any of the following as the licence may state—

- (a) the manufacture for sale of liquor;
- (b) the supply of liquor manufactured on the licensed premises to persons of or over the age of 18 years for consumption on the licensed premises at any time between 11.00 a.m. and 8:00pm;
- (c) the supply of liquor manufactured on the licensed premises in sample containers not exceeding 150ml, or as the Board may otherwise approve, and in quantities for export in accordance with such conditions as the Board may require.
- (d) the gratuitous provision by way of sampling or tasting without or at nominal cost, in such quantities and in such part of the licensed premises as the licence may state, of liquor manufactured on the licensed premises to a person of or over the age of 18 years for consumption on the premises at any time between 11.00 a.m. and 8:00pm.
- (e) the supply of liquor manufactured on the premises to a person who holds a licence under this Act;

(2) A manufacturer's licence may impose different conditions on the licensee where the liquor to be manufactured is brewed, distilled or fermented.

BYO licence

23. (1) A BYO licence authorises a person of or over the age of 18 years, with the consent of the licensee, to bring liquor onto, or possess or control liquor on, the premises for consumption with a meal purchased on those premises any time between 11.00 a.m. and midnight.

(2) A licensee of a BYO may decline to permit persons to bring into or consume on the premises beer or spirits and any such prohibition must be clearly notified to customers before they enter the premises.

Consumption of liquor after specified hours

24. (1) A licence that authorises the supply of liquor during a period of time for consumption on the licensed premises also authorises liquor so supplied to be consumed on those premises during the 30 minutes after the expiration of the period.

(2) A licensee may apply for and be granted a special event permit under section 63.

Liquor not to be supplied on certain days

25. (1) A licensee or a permit holder must not supply, or cause or permit a person to supply liquor on a day or part of a day declared by the Minister by disallowable instrument to be a day upon which liquor may not be sold.

Penalty: 20 penalty units.

- (2)** Subsection (1) does not prevent the supply of liquor —
- (a) to a person as part of a bona fide meal, for which a charge (excluding the price of any liquor) of not less than \$10 is made, in a dining room or public area, of licensed premises; or

- (b) to a person who is a bona fide resident in the premises for consumption on the licensed premises by that person.

Division 2 — Applications for Variation etc, of a Licence

Applications for variation of licence

26. (1) An application may be made to the Board for a variation of a licence by —

- (a) the licensee; or
- (b) the chief inspector.

(2) An applicant for a variation to a licence may request any one or more of the following —

- (a) a variation of a condition of the licence other than a condition imposed by this Act;
- (b) the imposition of a new condition on the licence that does not conflict with a condition imposed by this Act;
- (c) the removal of a condition of the licence other than a condition imposed by this Act.

(3) An application for a variation to a licence must be in an approved form lodged with the Registrar accompanied by the prescribed fee.

- (4)** A fee is not required if the application is made by the inspector.

Application for variation by chief inspector

27. If the chief inspector applies to the Board for a variation of a licence —

- (a) the Registrar shall give a copy of the application to the licensee not later than 3 days after the application is received by the Registrar; and
- (b) the licensee may, within 14 days after receiving the copy of the application, give to the Registrar a written objection to the application; and
- (c) the Registrar shall give a copy of any objection by the licensee to the inspector as soon as practicable after the Registrar receives the objection.

Application for relocation

28. (1) A licensee may apply to the Board to relocate the licence.

(2) An application for relocation of a licence must be in an approved form lodged with the Registrar and accompanied by the prescribed fee.

Application for transfer

29. (1) An application to the Board for a transfer of a licence from the licensee to the proposed transferee may be made by —

- (a) the licensee and the proposed transferee jointly; or
- (b) the executor of the will of the estate of a licensee who is deceased, and the proposed transferee jointly; or

- (c) the owner or mortgagee of the licensed premises, and the proposed transferee jointly, if –
 - (i) the licensee has been legally evicted from, or has deserted, the licensed premises; or
 - (ii) the lease, tenancy or occupation of the licensed premises has expired or been determined by any lawful means; or
 - (iii) the licensee has ceased to carry on business on the premises and has refused or neglected to concur in the application.
- (2) A proposed transferee must be a body corporate, a nominee of a body corporate or a person at least 18 years old.
- (3) An application for a transfer of a license must be —
 - (a) in an approved form lodged with the Registrar accompanied by the prescribed fee; and
 - (b) accompanied by testimonials from at least 2 persons as to the proposed transferee's character, fitness and capacity to hold a licence.

Chief inspector's report for transfer of licence

- 30.** (1) The Registrar shall give a copy of the application for transfer of the licence to the chief inspector not later than 3 days after the Registrar receives it.
- (2) The chief inspector shall, within 14 days after receiving a copy of the application, report in writing to the Registrar on investigations into the character of the proposed transferee as to the fitness and capacity of the proposed transferee to hold the licence applied for and the value of the testimonials accompanying the application.
- (3) The Registrar shall, as soon as practicable after receiving the report of the chief inspector, give the applicant a copy of the report.
- (4) The applicant may, within 7 days after receiving a copy of the report of the chief inspector, lodge with the Registrar a response to the report before the Board considers the application.

Application for renewal of licence

- 31.** (1) A licensee may apply to the Board to renew the licence.
- (2) An application for renewal must be in an approved form lodged with the Registrar accompanied by the prescribed fee.

Application for suspension or cancellation

- 32.** (1) The chief inspector may apply to the Board for an order suspending or cancelling a licence if the chief inspector is of the opinion —
- (a) that the continuation in force of a licence would detract from or be detrimental to the amenity of the area in which the licensed premises are situated; or
 - (b) that, during a continuous period of 2 months, a licence has not been used; or
 - (c) the licensee has contravened this Act; or
 - (d) the licensee has been convicted of an indictable offence or an offence that, if committed in Norfolk Island, would be an indictable offence.
- (2) An application for suspension or cancellation must be in an approved form lodged with the Registrar.

- (3) The Registrar must —
 - (a) give a copy of an application to suspend or cancel a licence to the licensee not later than 3 days after the application is received by the Registrar; and
 - (b) the licensee may, within 14 days after receiving the copy of the application, give to the Registrar a written objection to the application; and
 - (c) the Registrar shall give a copy of an objection by the licensee to the inspector within 3 days after the Registrar receives the objection.

Application for surrender of licence

- 33. (1) A licensee may apply to the Board to surrender the licence.
- (2) An application for surrender must be in the approved form lodged with the Registrar.

