

Tackling Alcohol-fuelled Violence Legislation Amendment Bill 2015

Explanatory Notes

Short title

The short title of the Bill is the Tackling Alcohol-fuelled Violence Legislation Amendment Bill 2015

Policy objectives and the reasons for them

The objective of the Bill are to:

- tackle alcohol-fuelled violence, particularly late at night, through an evidence-based, multi-faceted approach by way of amendments to the *Liquor Act 1992* (Liquor Act), *Liquor Regulation 2002* (Liquor Regulation), *Gaming Machine Act 1991* (Gaming Machine Act), *Bail Act 1980* (Bail Act), *Penalties and Sentences Act 1992* (PSA) and *Police Powers and Responsibilities Act 2000* (PPRA);
- provide greater clarity and improve operational efficiency in the regulation of licensed premises through miscellaneous amendments to the Liquor Act; and
- ensure consistency across Queensland statutes dealing with directors' liability through amendments to the *Fair Trading Act 1989* (Fair Trading Act).

Alcohol is one of the leading preventable causes of death and disability, with the annual cost of alcohol-related harm in Australia estimated to be billions of dollars. Further, even though there are many interventions in place to reduce the harm associated with alcohol, it is related to around 3,000 deaths and 65,000 hospitalisations in Australia every year. While Queensland has a number of measures already in place to address alcohol-related harm, such as a State-wide 3am lock out and precinct-based alcohol management, Queensland emergency workers and police still report high levels of alcohol-fuelled violence and injuries, particularly during late liquor trading periods after midnight.

There is clear evidence that alcohol-related harm is an issue for Queensland between midnight and 5am. However, there is evidence to suggest that measures employed since 2008 in Newcastle, and subsequently extended to certain other areas of New South Wales, such as Kings Cross in Sydney, have been successful in reducing alcohol-related harm. These measures include a reduction in liquor trading hours, an earlier lock out, and limits on certain types of alcoholic drinks after midnight.

As a consequence, the Government has introduced the *Tackling alcohol-fuelled violence* policy. The policy improves on the existing safe night precinct framework by instituting a reduction in liquor trading hours across Queensland, implementing a lock out only in specific areas where late liquor trading and a high concentration of licensed premises necessitate the use of this crowd control tool, and limiting the service of rapid intoxication drinks after midnight, State-wide. These initiatives are supported not only by research that indicates their effectiveness in reducing alcohol-fuelled violence in Newcastle and Sydney, but also by research that indicates there is an average 20% decrease in assaults for every one hour reduction in liquor trading hours.

The Bill also progresses operationally-driven and stakeholder-driven reforms that are necessary to support the effective regulation of the liquor industry whilst relieving licensees from regulatory burden that can be reduced without increasing the risk of alcohol-related harm.

The repeal of section 96 of the Fair Trading Act is required to align that Act with Queensland, and Australia-wide, policy on vicarious liability of executive officers.

Achievement of policy objectives

Objective: Tackle alcohol-fuelled violence

This objective will be achieved through a variety of amendments contained in the Bill, which are outlined below.

Stopping the service of alcohol at 2am

Section 86(1) of the Liquor Act provides that a licensee may apply for extended liquor trading hours approval, which would extend liquor trading hours on a regular basis to include trading between 12 midnight and 5am. Sections 142AA and 142AB further provide that premises authorised to sell or supply liquor during all or part of the period between 3am and 6am on a day (unless the licence relates to a casino or airport) must not allow patrons to enter the premises after 3am. This 3am lock out is imposed as a condition on a licensee's or permittee's licence or permit and is applied State-wide.

The Bill amends section 86(1) to ensure that, from 1 July 2016, the regular service hours for alcohol in licensed venues State-wide ends at 2am without a lock out, unless the premises is located in a prescribed safe night precinct approved for 3am liquor trading. In an approved 3am safe night precinct, the 1am lock out will apply to all post-1am liquor traders, including those that cease liquor trading at 2am.

As the ability to obtain approval to serve liquor between 2am and 5am on an ongoing basis is being removed, the Bill amends sections 142AA and 142AB to prescribe that the provisions of the State-wide lock out will no longer apply to licensed premises outside of a 3am safe night precinct.

The reduced liquor trading hours and lock out amendment will not apply to casinos or airports that are subject to a commercial special facility licence, or to industrial canteen licences, where adequate safeguards for minimising alcohol-related harm are already in place. However, the Commissioner will still be able to apply a lock out earlier than 1am via conditions on any licence or permit, where required.

Licensees will retain the ability to apply for and be granted extended hours permits for liquor trading up until 5am under Part 4A Division 4, with a limit of 12 occasions per year.

3am liquor trading with a 1am lock out in safe night precincts

The Bill amends the Liquor Act to authorise the Minister, in consultation with safe night precinct local boards, to recommend that the Governor in Council make a regulation prescribing an approved 3am safe night precinct. Amendments provide that in making this recommendation, the Minister must be satisfied that the granting of a 3am liquor trading precinct would not have an undue adverse impact on public health and safety or the amenity of the community.

Transitional provisions will stipulate that once a 3am precinct is declared, relevant licensed premises in the precinct whose extended trading hours approvals authorise liquor trading between 2am and 5am as at introduction will be grandfathered under the Bill's provisions to automatically have approval for 3am liquor trading on and from 1 July 2016. After 1 July 2016, licensees without an existing 3am approval can apply through usual late-night extended trading application processes should they wish to extend their liquor trade to 3am, provided the authority of the licence does not otherwise prohibit extended liquor hours trading to 3am. For example, as the authority of a subsidiary on premises (meals) licence provides that extended liquor trading hours cannot extend beyond 1am trading this type of licence could not be granted approval to trade to 3am.

The Bill also authorises the Minister to recommend the Governor in Council repeal a regulation prescribing an approved 3am precinct if there is no longer a local board for the precinct, or the local board has requested the Minister to do so, or the continued 3am approval has undue adverse effects on health, safety or amenity. If 3am approval is removed, all licensed premises in the precinct would be required to cease the service of alcohol at 2am.

It is intended that licensees in safe night precincts be permitted an additional hour of liquor trading, commensurate to the additional safety measures imposed in these precincts. However, the Bill amends sections 142AA and 142AB to provide that all licensed premises within an approved 3am precinct will have to comply with a 1am lock out. The imposition of a lock out in these precincts will also assist police to control patron movement in these precincts.

Treatment of undecided and new applications for extended liquor trading hours

The Bill amends the Liquor Act to provide that extended liquor trading hours applications that have been received but not yet determined prior to 1 July 2016 may be considered and granted without regard to the Bill's provisions for restricted liquor trading hours. However, on and from 1 July 2016, extended liquor trading hours will automatically be wound back to 3am in an approved safe night precinct, and 2am otherwise.

Amendments also prescribe that no compensation is payable by the State to any person because of the operation provisions concerning the handling of undecided approval applications.

Prohibiting new extended trading approvals for takeaway liquor

Section 86(2A) of the Liquor Act provides for the granting of an extended trading hours approval for the sale of takeaway liquor between the hours of 9am and 10am or between the hours of 10pm and 12 midnight.

In line with Government policy to reduce the supply of alcohol late at night, the Bill amends section 86(2A) to prohibit the approval of extended trading hours for takeaway liquor after 10pm. Transitional provisions will ensure that any applications for late-night extended trading hours for takeaway liquor on-hand and undecided as at 10 November 2015 will lapse and no new applications from 10 November 2015 can be accepted. The transitional provisions also retrospectively prevent appeal proceedings from being considered by the court or tribunal. However, licensees or permittees with an approval prior to 10 November 2015 to sell takeaway to 12 midnight will retain the extended trading hours approvals that were in effect on introduction.

Trading hours for gaming and adult entertainment

To promote the development of a diverse night time economy that includes but does not revolve solely around the service of alcohol, the Bill provides clarity that licensees are able to stay open beyond the hours of liquor service to provide other services such as food, non-alcoholic beverages and entertainment.

The Liquor Act stipulates that the hours in which gaming and adult entertainment may take place on a premises are linked to the venue's approved liquor trading hours or consumption hours. Consequently, the Bill includes amendments to enable licensees with gaming or adult entertainment hours approved immediately prior to 1 July 2016 to continue to provide these activities for the duration of their current approval, despite the wind back of their liquor trading hours on 1 July 2016.

New provisions commencing on 1 July 2016 will remove the linkage of gaming hours to liquor consumption hours. Gaming applications will be able to be approved for a period of up to two hours after the service of liquor at the licensed premises ceases. This will allow gaming services until 5am in prescribed 3am SNPs and 4am outside of prescribed 3am SNPs, upon approval.

Banning the sale of high alcohol content and rapid consumption drinks after midnight

Consumption of high levels of liquor after midnight in licensed premises can potentially lead to increased intoxication and associated problems for patrons and the community. New South Wales successfully introduced limits on types and amount of liquor that can be sold in the Kings Cross Precinct and the Sydney CBD Entertainment Precinct for late-night liquor trading periods.

The Bill amends the Liquor Act to allow for high alcohol content and rapid consumption drinks, as defined in the Liquor Regulation, to be prohibited from being sold or supplied after midnight. The specific types and amounts of drinks will be prescribed by regulation following further consultation with stakeholders.

To ensure the ban will not disadvantage low risk specialist venues, the Bill authorises the Commissioner to consider and grant applications for exemption provided the business seeking exemption specialises in the sale of premium spirits. The definition of premium spirits will be defined by regulation following further consultation with stakeholders. The exemption provision also specifies that the premises has capacity to seat no more than 60 patrons at a time, the service of liquor is conducted in a manner that does not facilitate rapid liquor consumption, the type and quality of liquor supplied differs from other types and qualities of liquor sold in the locality, and the exemption would not otherwise cause undue adverse impacts on public health and safety or amenity in the community. Exemptions sought in relation to part of a

licensed premises may be granted, provided the area to which the exemption applies is a fixed area capable of being defined on a permanent or semi-permanent basis by walls or structures.

The criteria also provides for the Commissioner to have regard to the type and quality of liquor being sold at the premises and the extent to which non-premium spirits are also sold on the premises. These considerations are intended to ensure that exemptions are granted only to premises whose principal activity is the service of premium spirits, and not premises that offer a few premium selections as part of a standard bar service whose offerings are in line with the offerings of other licensed premises in the area.

