

June 1995

**REPORT OF THE
MINISTER FOR RACING AND GAMING
ON THE**

REVIEW OF THE LIQUOR LICENSING ACT 1988

Presented to

Members of the Legislative Assembly
and the Legislative Council

by

the Hon Max Evans, MBE, FCA, MLC
Minister for Finance;
Racing and Gaming; and
Minister assisting the Treasurer

BACKGROUND

1. In accordance with section 178 of the Liquor Licensing Act 1988, the Act has been reviewed and I now present my report to Parliament.
2. A number of processes were used to ensure that the review of the Act was comprehensive and that the views of the liquor industry and the community at large were canvassed.
 - a. A Committee¹ was established to review the Act. The Mattingley Committee's report provided a comprehensive range of recommendations, many of which have been incorporated in my report. It should be noted that overall, the Committee found that, within existing resources, the Liquor Licensing Division performed its tasks creditably.
 - b. On 13 September 1994, the Report of the Mattingley Committee (the Mattingley Report) was tabled in Parliament. Submissions on the recommendations contained in the report have been received from government agencies, the liquor industry and the general public. The comments from these responses have been taken into consideration in the formulation of this report.
 - c. Officers from the Office of Racing and Gaming have had discussions with a range of Government agencies, whose activities are or could be affected by the recommendations contained in my report.
 - d. Government policies with respect to the use of alcohol in the community have been taken into consideration in the development of my recommendations.

GOVERNMENT FRAMEWORK FOR THE OPERATIONS OF REGULATORY AGENCIES

3. The 36th Report of the Standing Committee on Government Agencies "State Agencies - their Nature and Function" report classifies state agencies by functional type - operations, advisory and regulatory - and recommends that combinations of functions within a single agency should be avoided.

¹Chairman - Mr K V Mattingley AO, former Managing Director, West Australian Newspapers Ltd
Members - Mrs P M Morris JP, Councillor and former Mayor of the City of Gosnells
- Mr J E Karasek, former Manager Western Australia, for Ansett Airlines

4. The report suggests the following characteristics as appropriate for regulatory agencies.
 - a. Regulatory agencies should be required to publish or have available for distribution a clear statement of policy and objectives.
 - b. Those agencies whose decisions affect livelihood or business or trade purposes will have two levels of policy - the policy contained in legislation, and operational policy as to the application of principle and rules. These two levels of policy should not be confused with the methods used for the application of policy.
 - c. Where agencies can make rules that have a legislative effect, these rules should be made in consultation with those affected materially by those rules.
 - d. Administrative decisions rely heavily on consistency of approach.
 - e. Judicial review is part of an orderly system of open decision-making with respect to regulation.
5. Because of the constraints of sections 90 and 92 of the Australian Constitution, the regulatory nature of the liquor licensing franchise fee must be clear and unambiguous to ensure that the State continues to collect it. The role of the licensing authority must be clearly regulatory.
6. I propose to use these principles as the basis for determining the future role for the State's liquor licensing authority.

EFFECTIVENESS OF THE OPERATIONS OF THE LICENSING AUTHORITY

7. After careful consideration of the report, public comments on the report and issues arising from the discussions with other agencies, I consider the effectiveness of the operations of the licensing authority can be enhanced and the objects of the Liquor Licensing Act met to a greater extent by implementing the following changes.

ACT TO BE WRITTEN IN PLAIN ENGLISH

8. The Mattingley Report recommended that the Act be rewritten in "Plain English". This is in keeping with Government policy with respect to legislation and I support this recommendation fully and aim to have the Act rewritten so that it is readily understandable, while maintaining the necessary legislative controls over the use of liquor in the community. This process may involve the review and simplification of procedures as set out in the current Act.
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Proposed action

Act to be rewritten in plain English.

REVIEW OF THE ACT

9. In accordance with Government policy, a provision requiring a review of the revised Act after five years should be included. The provision should include a requirement that the report of the review should be laid before the Parliament.

Proposed action

A provision requiring a review of the revised Act after five years will be introduced.

DEFINITION OF A LIQUOR LICENCE

10. A clearer definition of the nature of a liquor licence will be developed.

Proposed action

Clarify the definition of the nature of a liquor licence in the Act.