Application for disqualification of licensee or of licensed premises

- 34. (1) If the chief inspector is of the opinion that —
 - (a) a licensee has contravened this Act; or
 - (b) a licensee has been convicted of an indictable offence or an offence that, if committed in Norfolk Island, would be an indictable offence,
 the chief inspector may apply to the Board for one or both of the following —
 - (c) an order disqualifying the licensee from holding a licence;
 - (d) an order disqualifying the licensed premises from being licensed.
- (2) An application must be in an approved form lodged with the Registrar.
- (3) The Registrar must —
 - (a) send a copy of the application to the licensee not later than 3 days after the application is received by the Registrar; and
 - (b) the licensee may, within 14 days after receiving the copy of the application, give to the Registrar a written objection to the application; and
 - (c) the Registrar shall give a copy of any objection by the licensee to the inspector within 3 days after the Registrar receives the objection.

Division 3 — General procedures on lodgment of applications

Public display of application notice

- 35. (1) The applicant for a grant, variation or relocation of a licence (except for a special event permit) must ensure that a copy of the application notice is continuously displayed in a manner that invited public attention for 7 days after making the application on —
 - (a) the premises or site to which the application relates; and
 - (b) for an application to relocate a licensed premises — the premises to which the licence is sought to be relocated.
- (2) It is not an offence against subsection (1) if the Registrar is satisfied that any failure to keep the application notice so displayed was not the fault of the applicant.

- (3) An application notice under this section shall contain —
- (a) the name of the applicant; and
 - (b) the address of the premises to which the application relates and, for an application to relocate a licence, to which the licence is sought to be relocated; and
 - (c) the type of licence to which the application relates; and
 - (d) the type of application to which the licence relates; and
 - (e) if the application is for a variation of the times during which the licence authorises the supply of liquor — the times sought in the application; and
 - (f) any conditions sought in relation to the grant, variation, relocation, transfer or renewal of the licence; and
 - (g) a plan of the premises defining areas to be licensed; and
 - (h) any other information directed by the Registrar.

Notification of particular persons

36. (1) The Board may direct an applicant for the grant, variation or relocation of a licence to give notice of the application to a specified person or to persons in a specified area personally or by post.

(2) The Board may give a direction under subsection (1) only if the Board considers that the grant, variation or relocation of a licence may cause material detriment to the persons to be notified.

Gazettal of application

37. The Registrar shall, after receiving —

- (a) an application for a grant, variation, relocation, transfer, renewal, surrender, suspension or cancellation of a licence; or
- (b) an application for the disqualification of a licensee or licensed premises,

publish in the Gazette such details of the application as the Registrar determines.

Division 4 — Objections by inspector or persons over 18 years old

Right to lodge objection to applications for grant etc, of licence

38. (1) A person who is —

- (a) an inspector; or
- (b) a person over the age of 18 years who resides within 100 metres of the premises to which an application relates,

may object to the application in person or by petition, by notice to the Registrar within 21 days after the day on which notice of the application was gazetted under section 39.

(2) An application must be —

- (a) in an approved form lodged with the Registrar; and
- (b) accompanied by the prescribed fee except for applications lodged by a member of the Police Force.

- (3) An objection must be on one or more of the following grounds —
- (a) that the applicant is not a fit and proper person;
 - (b) that a licence held by the applicant has been suspended or cancelled during the 12 months immediately preceding the date of the application;
 - (c) that the applicant has been convicted of an offence against this Act during the 12 months immediately preceding the date of the application;
 - (d) that the reasonable requirements of the neighbourhood do not justify the application;
 - (e) that the premises do not comply with a requirement of the *Building Act 2002*;
 - (f) that the premises are in the immediate vicinity of a place of public religious worship, a hospital or a school;
 - (g) that the quiet and good order of the neighbourhood where the premises are situated or where the premises is the subject of the relocated licence will be disturbed if the application is granted.
- (4) The Registrar must give a copy of the notice of objection to the applicant within 2 days after receiving the notice.

PART 4 — CONSIDERATION OF APPLICATIONS FOR GRANT ETC, OF LICENCES

Division 1 — Hearing procedures

Registrar to provide documents

39. (1) The Registrar shall determine whether an application will be considered by the Board at an annual meeting or at a special meeting.

(2) Before a hearing in relation to an application, the Registrar must provide the Board with copies of all documents lodged with the Registrar in relation to the application.

(3) The Board shall conduct its hearings in public unless a person appearing objects to giving evidence or making a submission in public and the Board is satisfied that the evidence or submission is of a confidential nature and should be given or made in private.

(4) At a hearing, the Board shall give the applicant or the licensee an opportunity to be heard.

General procedure for hearings

40. (1) At a hearing, the Board —
- (a) shall act according to equity and good conscience without regard to technicalities or legal forms; and
 - (b) is not required to conduct the hearing in a formal manner; and
 - (c) is not bound by the rules or practice as to evidence but may inform itself on any matter —
 - (i) in any way it thinks fit; and
 - (ii) without notice to any person who has made an objection.

(2) The Board may regulate cross-examination in any hearing.

(3) The Chairperson of the Board may, by writing, summon a person to attend a hearing at a time and place specified in the summons to give evidence and to produce any books and documents in that person's custody or control that are —

- (a) relevant to any matter at issue in the hearings; and
- (b) specified in the summons.

(4) A person served with a summons under subsection 40(1) shall not, without reasonable excuse, fail to comply with the summons.

Penalty: If the offender is a natural person — 5 penalty units or imprisonment for one month, or both

If the offender is a body corporate — 5 penalty units.

(5) At a hearing in relation to a matter —

- (a) a person appearing before the Board; and
- (b) the Board,

may be represented by a legal practitioner.

(6) At a hearing the Board shall take evidence on oath or affirmation, administered by a member of the Board or the Registrar.

(7) Submissions and evidence may be given to the Board orally or in writing or partly oral and partly written.

(8) The Board may from time to time adjourn a hearing to other times and places and for any purposes it thinks necessary.

Evidence at hearings

41. (1) A witness at a hearing must not knowingly give false evidence about any matter material to the hearing.

Penalty: 5 penalty units or imprisonment for 6 months, or both.

(2) A witness at a hearing must not refuse to give evidence about any matter material to the hearing.

Penalty: 5 penalty units or imprisonment for 6 months, or both.

Protection of members and witnesses

42. (1) An action or proceeding, civil or criminal, does not lie against a member for or in respect of an act or thing done in good faith by the member in his or her capacity as a member.

(2) A legal practitioner appearing at a hearing conducted by the board has the same protection and immunity as a barrister has when appearing for a party in proceedings in the Supreme Court.

(3) A witness summoned to attend or appear at a hearing has the same protection as a witness in proceedings in the Supreme Court.

Effect of failure to attend hearing

43. The Board may make a decision on an application or any other matter without hearing a person who has notice of the hearing if the person is not present or represented at the time and place appointed for the hearing.

Power of entry and inspection

44. (1) If the Board thinks it desirable for the purposes of the consideration of an application, the Board may —

- (a) enter and inspect any premises; or
- (b) an inspector may enter and inspect any premises for the purpose of preparing a report for the chief inspector or the Board.