Ensuring that blood alcohol content readings lawfully taken by police are admissible as evidence

The Government committed to “empower police to breathalyse intoxicated or disorderly patrons for the possible prosecution of patrons, management and licensees who have breached regulations of the Liquor Act”. However, police powers were extended in 2014 to enable the collection breath, saliva, urine or blood specimens for blood alcohol content analysis in relation to a relevant assault offence, such as grievous bodily harm. Therefore, the Bill amends the Liquor Act to clarify that the results of a breath analysis test, conducted under existing police powers, are admissible as evidence in prosecutions against a licensee under the Liquor Act.

It is noted that this amendment is not intended to change the requirements for Liquor Act offences. Rather, it will allow for blood alcohol content readings to be used as supplementary evidence, where there is other evidence to suggest that a licensee may have committed an offence, such as continued alcohol service when a patron has been exhibiting the indicia of undue intoxication.

Amending the exhibit handling process for saliva

The Bill amends the PPRA to ensure that saliva exhibits obtained for particular assault offences are exempt from the requirements imposed under Chapter 21, Part 3 (Dealing with things in the possession of police service) of the PPRA. This amendment will bring the treatment of specimens of saliva in line with the treatment of specimens of blood and urine.

While this reform is not the subject of a specific election commitment, it is intended to ensure more effective operation of current alcohol-related violence initiatives.

Improving existing intervention and therapeutic program referral processes

The Bill amends the Bail Act to redefine the nature of a Drug and Alcohol Assessment Referral (DAAR) condition (that is, a brief course provided to a person in which their drug or alcohol use is assessed and they are given information about appropriate treatment options and may be offered counselling or education) under existing section 11AB. The changes will ensure that a DAAR bail condition applies to those most likely to benefit from the program.

The Bill amends the existing framework for the application of a DAAR bail condition by:

- omitting the mandatory nature of the condition;
- ensuring that the court has discretion to include the condition as part of a grant of bail for any offence to which the Bail Act applies (subject to the provisos set out in section 11AB of the Bail Act);

- confining the imposition of the condition to cases where the bail granting authority is a court; and
- no longer criminalising a failure to complete the condition, in recognition of its therapeutic nature.

Similarly, the Bill amends the Bail Act to no longer criminalise a failure to comply with a condition of bail imposed under section 11(9) (that is, participation in a rehabilitation, treatment or other intervention program or course). The amendment recognises the therapeutic nature of the condition and acknowledges the challenges associated with overcoming addiction. The amendment will encourage and facilitate participation in these types of programs, and returns the position to that which existed prior to the 2013 amendment to section 29 of the Bail Act.

The Bill also amends the Penalties and Sentences Act to allow a sentencing judge to include the completion of a DAAR course as a condition of an order under section 19, with the consent of the defendant. An amendment is also made to the definition of ‘drug assessment and education session’, relating to the existing drug diversion condition under section 19, to omit the requirement that the session be provided one-on-one; thereby providing greater flexibility in delivery of the condition.

Objective: provide greater clarity and improve operational efficiency in the regulation of licensed premises

This objective will be achieved through a variety of amendments contained in the Bill, which are outlined below.

Remove duplication for Brisbane licensees across incident register and crowd controller register

Section 18 of the *Security Providers Regulation 2008* (Security Providers Regulation) requires all licensees in Queensland to maintain a “crowd controller register”. Licensees must record prescribed details of all incidents in which a person is injured or ejected from the premises, but only if the incident involves a crowd controller.

Additionally, section 142AI of the Liquor Act requires licensees in the Brisbane local government area to maintain an “incident register”. Licensees must record prescribed details of all incidents in which a person is injured or ejected from the premises – whether a crowd controller is involved or not. In relation to incidents, the information that must be contained in each register is identical (although the crowd controller register must also contain additional information about crowd controllers that is not related to incidents – for example, the names of crowd controllers employed by the licensee).

There should be no requirement for licensees in the Brisbane local government area to record information regarding incidents in two registers (if the incident involves a crowd controller). Therefore the Bill makes amendment to the Liquor Act so that licensees need only enter information regarding incidents into the incident register under the Liquor Act if the incident is not recorded in the crowd controller register.

As delegates of the chief executive under the Security Providers Regulation, liquor inspectors have the power to view the crowd controller register maintained under the security providers legislation. There is therefore no foreseeable impact on compliance and enforcement activities.

Issuing of notices or requisitions by investigators

An investigator may, on reasonable notice under section 218 of the Liquor Act, require a licensee to produce to the investigator an accounting, transaction or other record about the business conducted under the authority of the licence, and allow the investigator to examine the record and make copies or take extracts from the record.

Under section 178(1)(c), an investigator who enters a licensed premises may take extracts from, and make copies of, any documents in or on the place. Section 178(1)(c) is not limited to financial/accounting related records and may be used by an investigator to request other types of records such as CCTV footage, incident registers, staff rosters and training registers, which may assist in investigating an incident at the licensed premises.

Requisition notices issued under section 218 of the Liquor Act are restricted to financial, accounting and transaction records. This means that a requisition notice cannot be issued to a licensee requesting other types of records such as CCTV footage, incident registers, staff rosters and training registers. If these types of non-financial/accounting records are required, an investigator needs to exercise his/her powers under section 178(1)(c).

The operation of section 178(1)(c) requires an investigator to be at the licensed premises waiting to obtain the required records or documents. This can be time consuming and inconvenient for licensees and their staff, particularly during peak liquor trading periods, when they may need to stop work in order to facilitate the investigator's requests. It is also time-consuming and inefficient for an investigator to be waiting at the premises for the licensee to locate the necessary documents/records. In this regard, section 178(1)(c) does not enable an investigator to request the licensee, via written notice, to produce the required records or documents within a nominated time.

The Bill inserts a new section 183AA in the Liquor Act to enable an investigator to issue a person with a notice to require documents to be produced within a nominated time. The documents required would not be limited to financial/accounting or transaction records but may include other types of records such as CCTV footage, incident registers, staff rosters and training registers.

Risk-assessed management plan exemptions

Section 105A of the Liquor Act requires that an applicant for a liquor licence or restricted liquor permit must include a risk-assessed management plan (RAMP) with the application. A RAMP details information relating to the licensee's or permittee's management practices and procedures at the premises.

However, an application for a subsidiary on-premises licence (meals) that relates to a low risk premises is exempt from the requirement to have a RAMP. A premises is considered "low risk" if liquor will not be sold at the premises between 12am and 5am, and the premises are not located in a restricted area or will not be the subject of an adult entertainment permit.

Preparation of a RAMP can be time consuming and burdensome and it is considered the level of regulatory burden placed on licensees of low risk premises is not commensurate with the level of risk posed. Further, processing timeframes for liquor applications and approvals made by these licensees are protracted as a result of the requirement for the Commissioner for Liquor and Gaming (Commissioner) to approve the licensee's RAMP. It is for this reason that

applications for low risk cafes and restaurants were previously exempted from requiring a RAMP. For the same reasons, the Bill extends the exemption to applications for other low risk licence types. These are:

- subsidiary off-premises licence with a principal activity of florist; and
- subsidiary off-premises licence with a principal activity of gift baskets.

The current safeguard under section 105A(3) of the Liquor Act that allows the Commissioner to require a RAMP to be lodged as part of the application will continue to apply to the newly exempted licence types.

Increase maximum guests for bed and breakfast exemption

Section 14B(1)(h) of the Liquor Act states that the Act does not apply to the sale of liquor by a provider of bed and breakfast accommodation (B&B) or host farm accommodation, other than accommodation in a relevant restricted area, to an adult guest for consumption on the premises at which the accommodation is provided. Currently, to be subject to the exemption from the Liquor Act, a B&B cannot cater for more than six guests at the same time. This is overly restrictive, particularly given that B&Bs are important to the State's tourism industry. An amendment is therefore made by the Bill to increase the maximum number of guests a B&B can cater to and still be eligible for the exemption from six guests to eight adult guests.

Sale of takeaway liquor to signed-in guests and visitors

Under section 77(1) of the Liquor Act, a community club licensee is authorised to sell liquor on the licensed premises to a member of the club, a member of a reciprocal club, and visitors who, with the permission of the management committee of the club, play a sport or game that is part of the club's business on the day on which the sport or game is played, for consumption on or off the premises. A community club licensee is also authorised to sell liquor on the licensed premises to a guest of a member, guest of a reciprocal member, an interstate or overseas visitor, a visitor who resides at least 15 kilometres from the club, a person attending a function on the premises, and an applicant for membership for 30 days after receipt of the application for consumption on the premises.

However, community clubs are restricted to selling liquor to members and reciprocal members only. It is important for community clubs to be able to provide a full range of hospitality services to members, guests and visitors, as this revenue contributes to maintaining club objectives, services and facilities. Accordingly, the Bill makes an amendment to allow community clubs to be permitted to sell takeaway liquor within the approved hours to non-members who are signed-in guests or visitors.

Deeming of all police officers as investigators under the Liquor Act

Section 4 of the Liquor Act currently provides that a commissioned police officer or a police officer designated by a commissioned police officer can act as an investigator under the Liquor Act. While the Police Commissioner can delegate the powers of an investigator under the Liquor Act to any police officer, officers are required to produce the instrument of delegation during prosecutions to support the exercise of the relevant powers. To simplify the work of police, the Bill designates all police officers to be investigators under the Liquor Act. This is specified in an amendment to the definition of "investigator" under section 4 of the Act.

Allow sale of craft beer at promotional events

Food and beverage events play an important role in highlighting Queensland's natural produce and the natural connection between produce, food and wine and tourism.

Currently, the Liquor Act does not allow craft beer producers to sell or supply their product off-premises at promotional events such as food and wine festivals or farmers markets (except where the sale or supply takes place at promotional events held in a venue which holds an appropriate liquor licence such as a commercial special facility licence).

The Bill proposes two methods by which a craft beer producer may be authorised to sell liquor at promotional events. The Bill provides (as the first method) that the Commissioner may condition a producer/wholesaler licence for a craft brewery issued under the Liquor Act to enable the licensee to sell its own craft beer at promotional events for the duration of the licence. The Commissioner will also continue to be able to exercise existing powers under the Liquor Act to impose, amend or revoke another condition on the licence where necessary to ensure appropriate compliance with the Liquor Act or to minimise any potential for harm in individual circumstances. This method benefits Queensland craft beer producers by providing a single approval process allowing the licensee's craft beer to be marketed at any number of appropriate and eligible events, subject to other conditions that may be imposed on the licence.