OBJECTS OF THE ACT

11. The long title of the Liquor Licensing Act states that the object of the Act is "... to regulate the sale, supply and consumption of liquor, the use of premises on which liquor is sold, and the services and facilities provided in conjunction with or ancillary to the sale of liquor...".
 12. The objects of the Act should be expanded to make it clear that one of the principal purposes of the Act is to encourage individuals to adopt a responsible approach to the sale and consumption of alcohol, thus reducing any harmful effects. The responsible approach should encompass both individual health aspects and general community responsibilities of the liquor industry and persons whose drinking habits may have an impact on other persons. The use of harm reduction strategies should be included.
 13. The licensing authority will be required to work in co-operation with appropriate agencies, such as the Health Department, to support activities that promote the responsible use of alcohol. This could include the placing of restrictions on the sale of alcohol, that is, in the public interest.
 14. The inclusion of this provision will provide greater scope for the interpretation of the provisions in the Liquor Licensing Act with respect to the overall needs of the community.
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Proposed action

The objects of the Liquor Licensing Act will be expanded to include a requirement for the licensing authority to support activities that promote a responsible approach to the sale and consumption of alcohol, including harm reduction.

CONSTITUTION OF THE LIQUOR LICENSING AUTHORITY

15. In keeping with Government policy, access to some form of judicial review is necessary for a regulated industry.
16. The Mattingley Committee considered the existing structure of the licensing authority, viz the Liquor Licensing Court and the Director Liquor Licensing, and recommended that the Liquor Licensing Court be replaced by a Liquor Licensing Commission. The Commission would consist of a full-time Commissioner and Deputy Commissioner. The day-to-day administration of the Act and the determination of those matters not dealt with by the Commissioner or the Deputy would continue to be the responsibility of the Director of Liquor Licensing. The Committee's decision was based on the views contained in submissions and its own investigations and observations.
17. The Commission was to take over all judicial activities of the Court and the main quasi-judicial responsibilities presently handled by the Director of Liquor Licensing. The Mattingley Committee recommended that the Commission determine all matters concerning contested A and B category licences.
18. The Liquor Industry Council has indicated strong support from the industry for the Court to be retained.
19. After reviewing the options and considering the level of resources required to effect the Committee's recommendation, I propose to retain the Court, but to modify licensing procedures so that the Court is responsible for all judicial activity.

Revised procedures for determining licence and permit applications

20. I propose to adopt the following structure for the determination of applications for liquor licences and permits.
 - a. All licence applications will be assessed against standard criteria by the Director Liquor Licensing in the first instance. Unsuccessful applicants will continue to be able to appeal to the Liquor Licensing Court except in the case of permits, where the Director's decision will continue to be final.
 - b. Objectors to a category A application may appeal the decision of the Director Liquor Licensing to the Liquor Licensing Court, but it is
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intended that the Court will only deal with the need for, and/or public interest issues. The Director's decisions relating to the provisions in section 33 of the Act, on matters concerning the suitability of premises and persons will be final.

Disputes - Negotiation, conciliation and mediation

21. Every attempt will be made to resolve disputes through negotiation, conciliation and mediation procedures. In the first instance, the Director Liquor Licensing will attempt to resolve disputes by facilitating negotiations between the parties concerned.
 22. The steps will be as follows:
 - a. The Director Liquor Licensing will use negotiation, conciliation and mediation procedures to resolve disputes arising during the application process.
 - b. The Director will have the discretion to refer either category A applications and/or disputes emerging during the application process to the Court. Disputes will only be referred if the Director considers them to be substantial and not frivolous or vexatious.
 - c. Disputes referred to the Court will be addressed through informal means in the first instance. Formal court proceedings will be instigated only when all informal means have been exhausted and if the matters are considered to be substantial.
 - d. Persons who disagree with the Director's decisions with respect to licence applications will still be able to appeal to the Court. Such appeals will be heard only if the Judge considers them substantial.
 - e. Persons who disagree with the decisions of the Court on questions of law will continue to have access to the Supreme Court.
 23. As well as clarifying the roles of the Director Liquor Licensing as administrative and the Court as judicial, this approach will allow more time for the Director of Liquor Licensing to focus on ensuring that the industry understands its responsibilities with respect to the sale and supply of liquor.
 24. The greater use of established criteria for the assessment of licence and permit applications, will assist the industry and the community by simplifying and clarifying licence and permit application procedures and requirements.
 25. The Court will continue to develop and adopt flexible and informal procedures and to minimise the need for formal court hearings.
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Proposed action

The Liquor Licensing Court will be retained, will adopt a dual role of offering both informal hearings and formal court work and will hear contested license applications and permits on the grounds of "need for the licence/permit" and "public interest".

As a means of facilitating communication between the Court and the Liquor Licensing Division, I propose to locate the two in the same building as soon as possible.