(2) If premises are occupied by a person who is not the applicant or an objector, a power of entry under subsection 44(1) may only be exercised —

- (a) with the consent of the owner or occupier; or
- (b) after 2 days' notice has been given to the occupier.

(3) A power of entry under subsection 44(1) may be exercised at any reasonable time.

*Division 2 — Relevant considerations***Grant of licence — relevant considerations**

45. (1) An applicant for a licence must satisfy the Board that the applicant has met the following requirements before the Board can make a decision to grant a licence —

- (a) that the applicant is a fit and proper person to hold a licence;
- (aa) if the licence is a new licence, it is in the public interest having regard to
 - (i) the circumstances of Norfolk Island;
 - (ii) the amenity of the area; and
 - (iii) such other matters as the Minister may, by disallowable instrument, direct the Board to have regard,
 that the licence should be granted.
- (b) that the premises are fit and proper premises for the purpose of the licence and comply with the Licensing Standards Manual and any licensing standards prescribed by the Regulations;
- (c) that the applicant understands the obligations of a licensee under this Act;
- (d) that the premises comply with the *Building Act 2002* and the *Planning Act 2002*;

Note: It is not intended that this provision require premises to comply with a provision that they would not otherwise be required to comply with (e.g. if a building has a continuing use exemption it does not lose that exemption only by reason of an application for a licence under this Act).

- (e) that the applicant has or has taken adequate steps to ensure the licensee, the licensee's employees, and the premises satisfy or will satisfy any requirements prescribed by the Regulations with respect to the responsible serving of liquor and with the *Sale of Tobacco Act 2004*; and
- (f) that the applicant has taken or will take adequate steps to ensure that the premises and the activities carried on therein will not be a nuisance to neighbouring properties as required by the Board

(2) In addition to the requirements to be satisfied in subsection 45(1), an applicant for a **general licence** must satisfy the Board that —

- (a) adequate facilities are provided for the supply of liquor to persons for consumption at the premises; and
- (b) adequate provision for the safe storage of liquor kept on the premises.

(3) In addition to the requirements to be satisfied in subsection 45(1), an applicant for a **restaurant licence** must satisfy the Board that —

- (a) the predominant activity carried on at the premises is the preparation and serving of meals for consumption on the premises; and
- (b) adequate seating is provided for at least 30 people at the same time; and
- (c) adequate facilities are provided for the supply of liquor to persons for consumption at the premises.
- (d) adequate provision is made for the safe storage of liquor kept on the premises.

(4) In addition to the requirements to be satisfied in subsection 45(1), an applicant for a **club licence** must satisfy the Board that the club —

- (a) has been established to facilitate the participation by its members in a cultural, sporting, social or other lawful activity the encouragement of which, in the opinion of the Board, is in the public interest; and
- (b) is an association or body (whether incorporated or otherwise) having a membership of not less than 20 adult subscribing members whose subscriptions are paid; and
- (c) provides and maintains premises suitable for the purposes of the club; and
- (d) has facilities for the supply and consumption of liquor satisfactory to the Board; and
- (e) keeps on the club premises a register of members; and
- (f) has rules providing for election of members, keeping of a permanent record, holding a meeting of members, for the election of a committee, board of directors or other like body to manage the affairs of the club; and
- (g) does not make a payment, or permit a payment to be made, to a person by way of commission, profit, allowance or other remuneration from, or calculated on the receipts from, liquor supplied in the club premises other than a salary; and
- (h) satisfies the Board that the rules are enforced and observed; and
- (i) adequate provision is made for the safe storage of liquor kept on the premises.

(5) In addition to the requirements to be satisfied in subsection 45(1), an applicant for a **BYO licence** must satisfy the Board that —

- (a) the predominant activity carried on at the premises is the preparation and serving of meals for consumption on the premises; and
- (b) adequate seating is provided for at least 30 people at the same time;

and

- (c) that the licensee does not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the licensed premises during or immediately after the periods to which the BYO licence relates.

(6) In considering its decision in relation to an application for a licence, the Board shall also consider the following matters —

- (a) whether the applicant has contravened this Act;
- (b) whether the applicant is an undischarged bankrupt;
- (c) if the applicant is a body corporate, whether the body is in compliance with all of the requirements of the *Companies Act 1985*, or is under official management or a scheme of arrangement or is in liquidation;
- (d) any report under section 32 from the chief inspector;
- (e) any response under section 32 to the report of the chief inspector;
- (f) any report from the Administration relevant to the application;
- (g) any objections lodged under this Act; and
- (h) any other matter the Board considers relevant to the application.

Variation of licence — relevant considerations

46. (1) An applicant for a variation of a licence must satisfy the Board that the applicant has met the following conditions before the Board can make a decision to vary a licence —

- (a) in the case of a general licence — the applicant still meets the requirements in subsections 45(1) and 45(2), as if those subsections applied to this subsection;
- (b) in the case of a restaurant licence — the applicant still meets the requirements in subsections 45(1) and 45(3), as if those subsections applied to this subsection;
- (c) in the case of a club licence — the applicant still meets the requirements in subsections 45(1) and 45(4), as if those subsections applied to this subsection;
- (d) in the case of a BYO licence — the applicant still meets the requirements in subsections 45(1) and 45(5), as if those subsections applied to this subsection; and
- (e) in the case of a manufacturer's licence — the applicant still meets the requirements in subsection 45(1), as if that subsection applied to this subsection.

(2) In considering its decision in relation to an application for a variation of a licence, the Board shall also consider the following matters —

- (a) whether the applicant has contravened this Act;
- (b) whether the applicant is an undischarged bankrupt;
- (c) if the applicant is a body corporate, whether the body is in liquidation;
- (d) any report from the Administration relevant to the application;

- (e) if the inspector has applied for a variation of a licence — any objection lodged by the licensee under subsection 32(3);
- (f) any other objections lodged under this Act; and
- (g) any other matter the Board considers relevant to the application.

Relocation of licence — relevant considerations

47. (1) An applicant for a relocation of a licence must satisfy the Board that the applicant has met the following requirements before the Board can make a decision to relocate the licence —

- (a) in the case of a general licence the applicant still meets the requirements in subsections 45(1) and 45(2), as if those subsections applied to this subsection;
- (b) in the case of a restaurant licence — the applicant still meets the requirements in subsections 45(1) and 45(3), as if those subsections applied to this subsection;
- (c) in the case of a club licence — the applicant still meets the requirements in subsections 45(1) and 45(4), as if those subsections applied to this subsection;
- (d) in the case of a BYO licence — the applicant still meets the requirements in subsections 45(1) and 45(5), as if those subsections applied to this subsection;
- (e) in the case of a manufacturer's licence — the applicant still meets the requirements in subsection 45(1) as if that provision applied to this subsection.