In addition to the new conditioning power described above, the Bill provides (as the second method by which a craft beer producer may be authorised to sell their product at relevant events) for a permit system. Craft beer producers from other jurisdictions (who are not eligible for the licence condition described in the preceding paragraph because they do not hold a licence issued under Queensland's Liquor Act) will be eligible to apply for a permit allowing the marketing of their craft beer products at eligible events in Queensland. Producer/wholesalers licensed in Queensland may also apply for the permit if the licensee finds this more temporary method preferable to the conditioning method. A permit may allow the licensee to attend a nominated event (for example, a particular farmers market held every Saturday) each time the event is held during a period defined in the permit. The period may not exceed three months.

The Bill provides that only genuine craft breweries may seek to market their product under the authority of a licence condition or permit. The Bill defines a craft brewery, in part, as a brewery with a beer production level of less than 5 million litres per annum. A large "mainstream" brewery and its smaller subsidiary company will intentionally be ineligible to have its producer/wholesaler licence conditioned to allow for the sale of craft beer at promotional events, and will be equally ineligible to apply for a craft beer producer's permit.

To ensure the safe and responsible supply of craft beer at promotional events, the Bill regulates the manner in which, and to whom, craft beer may be sold at such events. The existing obligations and offence provisions under Part 6 of the Liquor Act will, for the most part, apply to licensees and permittees who sell or supply craft beer at promotional events, including the provisions relating to responsible service, supply and promotion of liquor, preservation of amenity and prohibition on sale to minors. However, particular requirements of Part 6 – such as the requirement to have an approved manager and to display signage containing the licensee's information – will not apply to the sale of craft beer at promotional events in order to avoid imposition of unnecessary regulatory burden.

The Bill also requires a licensee under a producer/wholesaler licence, or a permittee under a craft beer producer permit, to maintain a record of all promotional events at which the person has given free samples of their craft beer, sold their craft beer for takeaway consumption, or taken orders for their craft beer. This additional requirement is necessary to enable the Office of Liquor and Gaming Regulation to monitor attendance by craft beer producers at promotional events and to ensure that craft beer producers are only selling their own products at those events in accordance with the licence or permit authority. As the Liquor Act already requires a licensee to maintain a record of which liquor products they have sold, merely asking a licensee or permittee to keep a list of the events which they attend is not considered to be an onerous request. Failure to comply with this further reporting requirement will be an offence attracting a maximum penalty of 350 penalty units, the same maximum penalty that currently applies to existing offences under the section for failure to keep relevant records.

The amendments will assist the development of the Queensland (and Australian) craft beer industry by affording craft breweries, particularly in regional areas, which may not otherwise have access to the regular retail network, new opportunities to market their products.

Restricting patrons from taking liquor into and away from events subject to a community liquor permit and a commercial public event permit

A community liquor permit (CLP) is an authority issued to non-proprietary organisations or clubs that wish to sell or supply liquor on a temporary or one-off occasion. A commercial public event permit (CPEP) may be granted to the holder of a commercial hotel licence, subsidiary on-premises or subsidiary off-premises with a catering away endorsement on the licence. A CPEP authorises these licensees to cater for a public event away from the licensed premises. A CPEP may be used for public events like festivals, race meetings and rock concerts that are open to the public and involve the payment of a fee for admission to the event. In a minority of situations the permit may apply to an area that is adjacent to licensed premises, such as the Caxton Seafood Festival.

It was not the original intent for patrons to take liquor into and away from events subject to a CLP or a CPEP. However, it has been identified that the Liquor Act does not clearly prevent patrons from doing this. The Bill therefore amends the Liquor Act to prohibit a person taking liquor into and away from the areas to which a CLP or CPEP relates unless specified in the permit. A maximum penalty of 25 penalty units will apply for breaching this prohibition, aligned to comparable offences under the Liquor Act relating to unlawfully taking liquor onto or away from other types of licensed premises.

Proof of Age

Section 6 of the Liquor Act identifies the documents which are considered acceptable evidence of age for persons seeking to enter licensed premises. This includes driver licences and proof of age cards issued by State, Territory or Commonwealth Government agencies. However, section 6(1)(a)(iii) also states that an acceptable evidence of age document includes a document that is issued by an entity that is approved by the Commissioner. This provision is used to allow for passports, foreign driver licences and Keypass cards (issued in Victoria, but recently purchased by Australia Post) to be proof of age documents.

Section 6 of the Liquor Act was last amended in relation to proof of age documentation in 1994. Since that time there have been significant changes relating to identity verification,

security features of proof of age cards and security surrounding the storage of personal information of card holders.

Since 1994, these matters have been addressed at a national level through the Council of Australian Governments (COAG) resulting in the implementation of a National Identity Security Strategy and Proof of Identity (POI) framework. The POI framework has been endorsed by COAG as a national best practice guide, and includes a detailed table setting out document security categories and features.

Queensland's Department of Transport and Main Roads (TMR) and other Commonwealth and interstate Government agencies currently employ rigorous processes of identity verification and use smart card technology, incorporating various security features for the issue of driver licences and adult proof of age cards. These processes and smart card security features are consistent with the national framework developed by COAG.

To ensure the integrity of proof of age documentation, the Bill amends section 6 so that, prior to the Commissioner approving an entity to issue proof of age documents, the entity must already be assessed by another State, Territory or Commonwealth agency which has the expertise to make such an assessment. The amended provision also clarifies that foreign driver licences and passports are also acceptable proof of age documentation, without requiring separate approval by the Commissioner.

Clarify the meaning of liquor and exclude certain substances from the operation of the Liquor Act

Section 4B of the Liquor Act currently outlines what constitutes liquor for the purposes of the Act. Section 14B then provides that the Act does not apply to the sale or supply of liquor products in certain circumstances, such as vanilla essence if sold in a container containing not more than 100 millilitres.

However, under the current wording of section 4B, certain alcoholic food additives, such as Chinese cooking wine and soy sauce, appear to constitute liquor. Accordingly, these products should technically be sold under the authority of a liquor licence, unless exempt under section 14B. However, these products are typically sold in supermarkets and convenience stores, rather than in bottle shops.

It was not the original intention of the legislation to regulate products intended to be consumed as an additive or ingredient in food, unless a risk of misuse or abuse of the product had been identified. Although Chinese cooking wine and soy sauce contain enough alcohol to constitute liquor under the Liquor Act, these products pose little risk to the community, as they are unpalatable and not likely to be targeted for misuse.

Therefore, the Bill inserts a new section 14AB into the Liquor Act to clarify that food additives or substances used as ingredients in food preparation are not subject to the Act. This exclusion of food additives only applies to those substances that must be consumed as an addition to, or ingredient of, another substance. If a substance is labelled as a food additive or ingredient, but is palatable and generally intended to be consumed without being altered or modified, it will not be exempt (e.g. table wine that is packaged and labelled as cooking wine).

The new section 14AB will include the existing exemptions in relation to substances used only as:

- a preservative or medium in which fruit is offered for sale to the public in sealed containers and with the contents visible;
- a personal hygiene product that is not swallowed, such as perfume, mouthwash or topical disinfectant; and
- a medicine or for medicinal or chemical purposes, such as cough syrup.

However, it is also recognised that there may be instances where these substances could be misused or abused and, in these situations, it will be necessary for the Liquor Act to regulate these substances. Therefore, the Bill also provides that the Liquor Act will apply to a substance mentioned in section 14AB(1) if the substance is being used as a beverage, or for manufacturing of a beverage, or if the substance is prescribed in a regulation.

The Bill also provides the ability to prescribe the maximum amount of a prescribed substance that can be sold in a container without being subject to the Liquor Act. In this regard, the Bill includes amendments to the Liquor Regulation 2002 (Liquor Regulation) to prescribe spirituous cooking essence as a substance that is subject to the Liquor Act under section 14AB(2)(b), and specify that the maximum amounts prescribed are 100 millilitres for vanilla essence, and 50 millilitres for all other essences. This is consistent with the existing exemption for spirituous cooking essences contained under section 14B of the Liquor Act, which will be removed as part of the amendments.

The Bill also makes minor amendments to section 4B to simplify the criteria that a fluid or substance must meet in order to constitute liquor, consistent with the approaches taken in other Australian jurisdictions.

Amend the cancellation or suspension procedure for approved managers

Section 142ZE(3) of the Liquor Act provides that the Commissioner may suspend or cancel the approval of an approved manager if the Commissioner believes that a ground exists to suspend or cancel the approval, or believes suspension or cancellation of the approval is warranted. Under section 142ZE(4), the Commissioner must, as soon as practicable, give the holder of the approval a written notice of the decision.

Section 142ZAA of the Liquor Act also provides that the Commissioner must cancel a person's approval as an approved manager immediately if the person is a disqualified person due to being an identified participant in a criminal organisation.

Under section 155AD of the Liquor Act, a licensee or permittee must ensure that a person employed as an approved manager holds a valid approval as an approved manager.

The Bill amends the Liquor Act to ensure that a licensee or permittee is notified where the approval for a person who is performing an approved manager function at the venue has their approval suspended or cancelled, so that the licensee or permittee can fulfil their obligation under the Liquor Act. Under the new provision, if the Commissioner knows or suspects the holder of the approval is employed by a licensee for a licensed premises or permittee for a premises to which a permit relates, the Commissioner must give that employer written notice of the decision to suspend or cancel the approval.

Use of car parks for sale and consumption of liquor

Section 153A of the Liquor Act currently provides that, if licensed premises include a car park, the licensee must not sell or supply liquor (or allow it to be consumed) in the car park unless the Commissioner has given approval for this activity.

Because car park events are normally outdoor events conducted on the boundaries of licensed premises, these events have a greater potential to cause disturbance to neighbouring areas than events conducted inside licensed premises. Generally, this is due to the lack of noise attenuation afforded by car park areas.

The Bill amends the Liquor Act by inserting a new Division 1AB into Part 6 to:

- require licensees to apply for approval from the Commissioner to sell, supply or allow the consumption of liquor in the car park of the licensee's licensed premises;
- provide guidance as to matters the Commissioner must consider in relation to a car park approval;
- clarify that a car park approval is a specific time-limited approval applying only on the days, and during the hours, stated in the approval; and
- clarify that a car park approval is subject to conditions, as determined by the Commissioner.

The new Division 1AB will replace the current section 153A of the Act.

To ensure the new division has equal application to all licensed venues in Queensland on commencement, the transitional provisions of the Bill specify that the requirement for a licensee to seek approval to sell or supply liquor or allow liquor to be consumed in a car park applies regardless of any licence condition granting a licensee the use of the car park for that purpose. This will ensure that all future car park events are approved and conducted with due regard to health and safety of members of the public and the amenity of the community or locality.

Clarifying regulation making power in relation to matters that must be included in a RAMP

The Bill makes a minor amendment to the definition of RAMP in section 4 of the Liquor Act to clarify that a regulation can provide details of what must be included in a RAMP.