OBJECTIONS TO APPLICATIONS NOT TO BE FRIVOLOUS OR VEXATIOUS

26. Section 74(4) provides for the Registrar to determine whether an objection is frivolous or vexatious. However, there is no provision for the licensing authority as a whole to make a determination of this nature. As a matter of policy, it is proposed to require all objections to licence/permit applications to be assessed as either substantial, or frivolous or vexatious.
27. Both the Director Liquor Licensing and the Court will determine the status of such objections. Only those considered to be substantial/significant will proceed with the approval of the licensing authority.

Proposed action

Strengthen section 74(4) to allow the licensing authority to make a determination on matters considered to be frivolous or vexatious.

TRAINING, HOST RESPONSIBILITY, COMMUNITY AWARENESS

Industry Training and Education

28. The Mattingley Committee commented that a core responsibility for the Liquor Licensing Division was in the area of industry training and education, community awareness and liaison with Aboriginal people. The Committee emphasised the need for workers in the liquor industry to be better informed about legal and social aspects of the industry. In the context of the Division's responsibilities with respect to the regulation of the liquor industry, I support this view.
 29. There should be a requirement that, as part of the licensing process, key liquor industry participants demonstrate their knowledge through some form of examination that is accredited by established procedures through the Skills Standards and Accreditation Board. This will allow people the flexibility to learn what they need to know in their own way - for example, individual study, formal courses or on-the-job training.
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30. The requirement to undertake an examination should be restricted to licensees and approved managers who will, in turn, be responsible for the action of employees (predominantly servers). Because of the number and mobility of servers in the industry, the varied hours of work and the wide dispersion of licensed venues, it is not considered feasible to licence servers.
 31. However, as part of licensing procedures there will a requirement for licensed persons to demonstrate the ways in which they ensure that their employees are conversant with their responsibilities under the Liquor Licensing Act. These requirements will support duty of care and host responsibility matters. There will also be sanctions against licensed persons who do not comply with this requirement.
 32. Because the role of the Liquor Licensing Division concerns the regulation of the liquor industry, it is not appropriate that it take on the responsibility for the delivery of training programs. However, the Division should be involved in the accreditation of such programs and also in supporting their development.
 33. To achieve this, I propose that the Liquor Licensing Division establish the following procedures:
 - a. All legislative requirements, criteria and policies used for the assessment of licences will be published in an easily readable format and made available to the industry. This will ensure that the industry has a greater understanding of its responsibilities under the law.
 - b. As an initial step, the Division will work with the Department of Training regarding the development and accreditation of appropriate courses for industry on licensing requirements. Such courses should be offered on a fee-for-service basis, in a variety of formats (independent learning units, short courses etc). Accreditation would be through the Skills Standards and Accreditation Board. A representative from the Liquor Licensing Division should be invited to become a member of any committees responsible for the development and accreditation of such courses. As recommended by the Mattingley Committee, the constitution of such a committee could include nominees of:
 - i. the Liquor Industry Council
 - ii. the Director Liquor Licensing
 - iii. the Commissioner for Health
 - iv. the Commissioner for Police
 - v. the Chief Executive Officer of the Aboriginal Affairs Department or the Chair of the Aboriginal Justice Advisory Committee
 - vi. the Industry Employment Training Council (Hospitality and Tourism)
 - vii. the Executive Director of the Department of Training.
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- c. It is anticipated that the private sector will wish to become involved in the provision of appropriate courses and the Division will work with this sector on the same basis as with the Department of Training.
 - d. The initial costs of course development by the Department of Training should be met by Government. A seeding grant may be required for this. The costs of on-going course development should be built into fee-for-service courses.
 - e. All persons entering the industry as licensees and approved managers will be required to demonstrate knowledge of the legislative requirements as part of the licensing procedures, knowledge of host responsibilities and responsible serving practices, knowledge of the health effects of alcohol and public health standards and guidelines. Licensed persons will also be required to demonstrate that staff undertake appropriate training with respect to the serving of alcohol.
 - f. From time to time, where the Liquor Licensing Division identifies a particular need for knowledge about the implementation of the Liquor Licensing Act, industry seminars will be arranged by the Office of Racing and Gaming.
 - g. The Director Liquor Licensing will be responsible for ensuring that industry training programs will be evaluated on a regular basis.
34. The requirement that key industry participants demonstrate their knowledge of the liquor industry will be phased in over a period of three years. It will be an immediate requirement for new participants. Procedures will be introduced by the Liquor Licensing Division to ensure that existing participants meet the requirement within this period.
35. The licensing procedures will include a requirement that members of the industry maintain up-to-date knowledge of the regulatory requirements through participation in regular training. This training should be self-funded.