(2) In considering its decision in relation to an application for a relocation of a licence, the Board shall also consider the following matters —

- (a) whether the applicant has contravened this Act;
- (b) whether the applicant is an undischarged bankrupt;
- (c) if the applicant is a body corporate, whether the body is in compliance with all of the requirements of the *Companies Act 1985*, or is under official management or a scheme of arrangement or is in liquidation;
- (d) any report from the Administration relevant to the application;
- (e) any objections lodged under this Act; and
- (f) any other matter the Board considers relevant to the application.

Transfer of licence — relevant considerations

48. (1) An applicant for a transfer of a licence must satisfy the Board that the proposed transferee has met the following requirements before the Board can make a decision to transfer a licence —

- (a) in the case of a general licence the proposed transferee meets the requirements in subsections 45(1) and 45(2), as if those subsections applied to this subsection;
- (b) in the case of an restaurant licence — the proposed transferee meets the requirements in subsections 45(1) and 45(3), as if those subsections applied to this subsection;

- (c) in the case of a club licence — the proposed transferee meets the requirements in subsections 45(1) and 45(4), as if those subsections applied to this subsection;
- (d) in the case of a BYO licence — the proposed transferee meets the requirements in subsections 45(1) and 45(5), as if those subsections applied to this subsection; and
- (e) in the case of a manufacturer's licence — the proposed transferee meets the requirements in subsection 45(1), as if that provision applied to this subsection.

(2) In considering its decision in relation to an application for a transfer of a licence, the Board shall also consider the following matters —

- (a) whether the proposed transferee has contravened this Act;
- (b) whether the proposed transferee is an undischarged bankrupt;
- (c) if the proposed transferee is a body corporate, whether the body is in compliance with all of the requirements of the *Companies Act 1985*, or is under official management or a scheme of arrangement or is in liquidation;
- (d) any report under section 30 from the chief inspector;
- (e) any response under section 30 to a report from the chief inspector;
- (f) any objections lodged under this Act; and
- (g) any other matter the Board considers relevant to the application.

Renewal of licence — relevant considerations

49. (1) An applicant for a renewal of a licence must satisfy the Board that the applicant has met the following requirements before the Board can make a decision to renew a licence —

- (a) in the case of a general licence — applicant still meets the requirements in subsections 45(1) and 45(2), as if those subsections applied to this subsection;
- (b) in the case of an restaurant licence — the applicant still meets the requirements in subsections 45(1) and 45(3), as if those subsections applied to this subsection;
- (c) in the case of a club licence — the applicant still meets the requirements in subsections 45(1) and 45(4), as if those subsections applied to this subsection;
- (d) in the case of a BYO licence — the applicant still meets the requirements in subsections 45(1), 45(3) and 45(5), as if those subsections applied to this subsection;
- (e) in the case of a manufacturer's licence — the applicant still meets the requirements in subsection 45(1) as if sections 21 and 22 applied to this subsection.

(2) In considering its decision in relation to an application for a renewal of a licence, the Board shall also consider the following matters —

- (a) whether the applicant has contravened this Act or a condition imposed by the Board;
- (b) whether the applicant has complied with Regulations for the responsible serving of liquor in the preceding 12 months;
- (c) whether the applicant is an undischarged bankrupt;
- (d) if the applicant is a body corporate, whether the body is in compliance with all of the requirements of the *Companies Act 1985*, or is under official management or a scheme of arrangement or is in liquidation;
- (e) any report from the Administration relevant to the application;
- (f) any objections lodged under this Act; and
- (g) any other matter the Board considers relevant to the application.

Division 3 — Power of Board to grant etc, licences

Grant of licence

50. (1) An application for the grant of a licence shall be considered by the Board and, subject to the requirements of this Act in relation to the application, the Board shall, in writing —

- (a) if the licence is granted at an annual meeting — grant the licence for the period from the day it is issued by the Board until 30 June in the next ensuing year; and
- (b) if the licence is granted at a special meeting — grant the licence for the period from the day it is issued by the Board until 30 June next ensuing; or
- (c) refuse to grant the licence.

(2) The Board may, subject to this Act, impose any conditions in the licence as it sees fit but must include a condition that the licensee comply in all respects with the requirements of the *Sale of Tobacco Act 2004* or similar legislation regulating or prohibiting the sale or smoking of tobacco in smoke free areas and with any rules or regulations in force concerning the responsible serving of liquor.

(3) Where a decision is made for the grant of a licence to an applicant, the licence shall be granted for the class applied for, unless the Board considers on reasonable grounds that a licence of a different class should be granted.

Renewal of licence

51. (1) An application for the renewal of a licence shall be considered by the Board and, subject to the requirements of this Act in relation to the application, the Board shall, in writing —

- (a) renew the licence; or
- (b) refuse to renew the licence.

(2) The Board may, subject to this Act, impose any conditions on the renewed licence as it sees fit including directions concerning the responsible serving of liquor.

(3) Where the Board renews a licence, it continues in force, subject to this Act, for a period commencing on 1 July next until 30 June in the next ensuing year.

Variation, relocation or transfer of licence

52. (1) An application for the variation, relocation or transfer of a licence shall be considered by the Board and, subject to the requirements of this Act in relation to the application, the Board shall, in writing —

- (a) vary, relocate or transfer the licence; or
- (b) refuse to vary, relocate or transfer the licence.

(2) The Board may, subject to this Act, impose any conditions on the licence as it sees fit.

(3) If the Board relocates a licence, the licensed premises to which the licence related before the application cease to be licensed premises.

Surrender, suspension or cancellation of licence

53. (1) An application for the surrender, suspension or cancellation of a licence shall be considered by the Board and, subject to the requirements of this Act in relation to the application, the Board shall, in writing —

- (a) terminate, suspend or cancel the licence; or
- (b) refuse to terminate, suspend or cancel the licence.

(2) The Board shall specify the period of the suspension of the licence.

Disqualification of a licensee or licensed premises

54. An application for the disqualification of a licensee or licensed premises shall be considered by the Board and, subject to the requirements of this Act in relation to the application, the Board shall, in writing —

- (a) disqualify the licensee from holding a licence for a specified period of up to 2 years; or
- (b) disqualify the licensed premises from being licensed for a specified period of up to 2 years; or
- (c) refuse to disqualify the licensee or licensed premises.

PART 5 — NOMINEES AND DEATH, MENTAL INCAPACITY OR INSOLVENCY OF LICENSEE

Division 1 — Nominee of licensee

Nominee of licensee

55. (1) A licensee may apply to the Board for the approval of a person, who is the manager of the premises, to be the licensee's nominee.

(2) An application must be in an approved form lodged with the Registrar and —

- (a) be accompanied by testimonials from at least 2 persons as to the proposed nominee's character, fitness and capacity to be the nominee of the licensee; and
- (b) be accompanied by the prescribed fee.

Inspector's report in respect of Part 5

56. (1) The Registrar shall give a copy of the application to the chief inspector not later than 3 days after it is received by the Registrar.