Objective: ensure consistency across Queensland statutes dealing with directors' liability

This objective will be achieved by repealing section 96 of the Fair Trading Act to bring this Act in line with the broader Queensland policy in relation to vicarious liability. The *Directors' Liability Reform Amendment Act 2013*, which commenced on 1 November 2013, implemented the policy of State legislation only including directors' liability provisions when appropriately justified and generally devoid of 'onus of proof' reversal clauses. It also made the liability of executive officers under particular Queensland Acts more consistent with other Australian jurisdictions.

Alternative ways of achieving policy objectives

These initiatives can only be implemented via legislative amendment, as they deal with fundamental issues of liquor licensing and enforcement. The Bill makes changes to the existing

framework to either reduce its scope or improve its effectiveness, particularly with respect to tackling alcohol-fuelled violence.

An alternative to the Bill is for the status quo to remain. However, this would result in the regulatory reform and harm minimisation initiatives in the Bill not being implemented and their intended benefits to the community and industry not being achieved.

With respect to repealing section 96 of the Fair Trading Act, no other means of achieving the policy objective is possible.

Estimated cost for government implementation

No additional cost is anticipated for Government as these amendments will be implemented within approved 2015-16 State Budget funding.

Any additional costs arising from broadening the application of the DAAR course as a condition of bail or to apply as a condition of a sentencing order under section 19 of the Penalties and Sentences Act, will be addressed through existing resource allocations.

Consistency with fundamental legislative principles

The amendments in the Bill are generally consistent with fundamental legislative principles provided in the *Legislative Standards Act 1992* (Legislative Standards Act). Potential breaches of fundamental legislative principles are addressed below.

Treatment of applications for takeaway liquor

Clause 62 amends the Liquor Act to provide that no applications for extended trading applications for the sale of takeaway liquor will be approved from 10 November 2015. Therefore, the Bill may breach the provisions of the Legislative Standards Act sections 4(3)(a) and 4(3)(b), which require that legislation must have sufficient regard to the rights and liberties of individuals and the principles of natural justice, due to the retrospective nature of the legislation and due to the removal of the right of appeal to a court or tribunal.

However, this potential breach is considered justifiable on the grounds of public interest, due to the harm minimisation benefits of limiting late-night takeaway liquor sales to ordinary liquor trading hours.

Creation of new offences

The Bill creates a number of new offences that may breach the provisions of the Legislative Standards Act section 4(2)(a), which require that legislation must have sufficient regard to the rights and liberties of individuals, due to the impacts of the new offences.

Clause 49 amends the Liquor Act to create a new offence of selling rapid intoxication drinks after midnight. The maximum penalty for this offence is 100 penalty units. However, this potential breach is considered justifiable, due to the harm minimisation benefits of stopping the late-night sale of drinks that encourage rapid intoxication. Furthermore, the penalty of a maximum of 100 penalty units is at a level commensurate with offences related to the responsible service of liquor in Part 6 of the Liquor Act. For example, a maximum of 100 penalty units also applies to offences in relation to unacceptable practices and promotions of

alcohol, the provision of a safe environment and preservation of amenity in and around licensed premises and the failure to sell or supply liquor in the manner authorised by a licensee's licence.

Clauses 52 creates a new offence of taking liquor into or away from an event held under the authority of a CPEP or CLP. The maximum penalty for this offence is 25 penalty units. However, this potential breach is considered justifiable due to the harm minimisation benefits associated with managing the supply and consumption of liquor at events help under a CPEP or CLP. The penalty is consistent with the maximum penalties prescribed in Part 6 of the Liquor Act in relation to the offences of taking liquor into or away from venues that operate under the authority of a subsidiary on-premises licence or a nightclub licence.

Clause 58 amends the Liquor Act to create a new offence of failing to maintain and provide records in relation to a craft beer licence or craft beer permit. There is a maximum penalty of 350 penalty units. However, this potential breach is justified on the grounds that the penalty is consistent with the existing penalty provisions offences related to the failure to keep and maintain accurate records of the transactions made by or on behalf of the licensee, as prescribed in section 217 of the Liquor Act. Accurate record-keeping is the only means by which the Office of Liquor and Gaming is able to exercise appropriate scrutiny and ensure compliance by the licensee. Therefore, the penalty is set at an amount that reflects the serious nature of the requirement.

Clause 43 amends the Liquor Act to create a new offence of failing to keep a copy of the exemption notice at the premises, in relation to restrictions on the sale or supply of rapid intoxication drinks. The maximum penalty is 25 penalty units. However, this potential breach is considered justifiable as the requirement to keep a copy of documentation detailing the particulars of the licence that authorises liquor trading at the premises on the premises for inspection by an investigator, and the prescribed penalty for breaches of that requirement, are consistent with the other provisions contained in sections 143 and 145 of the Liquor Act.

Clause 44 amends the Liquor Act to create a new offence for selling craft beer at a promotional event for on-site consumption, or in unsealed containers. To remove all doubt, the clause clarifies that charging a person for a sample or allowing a person to be charged for a sample is an offence. The maximum penalty for selling craft beer for on-site consumption is 100 penalty units. However, this potential breach is considered justifiable on the grounds of public interest, due to the harm minimisation benefits associated with prohibiting the sale of craft beer for consumption in an unregulated environment. Furthermore, the maximum penalty is consistent with the maximum penalties for offences prescribed in Part 6 of the Liquor Act.

Clause 57 amends the Liquor Act to create a new offence for failing to produce documents to an investigator. A maximum penalty of 50 penalty units applies. However, this potential breach is considered justifiable on the grounds of public interest, due to the public interest in ensuring that inspectors are able to obtain documents that are relevant to the administration or enforcement of the Act.

Reducing existing liquor trading hours

Clause 29 amends the Liquor Act to prevent existing licensed premises from trading in liquor beyond 2am, or 3am in an approved safe night precinct from 1 July 2016. As this entails the removal of an existing right where licensees hold extended liquor trading hours approvals to supply liquor after those hours, the Bill may breach provisions of section 4(2)(a) of the

Legislative Standards Act in relation to showing due regard to the rights and liberties of individuals.

However, this potential breach is considered justifiable on the grounds of public interest, due to the harm-minimisation benefits of limiting late-night liquor trading as demonstrated by the significant reductions in alcohol-fuelled violence following the introduction of reduced liquor trading hours in Newcastle and Kings Cross. Furthermore, this amendment will align with the liquor licensing fee period, meaning that licensees will not lose any hours for which a fee has already been paid.

Exemption of persons from the application of an offence

Clause 49 amends the Liquor Act to provide that the Commissioner may exempt persons from the application of an offence. Therefore, the Bill may breach section 4(3)(a) of the Legislative Standards Act, which provides that legislation should not make rights and liberties or obligations dependent on administrative power, unless the power is sufficiently defined and subject to appropriate review.

The Bill provides comprehensive criteria that the Commissioner must consider in granting the exemption from the restriction on the sale or supply of high alcohol content and rapid consumption drinks, for example to whisky bars, which defines the power. The Bill also provides for exemptions with specific criteria which will apply to any licenced premises. Decisions of the Commissioner will be subject to review by the Queensland Civil and Administrative Tribunal.

Ability for approved 3am safe night precincts to be declared by regulation

Clause 54 amends the Liquor Act to provide that the Minister may, in consultation with safe night precinct local boards, recommend that Governor in Council make a regulation prescribing safe night precincts approved for 3am liquor trading with a 1am lock out. The Bill may breach section 4(4)(a) of the Legislative Standards Act, which provides that a Bill will have sufficient regard to the institution of Parliament if it authorises the delegation of legislative power only in appropriate cases and to appropriate persons.

This potential breach is justified on the grounds that it is appropriate for the legislative power to be delegated to the Attorney-General in this case. The Attorney-General must consult with the local board, and give consideration to the purposes of Part 6AB of the Liquor Act, which provides controls around the making of the Regulation. Prescription in the Regulation would also be linked to safe night precincts that are already prescribed by regulation. Furthermore, it should be noted the Minister is only authorised to recommend the Governor in Council make a regulation to declare a precinct to allow for extended liquor trading hours applications to be considered, not to grant the hours. Further, strict criteria will be considered, following consultation with a local board to ensure no undue harm is created by the approval.

Ability for approved 3am safe night precincts to be revoked by regulation

Clause 54 amends the Liquor Act to provide that the Minister may make a recommendation to the Governor in Council to revoke approval of an approved 3am safe night precinct. On the day the Regulation commences, liquor trading hours in the precinct will be wound back to 2am.

Section 4(3)(b) of the Legislative Standards Act requires that legislation must have sufficient regard to rights and liberties of individuals in accordance with principles of natural justice, for example by ensuring that individuals are able to ascertain their obligations under the law. This fundamental legislative principle could be breached when liquor trading is wound back to 2am if an approved 3am safe night precinct is revoked.

This potential breach is considered justified on the grounds that the provision of a mechanism to revoke 3am approval is necessary to ensure harm minimisation objectives are met. Criteria provide that 3am approval can be revoked if a local board ceases to exist to provide safeguards required for 3am liquor trade, or the local board no longer wishes the precinct to retain 3am approval or where the Minister is satisfied the continuation of 3am liquor trading in the precinct will have an unduly adverse impact on community health, safety or amenity. Moreover, the determination to revoke 3am approval will be made in consultation with the local board and the outcome will be communicated to licensees by the Office of Liquor and Gaming Regulation.

No compensation provided in repeal of certain approvals

Clause 62 amends the Liquor Act to provide that the Government shall not provide compensation to licensees affected by changes to liquor trading hours and the determining of applications for liquor trading hours after 2am, or 3am in approved precincts, or by restrictions on the granting of approvals to sell or supply alcohol in car parks.

The lack of compensation may breach fundamental legislative principles. However, this is considered justified because liquor trading hours applications may still be granted to the extent that it can be approved and the licensees can trade the approved liquor hours until 1 July 2016. For car park approvals, it is not considered necessary to provide compensation because it is implementing a completely new system that applies to all licensees.

Creation of a regulation-making power to modify the scope of an offence or an exemption under the Liquor Act

Clause 49 amends the Liquor Act to provide that the Minister may make a recommendation that the Governor in Council make a Regulation prescribing high alcohol content and rapid consumption drinks that must not be served after midnight unless a premises is granted an exemption.

Clause 49 also amends the Liquor Act to provide that the term ‘premium spirits’, which is relevant for the granting of the exemption, means liquor prescribed by regulation that has a higher quality or value than ordinary liquor.