Proposed action

The Liquor Licensing Division will facilitate the development of appropriate industry training and education.

Host Responsibility Program

36. There is strong support for the development of a "Host Responsibility Program" which would provide the vehicle for the development of safer drinking environments by altering the behaviour of people providing alcohol either in a private situation or on licensed premises. There are mixed opinions on whether this program should be the responsibility of the Government or the industry.
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37. In my view, the host responsibility program should be an industry initiative, with industry determining an appropriate set of standards for behaviour. The Government can support the approach by ensuring that the conditions for licensing members of the industry are maintained rigorously. Government could also consider assisting the host responsibility program through the provision of administrative support by the Office of Racing and Gaming. Government should not appoint the members of the group.
38. Industry sponsored training in host responsibility should be developed.
39. Host responsibility initiatives will be supported by the identification of duties of licensees and members of the industry generally. This will support the maintenance and development of a responsible attitude from operators in the liquor industry - that of a host responsibility. This "duty of care" approach will assist with the enforcement of provisions regarding juveniles.
40. Government input to the host responsibility program should be through formal submissions to the organising group and ensuring the program is subject to an independent evaluation of its effectiveness.

Proposed action

The Government supports the establishment of a host responsibility program. However, it should be the responsibility of the liquor industry.

Aboriginal liaison

41. While recognising that some groups of Aboriginal people have particular problems with respect to the use of alcohol, the role of the licensing authority is restricted to supporting regulatory activities. I propose therefore, that the Director Liquor Licensing be required to develop procedures that will facilitate the implementation of the policies of Aboriginal communities with respect to the sale and consumption of alcohol. This should involve regular contact with both the Aboriginal Affairs Department and Aboriginal people.
 42. Section 64 (3) of the Act should be amended to include a provision to allow the licensing authority to impose conditions on licences that support agreements established by local communities. That is, the licensing authority should be able to ratify agreements negotiated by local communities under the Aboriginal Communities Act.
 43. The Government has provided a \$1 million financial support package for Aboriginal self help activities as announced by the Minister for Health in November 1994. The Office of Racing and Gaming will support the training of members of the Aboriginal street patrols in collaboration with the Aboriginal Justice Advisory Committee.
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44. Consideration will be given to appointing selected members of Aboriginal street patrols as inspectors, with specified powers under appropriate legislation. Appointments will only be made after consultation with the Commissioner of Police.

Proposed action

The Director Liquor Licensing will establish consultative procedures to facilitate the implementation of policies of Aboriginal communities with respect to the sale and consumption of liquor.

Section 64 (3) of the Act will be amended to include a provision allowing the imposition of conditions on licences to support local community agreements.

Community Awareness

45. A number of sources have commented on the need for the community to have a better understanding of the regulatory provisions governing the use of alcohol in the community. I perceive that the role of the licensing authority in promoting community awareness of regulatory provisions will be limited to providing information on the Liquor Licensing Act and regulations and the implications of these.
46. The Liquor Licensing Division will be responsible for the development of promotional material, for the industry and the wider community, that explains the requirements of the Liquor Licensing Act in simple terms for community use. The Director will work with the Health Promotion Unit from the Health Department to assist with programs such as "Drinksafe" and "Respect Yourself" through the regulatory networks.
47. Additional resources will be provided to the Liquor Licensing Division for increased liaison with the liquor industry and the promotion of a community awareness program.
48. Both host responsibility and community awareness programs should acknowledge the special needs of Aboriginal people and staff of the Liquor Licensing Division should support staff from other agencies responsible for the development of strategies to minimise the harmful effects of excessive alcohol consumption amongst Aboriginal people.
49. As discussed in paragraphs 28 to 35, in relation to licensing requirements some industry training would be developed through the Department of Training in the first instance. Any other training should be the responsibility of the industry, although the Liquor Licensing Division would be available to provide technical advice on regulatory requirements.
50. Community awareness programs, sobering up shelters, Aboriginal community patrols, research into liquor abuse, while all are commendable projects and
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supported by the Government, should be considered and funded through other government and non-government agencies already involved in these areas. Funding for these projects should be considered as part of the Government's budget priorities.

51. Greater community awareness of the Government's role in regulating the liquor industry might be achieved if the department responsible for the administration of the Liquor Licensing Act were to include the word "liquor" in its title, viz the Office of Racing, Gaming and Liquor.

Proposed action

Additional resources will be allocated to the Liquor Licensing Division to assist with the development of the host responsibility program and to take on the role of promoting industry liaison and community awareness.