(2) The chief inspector shall, within 14 days after receiving a copy of the application, report in writing to the Registrar on investigations into the character of the proposed nominee as to the fitness and capacity of the proposed nominee to be a nominee and the value of the testimonials accompanying the application.

(3) The Registrar shall, not later than 3 days after receiving the report from the chief inspector, give the applicant a copy of the report.

(4) The applicant may, within 7 days after receiving a copy of the report of the chief inspector, lodge with the Registrar a written response to the report.

Appointment of nominee — relevant considerations

57. In making a decision in relation to an application for a person to be a nominee of a licensee, the Board shall consider the following matters —

- (a) the reasons for the licensee requiring a nominee;
- (b) the proposed nominee's understanding of the obligations of a licensee under this Act;
- (c) whether the proposed nominee has contravened this Act;
- (d) whether the proposed nominee is an undischarged bankrupt;
- (e) the report under section 56 of the chief inspector;
- (f) any response to the report under section 56 of the chief inspector;
- (g) any other matter the Registrar considers relevant to the application;
- (h) any other matter prescribed by the Regulations.

Decision of Board

58. After considering the application, the Board shall, in writing —

- (a) appoint the proposed nominee as nominee of the licensee for a specified period; or
- (b) refuse to appoint the proposed nominee as nominee of the licensee.

Responsibilities of nominee

59. A person appointed as nominee for a licensee is liable under this Act as if he or she were the licensee.

*Division 2 — Death etc, of licensee***Procedures following death of licensee**

60. (1) Subject to this section and despite any other law, on the death of a licensee, not being the holder of a club licence —

- (a) the licensee's spouse; or
- (b) any member of the licensee's family with the consent of the spouse; or
- (c) any person on behalf, and with the consent, of the family,

being over the age of 18 years may, on giving written notice to the Registrar, carry on the business of the licensee conducted on the licensed premises.

(2) Before the expiration of the period of one month after the date of the death of the licensee, the person so carrying on the business must, and any other person may, apply to the Board for authority to carry on the business of the licensee until the licence is transferred in accordance with subsection (7).

(3) The Board may grant authority to an applicant under subsection (2) to carry on the business of the licensee or, where there is more than one applicant, to such one of the applicants as the Board, in its discretion, thinks fit.

(4) Where a person to whom the Board has granted authority under subsection (3) to carry on the business of a licensee ceases to carry on that business, the Board may, on application by any person, grant authority to that last-mentioned person to carry on the business.

(5) Where the Board grants authority to a person to carry on the business of a deceased licensee, the Registrar shall, on receipt of the prescribed fee, endorse the name of that person on the licence as the person to whom the Board has so granted authority to carry on the business of the licensee.

(6) A person who has carried on the business of a licensee in accordance with this section has the same powers and is subject to the same duties, liabilities, obligations, disqualifications and penalties as if the person were the licensee.

(7) On the grant of probate of the will, or letters of administration of the estate, of a deceased licensee, the executor or administrator must within 30 days apply to the Board under section 29 or section 30 for the transfer of the licence to him or her or to a person nominated by him or her.

Procedures following mental incapacity of licensee

61. (1) If a licensee becomes of unsound mind or incapable of managing his or her affairs, the holder of an enduring power of attorney or if none the person or persons having control of or appointed to manage the estate of the licensee under the *Mental Health Act 1996*, or the *Lunacy Act 1932* must immediately apply to the Board under Division 2 of Part 5 for the transfer of the licence to the attorney or the person or a persons or persons nominated by them.

(2) Pending an application under subsection (1), the attorney or other person or persons appointed to manage the estate of the licensee, or a person authorised in writing by the attorney or person or persons, may, after giving written notice to the Registrar, carry on the business of the licensee.

(3) A person who carries on the business of a licensee in accordance with subsection (1) has the same powers and is subject to the same duties, liabilities, obligations, disqualifications and penalties as if the person were the licensee.

Procedures following insolvency of licensee

62. If a licensee,
- (a) being a natural person, becomes bankrupt, applies to take the benefit of a law for the relief of insolvent debtors, compounds with his or her creditors or makes an arrangement with his or her creditors for their benefit; or
 - (b) being a company, becomes insolvent or a provisional liquidator, liquidator, official manager, receiver or receiver and manager is appointed to the company or it compounds with or makes an arrangement with its creditors for their benefit

the licence ceases to be in operation 30 days after the licensee becomes or is deemed to have become insolvent, unless the licence is transferred under section 29 and section 30.

PART 6 — SPECIAL EVENT PERMIT**Special event permit**

63. (1) A special event permit —
- (a) authorises the holder of the permit to supply liquor on the premises or at the place specified in the permit, for consumption on the premises or place, by the glass or opened container during the hours specified on the special event permit being hours
 - (i) between 11:00am and 2:00am following; or
 - (ii) subject to the Regulations and any special conditions imposed by the Registrar, between the hours of 11:00am on 31 January (New Years Eve) and 6:00am on the following day;
 - (b) must not be granted on a day determined under subsection 25(1)
 - (c) is subject to any other conditions the Registrar may impose, including conditions restricting the time during which loud music, singing, announcements or noise can be provided or made if capable of being heard outside the premises;
 - (d) that authorises the supply of liquor during a time for consumption on the licensed premises or place also authorises liquor supplied to be consumed on those premises or at that place during the 30 minutes after the expiration of that period;
 - (e) may, in respect of an event proposed to last for more than one day, be expressed to be for each day of the event;
 - (f) includes a permit for the conduct of commercially arranged tourist events such as progressive dinners and cliff top fish fries.
- (2) Regulations may make provision for the classification of special event permits and the terms and conditions applicable to them (including different fees for different class of permit).

Application for special event permit

64. (1) A person who is at least 18 years old and is not disqualified from holding a licence under this Act may apply to the Registrar for the grant of a special event permit.

(2) An applicant for a special event permit must obtain the written approval of the chief inspector before lodging an application for a special event permit.

(3) An application for a special event permit shall be in an approved form, lodged with the Registrar, accompanied by the written approval of the chief inspector and the prescribed fee.

(4) If the special event is to be held at a place that is not a licensed premises and the applicant is not the person in possession or control of the premises, the applicant must also provide the written consent of the person in possession or control of the premises or place allowing the use of the premises or place for the special event, accompanied by a plan of the area that indicates the area proposed to be used for the special event.

(5) The application shall be lodged at least 5 days before the day on which the special event is to be held.

(6) An application applies to one special event only and an applicant must lodge a separate application for each special event.

(7) The Registrar may refuse an application for a special event permit if the Registrar is of the view having regard to the number of applications that have been made by the applicant in the preceding 3 months, the applicant is using the grant of special event permits to avoid or evade other provisions of this Act.