Therefore, the Bill may breach fundamental legislative principles, as section 4(4)(c) of the Legislative Standards Act provides that a Bill will have sufficient regard to the institution of Parliament if it authorises the amendment of an Act only by another Act.

However, this potential breach is considered justifiable, due to the harm-minimisation benefits of stopping the consumption of high alcohol content and rapid consumption drinks after midnight. It is intended that the determination of what constitutes a ‘rapid intoxication drink’ and a ‘premium spirit’ will be made in consultation with relevant stakeholders. The Bill will also provide criteria in relation to the type of drinks that may be prescribed.

It is also considered that prescribing banned drinks by regulation allows the Government to act quickly to address the potential harm associated with a particular liquor product. This provision mirrors the current power of the Minister to recommend the making of regulation to prescribe an undesirable liquor product if a liquor product meets the criteria provided in the Liquor Act.

Reduce ambiguity in the meaning of liquor and exclude certain substances from the Liquor Act

Section 4(2)(b) of the Legislative Standards Act requires legislation to have sufficient regard to the institution of Parliament. Clause 21 amends the Liquor Act to ensure that certain substances that contain sufficient ethanol to constitute liquor, such as food additives, are not subject to the Liquor Act. However, the Bill also provides that the Liquor Act will apply to these substances if they are prescribed in the Liquor Regulation. Therefore, the Bill may breach fundamental legislative principles as it authorises amendment of an Act by subordinate legislation.

This potential breach of fundamental legislative principles is considered justifiable. Generally, it is not the intention of the Liquor Act to regulate products not directly consumed as liquor (e.g. soy sauce). However, there is a risk these substances may be misused due to their alcohol content. If misuse is occurring, swift action will be required to regulate the sale of the substance and minimise harm. Therefore, it is appropriate for this action to be facilitated by amendment to subordinate legislation, to allow immediate executive action to protect the community.

It is also noted that the Bill does not seek to extend the meaning of liquor by amending the Act via subordinate legislation. Instead, the Bill provides the ability to bring certain liquors back into the ambit of the Act if it becomes apparent that the sale of the substance requires regulation to ensure community safety.

Use of car parks for sale and consumption of liquor

Section 4(2)(a) of the Legislative Standards Act requires legislation to have sufficient regard to the rights and liberties of individuals. Clause 42 of the Bill provides for a new Division 1AB under Part 6 of the Liquor Act that requires a licensee to seek the Commissioner's approval for the sale, supply or consumption of liquor in a car park. A new section 340 inserted by Clause 62 of the Bill intends that the requirement to seek this approval applies even if the licensee is authorised by a licence condition to use a car park for the sale, supply and consumption of liquor.

This amendment will prevent a licensee from exercising an existing authority under a licence condition to conduct car park events without formally seeking the Commissioner's further approval for each event. Accordingly, a licensee will have to seek approval from the Commissioner prior to each car park event being conducted. Therefore, the Bill breaches fundamental legislative principles, as it could affect a previously held ability of a licensee (under a licence condition) to conduct certain commercial activities without further approval.

Nevertheless, the amendments are considered justifiable as it will place all licensed premises in Queensland on equal footing in terms of the requirement to seek approval for car park events. The amendments therefore provide for an appropriate balance between the legitimate business activities of licensees and relevant amenity and harm minimisation considerations. Licensees, generally, may benefit from the amendment because the Commissioner's ability to apply approval conditions to car park events possibly may make the prospect of approval more likely. For example, under the new provisions, hotels will have the ability to apply for approval of car

park events in the same manner as all other licensees, with any approval subject to appropriate conditions defined by the Commissioner.

Consultation

Amendments to tackle alcohol-fuelled violence

The Government publicly announced its election commitment to stop the service of alcohol at 3am and introduce a 1am lock out. The Attorney-General has met with a number of stakeholders and attended various forums to discuss the Policy initiatives and determine effective solutions to reduce alcohol-related harm in and around licensed premises in Queensland.

In particular, the Attorney-General has convened two stakeholder Round Tables; in Brisbane on 6 August 2015, and in Cairns on 10 September 2015. Both meetings involved a range of stakeholders, including the liquor industry, business groups, non-government service providers, health associations, and other experts in the field of alcohol-related violence.

Our Nightlife Queensland, representing the interests of the liquor industry, met with the Assistant Minister of State Assisting the Premier in June 2015 and the Attorney-General in September 2015.

The Government's final strategy to stop the service of liquor at 2am without a lock out State-wide, whilst allowing for licensed premises in approved precincts to serve liquor until 3am with a 1am lock out has been further developed as a consequence of consultation with stakeholders and the extensive body of research on the effectiveness of reducing the supply of alcohol late at night.

Amendments to provide greater clarity and improve operational efficiency in the regulation of licensed premises

Provisions were developed following consultation with representatives from Queensland Hotels Association, Clubs Queensland, RSL and Services Clubs Association Queensland, Cabarets Queensland, Australasian Casino Association, Restaurants and Catering Industry Association, Queensland Tourism Industry Council, Gambling Help Network, and the Gold Coast Youth Service.

The Craft Beer Industry Association was also consulted in relation to the amendments to allow sale of craft beer at promotional events.

The amendments and related explanatory notes included in the Bill were among the reforms proposed in a Private Members Bill introduced by the Member for Mansfield in May 2015. The Private Members Bill was referred to the Legal Affairs and Community Safety Committee (LACSC) for consideration. The LACSC received six submissions in relation to the Private Members Bill, and held a public hearing on 20 July 2015. The LACSC tabled its report on the Bill in the Legislative Assembly on 14 September 2015.

Amendments to ensure consistency across Queensland statutes dealing with directors' liability

Although no general community consultation has been undertaken on the proposed amendment to the Fair Trading Act, the policy approach on directors' liability was subject to public

consultation by the Parliamentary Legal Affairs and Community Safety Committee during its inquiry on the Directors' Liability Reform Amendment Bill 2012. The Committee tabled its report on that Bill in the Legislative Assembly on 15 March 2013.

Amendments to the Bail Act and Penalties and Sentences Act

Consultation was undertaken with the Chief Magistrate and Deputy Chief Magistrates.

Consistency with legislation of other jurisdictions

As the Bill contains amendments relating to a wide range of policy initiatives (although with many linked by a common theme of tackling alcohol-fuelled violence) and technical matters, and these amendments often relate to peculiarities of the Queensland legislative framework, it is difficult to provide a clear comparison with other jurisdictions for all matters.

However, consideration of other jurisdictions' legislation has been undertaken in developing the policy underlying the amendments in the Bill and this has shaped the nature of many of the amendments (for example, amendments relating to acceptable evidence of age and the meaning of liquor are partially based on models in other Australian jurisdictions). For the majority of amendments, there is similar comparable legislation in other jurisdictions, although minor details in how they apply often differ.

For example, the suite of reforms to reduce the supply of alcohol during the late-night trading period is similar to the package of reforms introduced in Newcastle, Kings Cross and the Sydney CBD in New South Wales.

The repeal of section 96 of the Fair Trading Act will make the liability of executive officers in that Act align with Queensland and Australia-wide policy on vicarious liability of executive officers.

Notes on Provisions

Part 1 Preliminary

Clause 1 cites the short title of the Act.

Clause 2 sets out the commencement dates for the respective parts of the Act.

Part 2 Amendment of Bail Act 1980

Clause 3 states that Part 2 amends the *Bail Act 1980*.

Clause 4, subclause (1) amends section 11 (Conditions of release on bail), subsection (9) to insert two notes. Note – 1 is consequential to the amendment to section 29 (Offence to breach conditions of bail) of the Bail Act under clause 8 (to exempt a defendant from the offence provision where the condition of the undertaking breached was imposed under 11(9) or 11AB). Note – 2 provides a reference to section 30 (Apprehension on variation or revocation of bail) which sets out the procedures for varying the defendant's bail if the condition is broken or is likely to be broken. Subclause (2) amends section 11(9A) consequential to the amendment to section 11AB to omit the mandatory nature of the condition.

Clause 5 omits and replaces section 11AB (Condition requiring completion of DAAR course). New section 11AB allows the court, if the person consents, to include the completion of a DAAR course as a condition of bail for any offence to which the Bail Act applies (subject to the provisos set out in new section 11AB(4)) and confines the application of section 11AB to cases where the bail granting authority is a court. The imposition of a DAAR course condition is no longer a mandatory requirement to a grant of bail in prescribed circumstances. New section 11AB provides that in deciding whether to impose the DAAR condition, the court must have regard to: the nature of the offence in relation to which bail is proposed to be granted and the person's circumstances, including any benefit the person may derive by completing a DAAR course.

Clause 6 amends section 16 (Refusal of bail) consequential to the amendments to section 11AB (Condition requiring completion of DAAR course).

Clause 7 amends section 20 (Undertaking as to bail) to insert a reference to section 11AB (Condition requiring completion of DAAR course).

Clause 8 amends section 29 (Offence to breach conditions of bail) to exempt a defendant from the offence provision under section 29(1), where the condition of the undertaking breached was imposed under 11(9) or 11AB.

Clause 9 amends section 29A (Procedure in respect of defendants apprehended under s 21(7) or the *Police Powers and Responsibilities Act 2000*) to insert a reference to section 11AB (Condition requiring completion of DAAR course).

Clause 10 amends section 30 (Apprehension on variation or revocation of bail) to insert a reference to section 11AB (Condition requiring completion of DAAR course).

Clause 11 inserts a new section 45, which provides the transitional application of the amendments to section 11AB (Condition requiring completion of DAAR course) and section 29 (Offence to breach conditions of bail). New section 11AB, inserted under clause 5, applies in relation to the release of a person on bail on or after the commencement (irrespective of whether the act or omission constituting the offence in relation to which the person is released on bail, happened before or after commencement of new section 11AB or the proceeding for that offence was started before or after commencement of new section 11AB). Further, for the purposes of section 29, a reference to a condition imposed under section 11(9) or section 11AB includes where the condition was imposed before commencement.

Part 3 Amendment of Fair Trading Act 1989

Clause 12 states that Part 3 amends the *Fair Trading Act 1989*.

Clause 13 repeals section 96 of the *Fair Trading Act 1989*.

Part 4 Amendment of Gaming Machine Act 1991

Clause 14 states that Part 4 amends the *Gaming Machine Act 1991*.

Clause 15 amends section 235 (hours of gaming) to provide that the hours of gaming fixed for a licensed premises cannot extend beyond 2 hours after the sale of liquor at the premises ceases.