The title of the Office of Racing and Gaming be amended to the Office of Racing, Gaming and Liquor.

LIQUOR LICENCE FEES

52. Liquor licence fees were increased to the current rate of 11 per cent and seven per cent in July 1986.
53. The Mattingley Report recommended that the fee structure be changed to 12 per cent on regular alcoholic drinks and six per cent on low alcohol drinks. In its response to the Report, the Alcohol Advisory Committee suggested that a greater differential would be preferable.
54. Despite strong representation to do so, at this stage, I do not propose to change the liquor licence fee structure.
55. At my initiative a review of the method of collecting liquor license fees with a view to collecting these at wholesale, rather than retail level is being done. A change to the licence fee structure may result from this review.
56. Current policy is to exclude the costs of identifiable delivery charges from the amount to be assessed for the purposes of the licence fee. It is proposed to extend this policy to include suppliers who use their own vehicles to deliver liquor to retailers. Standard criteria will be used to assess the amount of the concession.

Proposed action

Current liquor license fees will be retained at this stage. However, the Government will consider increasing the differential between the liquor licence fee on high and low alcohol products.

CROWD CONTROLLERS

57. The role that crowd controllers, commonly known as bouncers, have in ensuring that people who frequent licensed premises are properly controlled was acknowledged by the Mattingley Committee and others. These matters have been addressed by the Security and Related Activity (Control) Bill 1994 which contains a provision for the licensing of bouncers or crowd controllers.
58. Crowd controllers should wear photographic identification showing registration numbers while on duty. Crowd controllers should also be required to demonstrate knowledge of liquor licensing laws.
59. This proposal has my full support.

Proposed action

The requirements for crowd controllers working in the liquor industry will be implemented through the Security and Related Activity (Control) Bill 1994.

PROMOTIONS, DISCOUNTING AND BINGE DRINKING

60. The problems associated with practices which encourage binge drinking such as drinking competitions, laybacks, blasters, snorters, bladder busters, test tubes, slammers and so on, together with promotions which provide free drinks or half price drinks, are in direct contrast with the expanded objects of the Act.
61. Some sections of the liquor industry have attempted to have a code of practice which encourages licensees not to indulge in the irresponsible sale of liquor, but such voluntary codes cannot be enforced and generally do not appear to be working. Such practices are of major concern, and it is proposed to amend the Liquor Licensing Act to prescribe or impose a provision that allows the licensing authority to identify appropriate duties for licensees and impose conditions on liquor licences which restrict promotions and discounting which encourage binge drinking.

Proposed action

The Liquor Licensing Act will be amended to include a provision allowing the licensing authority to impose conditions regarding liquor promotions, discounting and binge drinking.

TRADING HOURS

62. The Government's policy with respect to trading hours allows a more relaxed approach generally. However, the application of the policy to liquor trading will be influenced by the regulatory requirements for this industry and the views of the community with respect to the desired level for the availability of liquor. It is also unreasonable to apply the distinction in opening hours between small and large businesses to the liquor industry.
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63. The recommendations regarding opening hours in tourist precincts will need to be considered and some flexibility should apply to trading hours by licensed premises in such areas. Decisions about opening hours in country towns will also need to be considered.
 64. In the context of extensions to trading hours of licensed premises, the Government's policy will be used to set the general parameters for considering extensions to trading hours under extended trading permits.
 65. There is a wide divergence of opinion regarding the availability of alcohol within the community, particularly with respect to trading hours. The divergence of opinion is both within the industry and the wider community. However, despite the diversity of opinion, I am prepared to support the recommendations of the Mattingley Committee generally, with respect to the change in trading hours.
 66. As a matter of policy I propose that hotels and taverns be permitted to trade after midnight until 2.00 am the following day from Monday to Saturday by way of an extended trading permit. Because of the revised approach (see paragraphs 77 to 82), I propose to apply to extended trading permits, I consider this permit to be the most appropriate method of extending trading hours. Permits will be withdrawn if licensees do not comply with the conditions or if it is shown that the licences are being operated in an irresponsible manner.
 67. In respect of Sunday trading, the present trading hours for hotels and taverns is from 12 noon to 9.00 pm. It is proposed that permitted hours for hotels and taverns will be from 10.00 am to 10.00 pm. This would bring Sunday trading in hotels into line with that which is currently permitted for licensed clubs.
 68. Rather than through legislation, as a matter of policy, liquor stores may apply for extended trading permits to trade on a Sunday. Criteria for the issue of a permit are to be approved by Cabinet. Criteria will include consideration of the public interest, particularly in regard to the trading hours permitted under the Retail Trading Act.
 69. The Mattingley Committee also considered the question of trading hours for cabarets on Sunday nights. The current midnight closing of cabarets on Sundays is unnecessarily restrictive for shift workers and those in the entertainment industry who might work on a Sunday night. It is proposed to permit cabarets to trade until 6.00 am on Monday morning.
 70. I propose to allow hotels, taverns and wine producers trading on Good Friday and Christmas Day between 12.00 noon and 10.00 pm, ancillary to a meal.
 71. I also propose that licensed restaurants be permitted to trade on Good Friday.
 72. To correct a drafting error, licensed clubs will be permitted to trade to 2.00 am if New Year's Day is on Sunday.
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73. The present trading hours arrangements and the proposed changes are summarised in Attachment 1.