Grant of special event permit — relevant considerations

65. (1) The Registrar must be satisfied that the applicant has met the following requirements before making a decision to grant a special event permit —

- (a)** that the applicant is a fit and proper person to hold a special event permit;
- (b)** that the proposed special event will not result in undue noise, disturbance or inconvenience to a person occupying premises in the neighbourhood of the place of the special event;
- (c)** that there are adequate toilet facilities provided at the premises;
- (d)** that the applicant understands the obligations of a special event permit holder under this Act;
- (e)** that the applicant satisfies paragraph 45(1)(e).

(2) In considering a decision in relation to an application for a special event permit, the Registrar shall also consider the following matters —

- (a)** the conduct of the proposed special event;
- (b)** whether the applicant has contravened this Act;
- (c)** whether the special event is contrary to the public interest and in so doing shall have regard to any written advice of the responsible member or an inspector.

- (3) The Registrar shall, in writing —
 - (a) grant the special event permit; or
 - (b) refuse to grant the special event permit.

PART 7 — OFFENCES

Division 1 — Underage drinking

Supply of liquor to minors prohibited

- 66.** A person must not:
- (a) supply liquor; or
 - (b) permit or facilitate the supply of liquor, to a minor.

Penalty: 5 penalty units.

Note: A minor is defined in subsection 4(1) as a person under 18 years.

Power to demand suspected minor to give his or her age

- 67. (1)** If—
- (a) an inspector or member of the Police Force has reason to believe that a person appearing to be a minor —
 - (i) has requested or received a supply of liquor; or
 - (ii) has consumed, is consuming or is about to consume liquor;
 - (iii) is on licensed premises or on any authorised premises—
 in contravention of this Act; or
 - (b) a licensee, or special event permit holder or employee or agent of a licensee or special event permit holder has reason to believe that a person appearing to be a minor is on the licensed premises or on any authorised premises in contravention of this Act—

the inspector, member of the Police Force, licensee, special event permit holder, employee or agent may demand particulars of the person's age, name and address.

(2) If a person refuses to give his or her name and address on being required to do so under this section, an inspector or member of the Police Force may caution him or her and if he or she persists in the refusal, may arrest him or her without a warrant.

- (3)** A person must not—
- (a) refuse to give particulars of his or her age, name and address;
 - (b) give any false particulars of his or her age, name and address; or
 - (c) supply any false evidence as to his or her age, name or address—

pursuant to a demand made under this section.

Penalty: 5 penalty units.

Allowing minors on licensed premises

68. (1) A licensee must not allow a minor on licensed premises unless the minor is —

- (a) accompanied by his or her spouse being a person at least 18 years old, or his or her parent or on the premises for the purpose of partaking of a meal; or
- (b) a resident of those premises, in the case of a licence under which accommodation is provided.

Penalty: 5 penalty units.

(2) Subsection (1) does not apply —

- (a) to the presence on any part of the licensed premises of a minor at any time at which —
 - (i) special event for or mainly for minors is provided on that part of the premises with the approval of the Minister and in accordance with any conditions to which the approval is subject; and
 - (ii) liquor is not supplied, consumed or made available on that part of the premises; or
- (b) to the presence on licensed premises of a minor who is engaged in a training program in hospitality or in training for the purposes of employment or work experience, if the person is so present in accordance with any conditions to which that program or training is subject; or
- (c) to the presence on licensed premises of a minor employed on the licensed premises otherwise than in the supply of liquor; or

where the presence of the minor is permitted under Regulation.

Sending minor for liquor

69. A person must not —

- (a) send a minor to enter licensed premises for the purpose of obtaining liquor; or
- (b) order or request a minor, who is on licensed premises to obtain liquor.

Penalty: 5 penalty units.

Minor not to supply liquor

70. (1) A licensee must not permit a minor to supply liquor on the licensed premises.

Penalty: 5 penalty units.

(2) Subsection (1) does not apply to the supply of liquor on licensed premises by a minor who is engaged in a training program approved by the Minister and is supplying the liquor in accordance with any conditions to which the Minister has determined that the training program is subject.

Offences by minors

71. A minor must not —

- (a) purchase or receive liquor from another person; or
- (b) possess or consume liquor; or
- (c) enter or remain on licensed premises where liquor is served by a licensee —
 - (i) except to partake in a meal; or
 - (ii) unless the minor is an employee or agent of the licensee or is acting under, or employed in connection with, a contract with the licensee; or
 - (iii) unless the minor is a resident of the licensed premises in the case of a hotel or guest house licence; or
 - (iv) unless the minor is accompanied by his or her spouse (being a person of or over the age of 18 years) or his or her parent; or
 - (v) unless the minor is permitted to do so under Regulations; or
 - (vi) unless the minor is engaged in a training program in hospitality or in training for the purposes of employment or work experience and the person is so present in accordance with any conditions to which that program or training is subject.

Penalty: 5 penalty units.

*Division 2 — General offences***Unlicensed supply of liquor**

72. (1) A person who is not a licensee or a special event permit holder must not supply liquor.

Penalty: 10 penalty units.

(2) Subsection (1) does not apply to the sale of liquor by an employee or agent of a licensee or a special event permit holder if the sale is in accordance with the licence and this Act.

(3) A person, whether or not a licensee, must not supply adulterated liquor.

Penalty: 10 penalty units.

(4) If a person is convicted of an offence under this section, the court shall also order all liquor found in the person's possession or under the person's control on the premises or place where the offence was committed, together with its containers, forfeited to the Administration.

*Division 3 — Licence conditions and penalties***Offences by licensee**

73. A licensee or special event permit holder must not —
- (a) on the licensed premises, except in accordance with the licence or special event permit, and this Act —
 - (i) supply liquor; or
 - (ii) permit or facilitate the supply of liquor; or
 - (iii) permit liquor to be consumed; or
 - (b) use any place or premises, other than the licensed premises, for the supply of liquor; or
 - (c) supply liquor to a person who is in a state of intoxication; or
 - (d) permit drunken or disorderly persons to be on the licensed premises.

Penalty: 20 penalty units.

Licence and permits to be displayed

74. (1) A licensee or special event permit holder must display the licence or special event permit in a conspicuous place at the licensed premises.

Penalty: 2 penalty units.

- (2) A licensee or special event permit holder must display on the premises a notice issued by the Registrar which outlines the powers of the licensee or special event permit holder under section 45 and section 65.

Penalty: 2 penalty units.

Importation of liquor prohibited

75. A person shall not import liquor into Norfolk Island except —
- (a) under the authority of the Minister; or
 - (b) as permitted under subsection 2A(4) of the *Customs Act 1913*.

Penalty: 50 penalty units

Prohibition orders

76. (1) On a written complaint to the Court of Petty Sessions that a person, by excessive consumption of liquor, injures that person's health, endangers or interrupts the peace, risks financial difficulties or endangers the welfare of the person's family, the Court may issue a summons on the person to appear before the Court at the time and place specified in the summons to show cause why an order should not be made forbidding the supply of liquor to the person.