Clause 16 inserts a new Part 12, Division 20 to prescribe a transitional provision in relation to gaming hours. From 1 July 2016, the new section 490 provides for the continuation of fixed gaming hours already in effect at the licensed premises immediately prior to 1 July 2016, despite the amendment to section 235(2).

Part 5 Amendment of Liquor Act 1992

Clause 17 states that Part 5 amends the *Liquor Act 1992*.

Clause 18 amends section 4 (Definitions), which provides definitions for the Liquor Act. The clause omits a now irrelevant definition of ‘commencement’ and inserts new definitions for ‘3am safe night precinct’, ‘car park’, ‘car park approval’, ‘craft beer’, ‘craft brewery’, ‘document’, ‘exemption notice’, ‘lock out condition’, ‘promotional event’, ‘rapid intoxication drink’, ‘regulated car park’, ‘related body corporate’, ‘restricted period’, and ‘restriction’. This clause also amends the definition of ‘investigator’ to include a police officer or, for the administration and enforcement of particular sections, a community police officer. The clause amends the definition of ‘risk assessed management plan’ to correct a previous drafting error which incorrectly removed the ability to prescribe matters to be included in a risk-assessed management plan (RAMP) by regulation. The clause also amends the definition of ‘trading period’ to amend the sectional reference in paragraph (a). These new definitions clarify amended or new provisions within the Liquor Act given effect by this Bill.

Clause 19 amends section 4B (Meaning of liquor) to clarify and simplify the meaning of liquor and provide examples of types of fluids and other substances that are considered to be liquor.

Clause 20 amends section 6 (Acceptable evidence of age) to provide greater clarity as to which documents are considered to be acceptable evidence of age under the Liquor Act. Additionally, the amended section ensures the integrity of evidence of age documentation by ensuring evidence of age documentation are subject to appropriate approval processes by responsible regulatory entities. All current documentation that is approved as acceptable evidence of age will continue to be approved, so no entity will lose their current ability to provide acceptable evidence of age documentation.

Clause 21 inserts a new section 14AB to provide that the Act does not apply to substances if they are only used as a preservative or medium in which fruit is offered for sale to the public in sealed containers and with the contents visible; a food additive or ingredient for food preparation, such as Chinese cooking wine or soy sauce; a personal hygiene product that is not swallowed, such as perfume, mouthwash or topical disinfectants; or a medicine or substance used for medicinal or chemical purposes, such as cough syrup. The clause also provides that, despite the exemptions, the Act does apply to an aforementioned substance if the substance is being used as a beverage or for manufacturing a beverage, or if a regulation prescribes the substance, and the sale is not by wholesale. A regulation may also prescribe a maximum amount of a prescribed substance that can be sold before the Act applies. This ability to bring ordinarily exempt substances back into the ambit of the Liquor Act will allow for immediate action to be taken, should the substance be misused or abused in a way that causes harm.

Clause 22 amends section 14B (Other exemptions for the sale of liquor) to remove the current exemptions relating to the sale of perfumes and spirituous cooking essence, as these provisions are to be incorporated in the new section 14AB. To ensure regulatory consistency with new restrictions on liquor trading hours, the clause prohibits limousine licensees and tour operators that are exempted from holding a liquor licence from supplying liquor between 2am and 10am

on any day. The clause also increases the maximum number of guests that a bed and breakfast may cater to and be subject to the exemption from holding a liquor licence to eight adults.

Clause 23 amends section 21 (Jurisdiction and powers of tribunal) to ensure that decisions made by the Commissioner to refuse, revoke or vary an exemption from the restriction on the sale or supply of rapid intoxication drinks under the new Part 6, Division 1B (inserted as a result of clause 49) are subject to review by the tribunal.

Clause 24 amends section 73 (Authority of producer/wholesaler licence) to provide that a condition applying to a producer/wholesaler licence, where the licensed premises is a craft brewery, may authorise the licensee to sell or supply a sample of craft beer, produced by the licensee at the licensee's craft brewery, at a promotional event, but only if the organiser of the promotional event has given the licensee written consent to sell or supply craft beer at the event. However, a licence condition under this section is not intended to authorise a producer/wholesaler licence to be granted or held for premises, or part of premises, where the promotional event is proposed to be held. Therefore there will be no inconsistency with section 58(2) in situations where a producer/wholesaler licensee has a promotion at an event that is already subject to another licence, such as a commercial special facility licence.

Clause 25 inserts new section 74A to identify additional conditions which the Commissioner may impose on a producer/wholesaler licence to regulate the sale or supply of craft beer at a promotional event, such as sale and sampling limits. In particular, section 74A provides that, unless a condition imposed by the Commissioner states otherwise, a licensee may not sell and supply more than nine litres of craft beer to a person at a promotional event. However, this limit intentionally applies only to craft beer supplied at the event, and does not limit the volume of craft beer able to be ordered by a person from a licensee at a promotional event for later delivery. The section also identifies the circumstances in which the Commissioner is precluded from imposing a condition on a producer/wholesaler licence which authorises sale or supply of craft beer at a promotional event.

Clause 26 amends section 75 (Restriction on sale of liquor under producer/wholesaler licence) to clarify that the restrictions stated in that section regarding the sale or supply of liquor under a producer/wholesaler licence do not apply where the sale or supply of craft beer at a promotional event is authorised by a condition applying to the licence.

Clause 27 inserts new section 75A which clarifies that the area occupied by the holder of a producer/wholesaler licence at a promotional event (whether or not explicitly identified in a condition applying to the licence) is not a licensed premises for the purposes of the producer/wholesaler licence. However, section 75A also includes a deeming provision to enable certain regulatory and offence provisions within Part 6 to apply to the area occupied by the holder of a producer/wholesaler licence at a promotional event as if that area is a licensed premises. This deeming provision is necessary in order to safely regulate the sale or supply of craft beer at a promotional event in a manner compatible with the main objectives of the Liquor Act, and consistent with the regulation of craft beer sold or supplied under a craft beer producer permit. Importantly, only specific provisions of Part 6 will be deemed to apply to the area occupied by the holder of a producer/wholesaler licence at a promotional event, in order to avoid imposition of unnecessary regulatory burden as well as to avoid any unintended conflict with section 58(2) of the Liquor Act.

Clause 28 amends section 77 (Authority of community club licence) to enable premises operating under the authority of a community club licensee to sell liquor on the licensed

premises to a guest of a club member or reciprocal club member, or a visitor to the club, for consumption off the premises.

Clause 29 amends section 86 (Hours to which application may relate etc.) to prescribe that applications to extend the regular liquor trading hours of a licensed premises may only be considered and granted between the hours of 12am to 5am for commercial special facility licences relating to an airport or casino; 12am to 3am for a licence relating to a licensed premises in a prescribed 3am safe night precinct; and 12am to 2am otherwise.

Clause 30 amends section 100 (Available permits) to prescribe that a craft beer permit is a permit that may be granted and held under the Liquor Act.

Clause 31 amends section 103G (Authority of extended hours permit) to insert a Note – noting that an extended hours permit may be subject to a lock out condition, as prescribed in Part 5, Division 5.

Clause 32 inserts a new Part 4A Division 8, which sets out the requirements for, and authority of, a craft beer producer permit.

Section 103W provides that a craft beer producer permit authorises a permittee to sell or supply a sample of craft beer, produced by the permittee at the permittee's craft brewery, at a promotional event, but only if the organiser of the promotional event has given the permittee written consent to sell or supply craft beer at the event. Section 103W identifies that a craft beer producer permit may be granted for a single or recurring promotional event. Section 103W also provides that the authority of a permit is subject to any conditions stated in the permit. In particular, section 103W provides that, unless a condition imposed by the Commissioner states otherwise, a permittee may not sell or supply more than nine litres of craft beer to a person at a promotional event. However, this limit intentionally applies only to craft beer supplied at the event, and does not limit the volume of craft beer able to be ordered by a person from a permittee at a promotional event for later delivery.

Section 103X provides that a craft beer producer permit may only be granted to an applicant who operates a craft brewery under a producer/wholesale licence (or equivalent licence issued under another state law), and who will only be selling or supplying craft beer produced at the applicant's craft brewery at the promotional event. The section also identifies the circumstances in which the Commissioner is precluded from granting a craft beer producer permit.

Section 103Y limits the duration of a craft beer producer permit to no longer than three months, and precludes the permit from being renewed or transferred.

Section 103Z identifies that the area occupied by a permittee at a promotional event for the sale or supply of craft beer, whether or not defined under a condition applying to the permit, is taken to be the premises to which a craft beer producer permit relates. As a result, the existing regulatory and offence provisions under Part 6 of the Liquor Act regarding permittees generally, and premises to which a permit relates, will apply to a craft beer producer permit. This amendment will facilitate regulation of the sale of craft beer at promotional events in a manner compatible with the main objectives of the Liquor Act.

Section 103ZA identifies additional conditions which the Commissioner may impose on a producer/wholesaler licence to regulate the sale or supply of craft beer at a promotional event, such as sale and sampling limits.

Clause 33 amends section 105A (Additional requirement for particular applications—risk-assessed management plan) to extend the current exemption that applies to restaurants and cafes from the requirement to complete a RAMP as part of the application process, to other low risk licensed premises where the principal activity is the provision of floral arrangements or gift baskets. As a safeguard, the Commissioner will still be able to require a licensee to prepare a RAMP if necessary to ensure compliance with the Act, to minimise alcohol related disturbances or harm or for other purposes listed in subsection 105A(3). The clause amends the definition of ‘low risk premises’ in 105A(6) to exclude applications that are the subject of an adult entertainment permit or an extended liquor trading hours approval authorising liquor trading between the hours of 12am and 5am. The clause also amends the definition of ‘relevant application’ in section 105A(6) to reference car park approval.

Clause 34 amends section 107C (Commissioner may impose conditions on licences and permits), which authorises the Commissioner to impose a condition to prevent a patron from entering a licensed premises or premises to which a permit relates during a stated period of a day. The clause replaces a reference to the example of a condition mentioned in section 142AA(4) with a reference to the new 142AA(3), which prescribes that the lock out provisions of Division 5 do not apply if a licensee’s licence requires that a patron be prevented from entering the licensed premises at a time earlier than 1am.

Clause 35 amends section 112 (Procedure for variation by Commissioner) to omit subsection (2) and insert provisions that clarify that section 112’s procedural requirements for variation by Commissioner do not apply to variations of a licence for a disciplinary action to a licence under 137A, the imposition of a licensing condition to grant an exemption from the restriction on rapid consumption drinks under section 155AN, or variations of a condition mentioned in 155AP.