Proposed action

Trading hours will be amended as follows:

- . *through extended trading permits to allow hotels to trade to 2.00 am Monday to Saturday and licensed stores to trade on Sundays in accordance with criteria to be approved by Cabinet;*
- . *for Sunday trading, permitted hours for hotels and taverns will be between 10.00 am and 10.00 pm*
- . *cabarets will be permitted to trade to 6.00 am on Monday morning;*
- . *trading for hotels and taverns will be permitted on Good Friday and Christmas Day between 12 noon and 10.00 pm provided the sale of liquor is ancillary to a meal;*
- . *trading for wine producers will be permitted on Good Friday and Christmas Day between 12 noon and 10 pm;*
- . *licensed restaurants will be permitted to trade at any time on Good Friday;*
- . *deleting section 51(1) of the Act which creates an offence for a person to bring into or consume liquor on any unlicensed restaurant between 3 am to 12 midnight on Good Friday;*
- . *clubs will be permitted to trade to 2.00 am if New Year's Day is on Sunday.*

Obligatory trading hours

74. At present obligatory trading hours are imposed on hotels, taverns liquor stores and some special facility licences, but not on other categories of licences. As one strategy to simplify the Act as recommended by the Mattingley Committee, I propose to remove the legislative requirement regarding obligatory trading hours. This will be replaced with a licence condition that will allow the Director Liquor Licensing the discretion to require licensees to operate for certain trading hours in individual cases.

Proposed action

Remove the provisions relating to obligatory trading hours from the Act.

LICENCES AND PERMITS

The public interest

75. Applications for extended trading permits, special facility licences and occasional licences will all require careful consideration of the public interest.
76. As a guide to assist with this process, the criteria described in Attachment 2 have been developed by the Director Liquor Licensing. However, these are to be reviewed and consideration will be given to including the public interest criteria in the Act.

Extended Trading Permits

77. There is strong support for the retention of the extended trading permit as a means of allowing flexibility for existing licensees to sell liquor in circumstances outside the scope of their existing licences. I support the retention of this permit.
 78. There are two forms of extended trading permits, each of which will require different criteria - one-off events and long-term arrangements.
 79. Extended trading permits for one-off events will be assessed on a similar basis to occasional licences. Criteria for assessment will include:
 - a. whether the permit is for a special occasion or function;
 - b. whether door tickets are to be sold;
 - c. the type and number of clientele;
 - d. the need for police involvement;
 - e. security;
 - f. the views of the local community.
 80. Applications for one-off extended trading permits must be lodged 14 days before the event to avoid the imposition of a late fee. The Director's decision on one-off extended trading permits will be final.
 81. Long-term arrangements require more substantial investigation and I propose that clear policy criteria for the granting of these be established. The Liquor Licensing Division will be responsible for the administration of the permits, with the Director's decision continuing to be final.
 82. The criteria for granting permits will include factors such as the attitudes of local government and the police, and the advertising of the proposal. Renewals will also be subject to review. There will be no time limits applied to applications for long-term extended trading permits. Approved permits will only be granted when the administrative procedures have been completed.
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Proposed action

The inclusion of public interest criteria in the Liquor Licensing Act will be considered.

Extended trading permits will be retained.

Applications for one-off extended trading permits must be lodged 14 days before the event.