(2) The hearing at the Court's discretion may be in chambers or open Court.

(3) If the Court is satisfied that the facts alleged in the complaint warrant the issue of an order, it may make an order forbidding all persons during a period of 12 months after the order, to supply liquor to the person summoned.

(4) A person may, on any of the grounds specified in subsection (1), apply personally to the Court for an order to be made against him or her.

(5) An application under subsection (4) shall be heard in Chambers, and the order may be for a period up to 2 years.

(6) If a person has within a period of 6 months been convicted 3 times of being drunk and disorderly in a public place, the Court may, of its own motion and in addition to imposing any other penalty to which the person is liable, make an order of the kind referred to in subsection (3).

(7) A person who is the subject of an order issued by the Court of Petty Sessions under subsection (1) must not obtain liquor during the period of the order.

Penalty: 10 penalty units.

(8) The Court from year to year may by order renew an order under this section.

(9) The Court may, on application or of its own motion, in addition to any other order it may make or as part of another order, require a person who is the subject of an order under this section, to take part in a program of counselling as the Court determines.

(10) A person in respect of whom the Court makes an order to participate in a counselling program shall not refuse or fail to comply with the order.

Penalty: 10 penalty units

(11) Every order shall be notified by the Clerk of the Court to all licensees.

(12) A person must not, during the currency of an order under this section, supply liquor to, or for the use of, the person named in the order.

Penalty: 10 penalty units.

(13) It is a defence to a prosecution for an offence against subsection (12) if the defendant satisfies the Court that he, she or his or her agent supplying the liquor did not know or had no reasonable opportunity of ascertaining that the person to whom or for whose use the liquor was supplied was a person in relation to whom an order under this section was in force.

Consumption of liquor

77. A person —

(a) must not, on licensed premises —

(i) obtain liquor from the licensee, or an employee or agent of the licensee; or

(ii) consume liquor,

except at a time and in the manner authorised under the licence or special event permit; or

(b) must not, on licensed premises —

(i) procure liquor for a person in a state of intoxication; or

(ii) aid or abet a person in a state of intoxication to obtain liquor; or

(c) who is drunk, violent or quarrelsome, must not refuse or fail to leave licensed premises if requested to do so by the licensee, special event permit holder, an employee or agent of the licensee, or special event permit holder, or a member of the Police Force.

Penalty: 20 penalty units.

Falsely indicating that premises are licensed

78. A person must not, by means of a notice, sign or otherwise —
- (a) indicate that premises are licensed premises under a licence or special event permit if they are not licensed premises; or
 - (b) indicate that a person is authorised under a licence or special event permit to supply liquor or permit liquor to be brought onto or consumed on premises if the person is not so authorised.

Penalty: 20 penalty units.

General Licence — Conditions

79. The holder of a general licence shall not, without reasonable excuse, contravene a condition specified in the licence.

Penalty: Maximum 50 penalty units.

Restaurant Licence — Conditions

80. The holder of a restaurant licence (as defined in section 20 of this Act) shall not, without reasonable excuse, contravene a condition specified in the licence.

Penalty: Maximum 50 penalty units

BYO Licence — Conditions

81. The holder of a BYO licence (as defined in section 23 of this Act) shall not, without reasonable excuse, contravene a condition specified in the licence.

Penalty: Maximum 50 penalty units

Manufacturer's Licence — Conditions

82. The holder of a manufacturer's licence shall not, without reasonable excuse, contravene a condition specified in the licence.

Penalty: Maximum 50 penalty units

Permits — Conditions

83. A permit holder shall not, without reasonable excuse, contravene a condition specified in the permit.

Penalty: Maximum 50 penalty units

Cleanliness of licensed premises

84. A licensee shall keep the licensed premises in a clean condition at all times.

Penalty: Maximum 30 penalty units

Maintenance of licensed premises

85. A licensee shall maintain the licensed premises and all equipment, appliances, fittings, furniture and floor coverings in, or used in, the premises clean and in good repair.

Penalty: Maximum 30 penalty units

Notice of bar trading hours

86. A licensee shall not, without reasonable excuse, fail to display at a public entrance to a bar-room, a notice stating the hours during which the bar-room will be open for the sale of liquor.

Penalty: Maximum 5 penalty units.

Notice of absence from licensed premises

87. A licensee shall not, without reasonable excuse, be absent from the licensed premises for a period exceeding 28 days at any one time unless the licensee has given to the Registrar notice in writing setting out particulars of the period during which the licensee will be absent from the licensed premises and the full name and residential address of the person who will be in charge of the licensed premises during the absence of the licensee.

Penalty: Maximum 50 penalty units.

Change in control of licensed premises

88. Where a licensee ceases to control the licensed premises, the licensee shall, within 28 days, notify the Registrar accordingly in writing, unless the Board approves the transfer or the surrender of the licence before the end of that period.

Penalty: Maximum 10 penalty units.

Obstruction of inspectors

89. A person shall not, without reasonable excuse, obstruct or hinder an inspector in the exercise of his or her powers under this Act.

Penalty: Maximum 50 penalty units.

Persons on licensed premises after hours

90. (1) A person shall not enter, or remain on, licensed premises to which a general licence relates unless a bar-room on those premises is open for the sale of liquor.

Penalty: Maximum 10 penalty units.

(2) A person does not commit an offence against subsection (1) by remaining in a bar-room on licensed premises for a period not exceeding 30 minutes after the bar-room ceases to be open for the sale of liquor.

(3) Nothing in this section applies to, or in relation to —

- (a) a licensee of premises; or
- (b) a member of the family of the licensee; or
- (c) a person who enters, or remains on, licensed premises in the cause of his or her employment; or
- (d) a person who enters, or remains on, licensed premises at the invitation of, and as a guest of, the licensee or a member of the family of the licensee; or
- (e) a lodger occupying guest accommodation provided on the licensed premises;
- (f) a person who enters licensed premises at the invitation, and as a guest, of such a lodger.

Consumption of liquor in certain public places

91. (1) A person shall not consume liquor in a public place.

Penalty: Maximum 5 penalty units.

(2) A person shall not possess an open container of liquor in a public place with the intention of consuming the liquor in that place.

Penalty: Maximum 2 penalty units.

(3) For the purposes of subsection (2), a container shall be taken to be open if a manufacturer's seal is broken or the contents of the container are otherwise accessible.

(4) Subsections (1) and (2) do not apply to the consumption or possession of liquor —

- (a) on licensed premises or on premises at which food is sold for consumption on those premises; or
- (b) in a place and during a period specified in a permit; or
- (c) at a place that is set aside for public uses as a picnic or barbecue area.

Proof of age

92. For the purposes of this Act and in particular section 67, proof of age may be provided by the production of a proof of age document.