Clause 36 amends section 136 (Grounds for disciplinary action) to renumber section 136(1)(a)(iv) as section 136(1)(a)(v). The clause also inserts a new section 136(1)(a)(iv), which provides that failure to comply with a condition of a car park approval is a ground for disciplinary action.

Clause 37 inserts a new section 137CB to provide for the immediate suspension of a car park approval if the Commissioner believes on reasonable grounds that grounds for disciplinary action exist. The intention is that the suspension may be applied to car park approvals granted in respect of future events that have not yet occurred.

Clause 38 inserts new sections 142AA and 142AB to prescribe new lock out provisions.

Section 142AA ensures that lock out provisions prescribed in Division 5 apply to premises that are located within a 3am safe night precinct or any premises authorised under an extended hours permit if it is a condition of the permit that the division applies. The clause retains exemptions from the lock out in relation to Anzac Day, New Year’s Day, commercial special facility licences relating to an airport or casino and parts of licensed premises used principally for accommodation. The clause also provides that Division 5 will not apply to a licensed premises if a condition of the licence imposes a lock out prior to 1am.

Section 142AB provides for a lock out condition to be imposed on a holder’s licence or permit to ensure that patrons are not admitted to the licensed premises between 1am and 3am unless the patron is a resident or guest of a resident of the premises. A maximum penalty of 100 penalty units will apply.

Clause 39 amends section 142AE (Application of Division 6) to provide that a licensee need not record details of an incident in the incident register if the incident must be recorded in the crowd controller register maintained under the *Security Providers Act 1993*.

Clause 40 amends section 142ZAA (Immediate cancellation—identified participants) to provide that where an approved manager has their approval cancelled due to being an identified participant in a criminal organisation, and the Commissioner knows or suspects the holder of the approval is employed by a licensee for a licensed premises or permittee for a premises to which a permit relates, the Commissioner must give that employer written notice of the decision to cancel the approval.

Clause 41 amends section 142ZE (Suspension of cancellation) to provide that where an approved manager has their approval suspended or cancelled, and the Commissioner knows or suspects the holder of the approval is employed by a licensee for a licensed premises or permittee for a premises to which a permit relates, the Commissioner must give that employer written notice of the decision to cancel the approval

Clause 42 inserts a new Division 1AB into Part 6 of the Act. The new Division 1AB replaces the former section 153A to provide greater clarity around the sale, supply or consumption of liquor in a car park.

Like the former section 153A, the new section 142ZZE inserted by clause 42 expressly prevents the sale, supply or consumption of liquor in the car park of licensed premises, subject to penalty provisions. However, the new Division 1AB is more specific than the former 153A in stating that a licensee may apply to the Commissioner for a “car park approval” that will allow the sale, supply and/or consumption of liquor in the car park of the licensee’s licensed premises. The new section 142ZZF proposes that, in addition to any requirements that must accompany the application under section 105, an application for a car park approval must also state the name of the relevant premises and the days on which the licensee proposes to sell, supply or allow liquor to be consumed in the car park of the premises. It is intended that an application (and approval) will relate to a specific date.

The new section 142ZZG provides that, when considering an application for a car park approval, the Commissioner must have regard to the effect on the health and safety of members of the public and the amenity of the community or locality. It is therefore intended that Division 1A of Part 5 of the Act will apply to the Commissioner’s consideration of an application for a car park approval, because Division 1A of Part 5 provides guidance as to how the Commissioner may make a decision about the effects of a thing on health and safety of members of the public and the amenity of the community or locality. In making a decision regarding the application, the Commissioner may also consider any impacts arising from the grant of any previous authorisations that allowed the licensee to use the car park for the sale, supply and consumption of liquor – regardless of the form of that authorisation. The section states that, if asked to approve more than one date as a date to which a car park approval applies, the Commissioner may grant the approval for one of the days, some of the days or all of the days. This is intended to provide the Commissioner with the discretion to approve car park events one at a time, so that the effects of former events can be assessed in the Commissioner’s consideration of subsequent events, as provided for in section 142ZZG(1)(b).

The new section 142ZZH is intended to reduce impacts on amenity and safety by providing that, if the Commissioner is satisfied that a licensee has failed to comply with a condition of a car park approval, the Commissioner cannot grant another car park approval for a date within

three months after the day the failure to comply is established to the satisfaction of the Commissioner.

The new section 142ZZI provides that the Commissioner may apply conditions to a car park approval to ensure compliance with the Act, or to minimise alcohol-related disturbances or public disorder in the locality. The Commissioner may also apply conditions to give effect to the main purposes of the Act as stated in section 3(a). Section 128C is referenced to provide guidance as to the type of matters that the Commissioner may address in a condition to give effect to the main purposes of the Act in section 3(a). The Commissioner may also specifically condition a car park approval about the provision of amplified entertainment. For example, the Commissioner may prohibit amplified entertainment, or impose a decibel limit, or specify that amplified entertainment may only be provided during some of the hours to which the car park approval relates. Finally, clause 42 inserts a new section 142ZZJ dealing with the authority of a car park approval.

Clause 43 inserts a new section 143B, which requires that licensees that have been granted an exemption under section 155AK's restrictions on the sale and supply of rapid intoxication drinks must keep a copy of the exemption notice at the premises. The clause prescribes a maximum penalty of 25 penalty units for the offence of failing to keep a copy of the exemption notice at the premises.

Clause 44 inserts new section 148AB which introduces offence provisions relating to the sale or supply of craft beer at a promotional event, with maximum penalties aligned to comparable offences under the Liquor Act for failure to undertake responsible practices and promotions.

Clause 45 omits section 153A (Sale, supply or consumption of liquor in car park) which, prior to these amendments, stated that a licensee could not, without the Commissioner's approval, sell, supply or allow liquor to be consumed in the car park of licensed premises. This section has been replaced by the new Division 1AB in Part 6.

Clause 46 amends the definition of exempt minor under section 155 (Minors on premises) to additionally include premises to which a craft beer producer permit relates, unless the minor's presence contravenes a condition of the permit. This amendment is necessary to provide for circumstances where a craft beer producer may be selling or supplying their craft beer at a promotional event which is able to be attended by minors, such as a market or fair. However, the Commissioner retains authority under Part 5 to condition the permit to preclude minors being in the proximity of the craft beer producer in order to minimise any potential for harm.

Clause 47 amends section 155AC (Application of div 1A) to identify that Part 6 Division 1A does not apply to premises to which a craft beer producer permit relates, or to a premises operating under a community liquor permit or restricted permit relates, if liquor is supplied only by volunteers.

Clause 48 amends section 155AD (Who must be present or reasonably available at licensed premises) to ensure that an approved manager is present or reasonably available between the hours of 12am and 5am at a premises that trades in liquor under the authority of a commercial special facility licence or an extended hours permit, between the hours of 12am and 3am at a licensed premises in a 3am safe night precinct, and between the hours of 12am and 2am at all other licensed premises, or premises to which a permit related.

Clause 49 inserts a new Part 6, Division 1B, which bans the sale or supply of rapid intoxication drinks during the restricted period, unless otherwise prescribed.

The new section 155AG defines ‘rapid intoxication drink’ as a drink that facilitates or encourages rapid intoxication because it is designed to be consumed rapidly or it contains a high percentage of alcohol, and the type of drink is prescribed by regulation as a rapid intoxication drink.

The new section 155AH provides that Division 1B applies to all licensed premises authorised to sell or supply liquor between the hours of midnight and 5am on a day (the restricted period), except for airports and casinos that operate under a commercial special facility licence and premises operating under an industrial canteen licence.

The new section 155AI prohibits the sale or supply of rapid intoxication drinks during the restricted period (between 12 midnight and 5am) with a maximum penalty of 100 penalty units, unless the licensed premises or part of the premises has been granted an exemption from the restriction in accordance with provisions of section 155AK.

The new section 155AJ provides that a licensee may apply to the Commissioner for an exemption from the restriction on the sale or supply of rapid intoxication drinks during the restricted period.

Section 155AK provides that the Commissioner may grant an exemption from restriction on the sale or supply of rapid intoxication drinks during the restricted period. To grant the exemption, the Commissioner must be satisfied that the premises or part of the premises is used primarily for the sale or supply of premium spirits, and the premises or part of the premises has capacity to seat no more than 60 patrons at a time. “Premium spirits” is defined to mean liquor prescribed in the Liquor Regulation that has a higher value or quality than ordinary liquor. The Commissioner must also be satisfied that the exemption would not have a significant adverse impact on the health and safety of the public or the amenity of the locality; the way in which liquor is served is unlikely to result in rapid intoxication (e.g. size of servings); the extent to which the type and quality of liquor being provided, and the way it is served, differs from the offerings of other premises in the locality; and, in cases where part of licensed premises is proposed for exemption, the part of the premises to be exempt is defined by permanent or semi-permanent structures, such as walls. Section 155AK allows the Commissioner to grant an exemption to all or part of the premises, 1 or more types of rapid intoxication drinks and all or part of the restricted period. Where an exemption application is refused, the Commissioner must provide a written information notice for the decision.

The new section 155AL provides that the Commissioner must provide an exemption notice to a licensee when granting an exemption, with the exemption taking effect on the day of the notice. The exemption notice must also state the types of rapid intoxication drinks exempted, if the exemption is granted for part of a premises – the part of the premises exempted; if the exemption is granted for part of the restricted period – the part of the period exempted; and any other requirements the Commissioner considers necessary to remain satisfied of a matter mentioned in section 155AK(1) or (2).

The new section 155AM provides that, if a licensed premises has been granted an exemption, and is later granted an extended hour permit, the exemption applies to the permit hours unless specified in the permit.

Further, the new section 155AN provides that the Commissioner must impose licence conditions for exemptions granted in relation to rapid intoxication drinks. The conditions must state that the licensee must not allow the sale or supply of liquor in a way that encourages excessive or rapid consumption of liquor; if the exemption was granted for part of a premises, the licensee must not allow patrons to take liquor from the exempt part of the premises to another part of the premises; and the licence must comply with the matters stated in the exemption under section 155AL(3), or any variation of these matters made under section 155AP.

Section 155AO authorises the Commissioner to suspend the exemption of an eligible premises if the Commissioner is satisfied the licensee or permittee has breached the exemption conditions imposed on their licence or permit. The suspension takes effect when the written notice is given to the licensee or permittee, and remains in effect until the Commissioner lifts the suspension by written notice, the Commissioner varies or revokes the exemption in accordance with the provisions of section 155AP, or the end of 60 days after the suspension takes effect.