Special Facility Licences

83. Section 46 of the Act contains provisions that were designed to ensure that licences issued under the previous Act were maintained, when these licences were not covered by categories established under the 1988 Act. Thus, the special facility licence was introduced to licence premises such as works canteens, ballrooms, reception centres etc.
 84. The specific wording of this section has caused problems for the issuing of special facility licences to new forms of outlets such as food halls. For example, in section (3)(a) needs to be clarified to provide that "elsewhere" does not necessarily mean premises exclusively occupied by the licensee. Also, while there is a general provision for new outlet forms under section 46(6), the wording of the rest of the section inhibits the proper use of this section.
 85. The Tourism Commission has also requested that section 46(5) be amended to remove the reference to significant tourist venues as the interpretation of the word "significant" causes considerable difficulty and expense. This request is supported.
 86. To ensure that this provision has the intended flexibility, it is proposed to simplify section 46 by repealing the existing section and replacing it with a general provision such as that stated in section 46(1). Taking into consideration the request from the Tourism Commission, the criteria for the licence will be prescribed in regulation.
 87. Section 37, as it relates to licensed premises, will need to be amended to cater for special facility licences granted to, for example, mobile operations such as catering firms.
 88. This proposal will facilitate the granting of special facility licences to outlets such as food halls, minibars (in unlicensed hotels/motels), mail order and interstate sales, catering services and tourist attractions.
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Proposed action

Replace section 46 with a general provision regarding special facility licences, with criteria for these licences being prescribed in regulation.

Amend section 37 to cater for mobile operations such as catering firms.

Occasional Licences

89. An occasional licence is the means by which individuals, organisations or groups may be authorised to sell liquor. Occasional licences are generally one-off events, and range from the local Bridge Club having a quiz night at which liquor is sold, or an entrepreneur putting on a ball at the Ocean Terminal when the American fleet is visiting. Approximately 6,000 occasional licences are issued each year. Of necessity, the Director of Liquor Licensing delegates to the Managing Registrar of local courts, the power to grant or refuse such one-off licences.
90. Under the current legislation, seven days' notice is required in respect of an application for an occasional licence.
91. The liquor industry has expressed some concern about occasional licences. They believe that commercial operators are using such licences to stage events at which a considerable amount of liquor is sold, without the accountability or control that is required at a regular liquor outlet. In the opinion of some members of the liquor industry, there is too little scrutiny of persons applying for occasional licences.
92. The fact that such large numbers of occasional licences are issued annually, that they are issued throughout the state by different persons, does mean that it is unlikely the most detailed and careful scrutiny of all applicants will take place. To allow time for greater scrutiny of applications against appropriate criteria, it is proposed to amend the Act to provide that the period of notice be changed to 14 days.
93. Criteria will be developed for the issuing of occasional licences for major functions, such as the Bindoon Rock.

Proposed action

Occasional licences will be retained, with the period of notice being 14 days.

Wine Producer's Licence

94. Under the current Act there are two forms for wine producers, a producer's licence and an exempt producer's certificate. There are restrictions on the way in which exempted producers may sell their wine. There are also anomalies regarding the criteria for wine production between the two forms.
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95. The wine industry is a growth area in this State and I propose to amend the Act to ensure support for its development. Thus, as recommended by the Mattingley Committee, there will be a single licence for wine producers.
96. I propose to introduce a simple wine producers' licence provision into the Act, with the conditions for this licence to be prescribed in regulation. The prescription of conditions in regulation will allow flexibility in the regulation of a developing industry where circumstances are changing rapidly.

Proposed action

There will be a single licence for wine producers, with conditions for the licence prescribed in regulation.

Restaurant licences

97. There have been a number of requests for restaurants to be licensed to sell liquor without a meal. The tourist industry argues strongly for this, stating that many overseas visitors are used to this kind of service in their own countries.
98. The Restaurant and Caterers' Association proposed to the Mattingley Committee that 20 per cent of licensed restaurant premises be designated as an area which restaurateurs may serve alcohol to patrons, with or without a meal. The WA Hotels' and Hospitality Association indicated that it would not object to the proposal.
99. The Mattingley Committee questioned the feasibility of enforcing the proposal, suggesting that some form of relaxation of this be considered in any future review of the Act.
100. In Victoria and Queensland, licensed restaurants may serve liquor without a meal.
101. I propose to amend section 50 of the Act to allow licensed restaurants to offer this service by way of an extended trading permit. Licensed restaurants wishing to provide this service will be required to meet all conditions applying to extended trading permits.
102. During opening hours, licensed restaurants will continue to be subject to the condition that the business conducted at the premises must consist primarily and predominantly of the regular supply to customers of meals to be eaten there.