Seizure of certain proof of age documents

93. (1) A document (except a driver licence or passport), which is represented to be a proof of age document, may be seized by the person to whom it has been produced if that person is—

- (a) a member of the Police Force or the inspector; or
- (b) the licensee or special event permit holder or an employee or agent of the licensee or special event permit holder of the licensed premises in or in the vicinity of which the document has been produced.

(2) A person must not seize a document under sub-section (1) unless that person reasonably believes that—

- (a) the person who produced the document is not the person to whom the document was issued; or
- (b) the document contains false or misleading information about the name or age of the person who produced the document; or
- (c) the document has been forged or fraudulently altered; or
- (d) the document is being used in contravention of a provision of this Act.

(3) If a document has been seized under subsection (1) by a person other than a member of the Police Force or an inspector, that person must give the document to a member of the Police Force or an inspector.

(4) A member of the Police Force or an inspector who has seized a document under sub-section (1) or to whom a document has been given under sub-section (3) must return the document within 28 days to the person who produced it unless—

- (a) the person who produced the document is not the person to whom the document was issued; or
- (b) the document contains false or misleading information about the name or age of the person who produced the document; or
- (c) the document has been forged or fraudulently altered; or
- (d) the document is being used in contravention of a provision of this Act.

Seizure of liquor from minors

94. If a member of the Police Force or an inspector reasonably believes that a person under the age of 18 years is in possession of liquor in contravention of this Act, the member or inspector may seize and take away the liquor or cause the liquor to be seized and taken away, together with any vessel containing the liquor.

Police to assist if person asked to leave premises

95. All members of the Police Force are required, on the request of the licensee or special event permit holder or his or her employee or agent to expel or assist in expelling any person whose presence on the licensed premises would subject the licensee or special event permit holder to a penalty under this Act and whom the licensee or special event permit holder has asked to leave the licensed premises.

PART 8 — APPEALS**Reviewable decisions**

96. The following decisions of the Board are reviewable decisions for the purposes of this Act —

- (a) decisions in relation to the application for the grant, variation, relocation, transfer, renewal, surrender, suspension or cancellation of a licence or permit;
- (b) decisions in relation to the application for the disqualification of a licensee or licensed premises;
- (c) decisions in relation to the application for the appointment of a nominee of a licensee.

Review by Administrative Review Tribunal

97. (1) Application may be made to the Administrative Review Tribunal for the review of a reviewable decision within the meaning of section 96.

(2) For the purposes of section 16 of the *Administrative Review Tribunal Act 1996*, the following are persons whose interests are affected by the decision —

- (a) in relation to a decision made on an application for the grant, variation, relocation, transfer, renewal, surrender, suspension or cancellation of a licence —
 - (i) the applicant; or
 - (ii) the Administration; or
 - (iii) persons who made submissions about the application received by the Board in accordance with this Act;
- (b) in relation to a decision made on an application for the disqualification of a licensee or licensed premises —
 - (i) the applicant; or
 - (ii) the Administration;
- (c) in relation to a decision made on the application for the appointment of a nominee —
 - (i) the applicant; or
 - (ii) the Administration.

PART 9 — MISCELLANEOUS**Protecting officials from liability**

98. (1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

(2) In this section —

“official” means —

- (a) the Minister;
- (b) the Chief Executive Officer;
- (c) a member of the Board;
- (d) the Registrar;
- (e) an employee within the meaning of the *Public Sector Management Act 2000*;
- (f) a member of the Police Force;
- (g) an inspector.

Regulations

99. (1) The Administrator may make Regulations, not inconsistent with this Act, prescribing matters —

- (a) required or permitted by this Act to be prescribed; and
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (c) relating to the responsible serving and consumption of liquor.
- (2)** In particular the Regulations may prescribe standards in relation to —
 - (a) the location and construction of facilities for the storage of liquor; and
 - (b) the location and construction of facilities for the sampling of liquor; and
 - (c) the means to be adopted for the display of liquor for sale including signs encouraging the responsible and safe consumption of liquor; and
 - (d) the means to be adopted for the display of liquor for sale for consumption off the premises including signs encouraging the responsible and safe consumption of liquor.
 - (e) the installation and specification of any breath test machine or equipment that may be made available by a licensee to persons who have consumed liquor on the premises to ascertain their level of blood alcohol.
 - (f) allowance that may be made for the provision of vehicles for carriage of persons from licensed premises to their homes and other methods of encouraging persons visiting licensed premise to do so other than by driving themselves and including such things as authorizing or encouraging the free provision of non-alcoholic drink to persons designated as drivers for persons consuming liquor.

(3) The Regulations may as a condition of the grant or renewal of a licence prescribe courses for or in connection with training in the responsible serving of liquor to be taken by licensees and their employees.

(4) The Regulations may for the protection of neighbors and the community from noise nuisance make provision for restricting sound levels emanating from licensed premises including setting of acceptable levels of noise and of frequencies at different times of day or night.

(5) The Regulations may prescribe fees for the purposes of this Act, and penalties not exceeding 10 penalty units for a contravention of the Regulations.

Repeal

100. The *Liquor Act 1960* is repealed.

Transitional

101. (1) In this section a reference to the “repealed Act” is a reference to the *Liquor Act 1960* as in force immediately before the commencement of this section.

(2) The persons appointed to be members of the Licensing Board under the repealed Act and holding office immediately before the commencement of this section continue, subject to this Act, to be members of the Board for the remainder of their respective terms of appointment.

(3) The member of the Licensing Board who was also holding office as Chairperson of the Licensing Board immediately before the commencement of this section continues, subject to this Act, to be Chairperson of the Board for the remainder of the term of appointment.

(4) The person appointed to be Registrar of the Licensing Board under the repealed Act and holding office immediately before the commencement of this section continues, subject to this Act, to be the Registrar of the Board.

(5) A licence in force under the repealed Act immediately before the commencement of this section is, subject to this Act, a corresponding licence continuing in force under this Act on the same terms and conditions for the remainder of the term of the licence.

(6) A person who is a licensee or a nominee under the repealed Act immediately before the commencement of this section continues, subject to this Act, to be a licensee or nominee for the remainder of their respective terms of appointment.

NOTES

The *Liquor Act 2005* as shown in this consolidation comprises Act No. 30 of 2005 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Liquor Act 2005</i>	30, 2005	28.4.2006	
<i>Liquor (Amendment) Act 2008</i>	5, 2008	16.1.2008	

[Previously consolidated as at 26 January 2008]

Interpretation (Amendment) Act 2012 14, 2012 28.12.12

*[to substitute throughout —
Commonwealth Minister for Minister;
and to substitute Minister for executive
member]*

Table of Amendments

ad = added or am = amended rep = repealed rs = repealed and substituted
 inserted

Provisions affected	How affected
75(b)	rs 5, 2008

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