Section 155AP prescribes the manner in which the Commissioner may vary or revoke a suspension if the Commissioner has reason to believe a licensee will continue to fail to comply with the exemption conditions imposed on their licence, following an initial suspension of the exemption. The Commissioner is required to provide written notice stating the proposed variation or revocation, the reason for varying or revoking the licence, and that the licensee has the right to lodge a notice of objection within 14 days of receiving the written notice. The Commissioner is required to provide an information notice when a decision is made to revoke or vary a licensee's exemption. If varying the exemption, the Commissioner must also give the licensee an amended exemption notice.

Clause 50 amends section 158 (False representation of age) to reflect changes in terminology as a consequence of the amendment of section 6 at clause 20 (Acceptable evidence of age).

Clause 51 amends section 159 (Wrongful dealing with genuine evidence of age) to reflect changes in terminology as a consequence of the amendment of section 6 (Acceptable evidence of age).

Clause 52 inserts a new section 162B, which creates the new offence of taking liquor into or away from an area subject to a CPEP, and a new section 162C, which creates the new offence of taking liquor into or away from an area subject to a CLP. A maximum penalty of 25 penalty units is prescribed for each offence, consistent with the maximum penalty prescribed in sections 162 and 162A of the Liquor Act in relation to taking liquor into or away from premises that operate under a subsidiary on-premises licence or nightclub licence. However, these provisions do not apply to the holder of the permit or their employees or agents where taking liquor into or away from the venue is for the purpose of conducting the event; or if otherwise permitted under the permit conditions.

Clause 53 amends section 172 (Offer to purchase liquor made elsewhere than at licensed premises) to clarify that the section's provisions prohibiting a licensee from taking or receiving an order for liquor elsewhere than at the licensed premises do not apply to orders for craft beer taken at a promotional event under the authority of a craft beer producer permit or a section 73(2)(a) licence condition of a producer/wholesaler licence.

Clause 54 inserts a new part 6AB in Division 5 to provide for the prescription of 3am safe night precincts.

The new section 173O clarifies the purpose of the division is for the approval of safe night precincts as approved 3am safe night precincts. As a consequence of this approval, licensees in an approved 3am safe night precinct may apply to extend liquor trading hours on a regular basis during the period between 12am and 3am.

Section 173P provides that a regulation may prescribe a safe night precinct as a 3am safe night precinct. It also authorises the Minister to recommend that the Governor in Council make a regulation prescribing an approved 3am safe night precinct, provided the Minister has consulted with the local board of the safe night precinct and is satisfied that there is a local board for the safe night precinct; approval of the precinct is consistent with the purposes of Part 6AB; and would not unduly impact public health and safety or the amenity of the community.

Section 173Q authorises the Minister to recommend that the Governor in Council make a regulation to repeal a prescribed 3am safe night precinct if there is no longer a local board for the precinct, or by request of the local board, or if the Minister is satisfied that continuation of 3am approval would have an undue adverse effect on health, safety or amenity. The Minister must consult with the local board before making a recommendation based on consistency with Part 6AB or concern for adverse effects on health, safety or amenity. The clause further prescribes that on the day the repeal of the 3am safe night precinct commences, the extended liquor trading hours for licensed premises in the precinct will only authorise liquor trading between the hours of 12am and 2am.

Clause 55 inserts a new Part 7, Division 1A containing a new section 173NR to provide a definition of 'document' for Part 7.

Clause 56 amends section 174AA (Production or display of identity card) to correct a drafting error by omitting a reference to "inspector" and replacing it with "investigator" to maintain consistent terminology across the section's provisions.

Clause 57 inserts a new section 183AA to enable an investigator to require a person, by written notice, to produce any documents the investigator believes on reasonable grounds the person has possession or control of and are relevant to the administration or enforcement of the Liquor Act. Failure to comply with the requirement attracts penalties for the offence.

Clause 58 amends section 217 (Records to be kept by licensee) to require a licensee under a producer/wholesaler licence, or a permittee under a craft beer producer permit, to maintain a record of all promotional events at which the person has given free samples of their craft beer, sold their craft beer for takeaway consumption, or taken orders for their craft beer. This additional requirement is necessary to enable the Office of Liquor and Gaming Regulation to monitor attendance by craft beer producers at promotional events and to ensure that craft beer producers are only selling their own products at those events in accordance with the licence or permit authority. As the Liquor Act already requires a licensee to maintain a record of which liquor products they have sold, merely asking a licensee or permittee to keep a list of the events which they attend is not considered to be an onerous request. Failure to comply with this further reporting requirement will be an offence attracting a maximum penalty of 350 penalty units, the same maximum penalty which currently applies to existing offences under the section for failure to keep relevant records.

Clause 59 amends section 226 (Contravention of conditions of licences etc.) to provide that a person who contravenes a condition of a car park approval commits an offence against the Act.

Clause 60 inserts new section 228C to clarify that, where a craft beer producer sells or supplies craft beer at a promotional event held at premises that are subject to a commercial special facility licence, the conditions of the commercial special facility licence regarding the supply of liquor override any conflicting conditions or authority of the craft beer producer's producer/wholesaler licence or craft beer producer's permit.

Clause 61 amends section 233 (Evidentiary provisions) to prescribe that a copy of a certificate signed by a doctor or authorised police officer is admissible as evidence of the concentration of alcohol present in the blood or breath of a person for a proceedings under the Liquor Act.

Clause 62 inserts a new Part 12, Division 17 to prescribe a number of transitional provisions.

The new section 330 defines 'extended trading hours application (takeaway liquor)' and 'retrospectivity period'.

The new section 331 clarifies that Subdivision 1 does not apply to applications for extended trading hours for takeaway liquor sales or extended liquor trading hours approvals if the application for approval is for an airport of casino to which a commercial special facility licence relates.

The new section 332 provides that not compensation is payable by the State to a person due to the operation of Subdivision 1.

The new section 333 provides that a person may not make an extended trading hours application for takeaway liquor from 10 November 2015, and any applications made or purportedly made, on or after 10 November 2015 are of no effect. It also provides that any undecided applications are taken to lapse on 10 November 2015.

Section 334 provides that, where a court or tribunal proceeding relating to an extended trading hours application for takeaway liquor that has not been decided by commencement, the proceeding ends and must not be further considered by the court or tribunal.

Section 335 provides that, where a court or tribunal has made a decision relating to an extended trading hours application for takeaway liquor on or after 10 November 2015, the decision does not authorise the sale of takeaway liquor between 10pm and midnight.

Section 336 provides that, where an application seeking extended liquor trading hours between 2am and 5am is undecided as at 1 July 2016, the Commissioner may only grant the approval to include liquor trading until 2am, or 3am if the premises is located in a 3am safe night precinct.

Section 337 prescribes that from 1 July 2016, any extended liquor trading hours approval for the period between 2am and 5am at a licensed premises does not authorise regular liquor trading hours beyond 2am, or 3am if the premises is located in a 3am safe night precinct.

Section 338 provides that, where a proceeding is undecided as at 1 July 2016, any decision subsequently made is effective only to the extent that it authorises liquor trading until 2am or 3am if the premises is located in a 3am safe night precinct.

Section 339 clarifies that current acceptable evidence of age documentation will continue to be accepted after section 6 is amended.

Section 340 states that the new section 142ZZE applies to a licensee despite any condition on the licensee's licence that may authorise the use of the car park for the sale, supply or consumption of liquor. The intention is that all licensees in Queensland will be required to seek new approval under section 142ZZE for every specific occasion on which it is intended to sell, supply or allow liquor to be consumed in a car park – regardless of any pre-existing authorisation to conduct these activities. This will allow the Commissioner to consider the impact of each proposed event (as provided for in section 142ZZG) and condition any resultant approval appropriately. To remove any doubt, section 340 declares that any pre-existing authorisation granted by licence condition cannot be considered a car park approval under section 142ZZE. The section also states that no compensation is payable due to the operation of the section.

Section 341 provides that, if the Commissioner granted an approval to use a car park for the sale, supply or consumption of liquor under section 153A prior to the commencement of clause 42, the approval no longer has effect. This is intended to prevent a situation in which licensees may avoid the enhanced consideration and conditioning powers (inserted by clause 42) by applying for car park approvals under the existing section 153A prior to commencement.

Part 6 Amendment of Liquor Regulation 2002

Clause 63 states that Part 6 amends the Liquor Regulation 2002.

Clause 64 inserts a new section 38AB, which provides that spirituous cooking essences are prescribed for section 14AB(2)(b)(i) of the Liquor Act. The Bill also provides that, for section 14AB(2)(b)(iii) of the Liquor Act, the maximum amounts prescribed for spirituous cooking essence are 100 millilitres for vanilla essence and 50 millilitres for all other essences.

Clause 65 amends section 38A (Matters for risk-assessed management plan—Act, s50, definition risk-assessed management plan) to change the references to 'section 50' to instead read 'section 4'. This is a consequential change regarding the reinstatement of the regulation-making power in relation to RAMPs in the Definitions section of the Liquor Act.

Clause 66 inserts a new section 41A to prescribe the maximum period for which a car park approval may be granted.

Part 7 Amendment of Penalties and Sentences Act 1992

Clause 67 states that Part 7 amends the *Penalties and Sentences Act 1992*.

Clause 68 amends section 4 (Definitions) to define *DAAR condition*.

Clause 69 subclause (1) amends section 15B (Definitions for Division 1) to define *DAAR condition*. Subclause (2) amends the definition of *drug assessment* and *education session* to omit the requirement that the session be provided one-on-one.

Clause 70 subclause (1) amends section 19 (Order of court) to insert new subsection (2B) to enable the court to impose a condition that the offender complete a Drug and Alcohol Assessment and Referral course by a stated day (a DAAR condition). Subclause (2) defines a DAAR course by reference to section 11AB of the *Bail Act 1980*.

Clause 71 amends section 20 (Contravention of order) to include a reference to DAAR condition.

Clause 72 inserts a new section 239 to provide transitional application of the amendments to section 19 (Order of court) under clause 70. The court may include a DAAR condition to an order on or after commencement; it is irrelevant whether the act or omission constituting the offence for which the order is made happened before or after the commencement or the proceeding for the offence was started before or after commencement.

Part 8 Amendment of Police Powers and Responsibilities Act 2000

Clause 73 states that Part 8 amends the *Police Powers and Responsibilities Act 2000* (PPRA).

Clause 74 amends section 686(2)(e) of the PPRA to include the term ‘saliva’ so that saliva exhibits are exempt from the application of Chapter 21, Part 3 (Dealing with things in the possession of police service) of the PPRA in the same way blood and urine are exempt, as it would be impractical or impossible to return the exhibit to the owner.