Proposed action

Licensed restaurants will be able to apply to serve liquor without a meal under an extended trading permit subject to:

- a. *a maximum of 20 per cent of the premises being designated as an area in which a restaurateur may serve alcohol to patrons with or without a meal at times generally consistent with hotel/tavern trading hours;*
- b. *the liquor being consumed at tables and not at bars;*
- c. *on Christmas Day and Good Friday, liquor to be served ancillary to a meal.*

JUVENILES

- 103. There has been strong representation regarding juveniles and alcohol consumption, with many people recommending greater controls over and sanctions on licensees who sell liquor to juveniles.
- 104. From the industry perspective, the introduction of a non-forgable proof of age, or 18 plus card, and the strengthening of the legislation by making it an offence for a juvenile to be on licensed premises unaccompanied have been proposed. The introduction of clearly identified duties of licensees and an industry-sponsored host responsibility program will also assist with the control of this problem. More severe sanctions, such as the suspension/removal of licences, will be imposed on licensees whose non-compliance with provisions relating to juveniles has been proven.
- 105. Full responsibility for ensuring that unaccompanied juveniles (those not accompanied by a responsible adult) cannot be assumed by the industry alone. Parents and the juveniles themselves must accept responsibility and sanctions/penalties should apply to those who do not comply. The responsibilities of juveniles and their families will be recognised and appropriate controls that comply with the provisions of the Young Offenders Act 1994 will be introduced.
- 106. I support these measures.

Proposed action

A non-forgable proof of age card will be implemented.

The Act will be amended to include more severe sanctions against licensees who sell liquor to unaccompanied juveniles.

Include penalties/sanctions against parents and juveniles who do not comply with the provisions of the Liquor Licensing Act.

PENALTIES AND CONTROLS

Role of Police

- 107. The policing of provisions in the Liquor Licensing Act, such as those concerning juveniles and intoxicated behaviour, has long been a matter of concern. As one solution, the Mattingley Committee suggested that an

additional six inspectors be employed under the Act to work with the Police Liquor and Gaming Branch to enforce the provisions of the Act.

108. However, following discussions with the Minister for Police and the Police Commissioner, I understand the Police Department intends to limit its involvement with the Liquor Licensing Act to law enforcement and to place greater reliance on local general duties police for this work. Discussion on the way in which liquor licensing inspectors and Liquor and Gaming police officers might support this approach are proceeding.
109. To assist with the development of this role of local general duties police, I propose that two additional FTEs should be allocated to the Liquor Licensing Division for three years as special liquor inspectors. The role of these officers would be similar to that of gaming inspectors and would include consultation with the Police Department concerning training requirements for general duties police, interpretation of the Act, and to consult on the regulatory role of the licensing authority and any other support that might be provided by the Division in the context of its regulatory role.

Proposed action

The use of general duties police to police the Liquor Licensing Act is supported. Appropriate training and support to be provided by the Liquor Licensing Division.

Two additional FTEs will be provided to support the role of general duties police.

Infringement Notices

110. The scope of the infringement notice provisions prescribed under the Act will be expanded to cover a number of other sections.
111. The introduction of the Fines, Penalties and Infringement Notices Enforcement Act 1994 will result in Section 19 (2) of the Liquor Licensing Act being repealed and a new section 19(2) being inserted. The new section will provide for non-payment of fines etc to be dealt with through the provisions of this Act.

Proposed action

Infringements to be subject to the provisions of the Fines, Penalties and Infringements Notices Enforcement Act 1994.

Penalties, Offences by Licensees

112. With the exception of the financial penalty provided for under the disciplinary provisions, the penalties which are provided for under the Liquor Licensing
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Act, for breaches of the various liquor licensing laws, are adequate. However, I propose to increase the penalty under Section 96(1)(m) from \$5,000 to \$30,000.

Proposed action

Penalties under section 96(1)(m) to be increased from \$5,000 to \$30,000.

Demerit points

113. A system whereby demerit points are imposed against licensees and managers who do not comply with the provisions of the Act will be introduced. Demerit points will be allocated to misdemeanours. Fines, temporary suspension, and ultimately, automatic cancellation of licences will be the result of accumulated demerit points. A schedule for demerit points will be developed.
114. Appeals against the cancellation of licences as a result of accumulated demerit points will only be considered in extenuating circumstances.

Proposed action

Introduce a system of demerit points for licensees.

Refusal of Entry

115. Under the present Act, the licensee or approved manager, may refuse entry only in certain circumstances. There have been strong representations from industry to provide licensees or approved managers with greater powers to refuse entry or to remove persons from licensed premises.
 116. However, a number of agencies have expressed concern that the provision of greater powers may result in actions that could be construed to be contrary to the rights of individuals. These agencies have recommended that there be a right of appeal, or at least a process for lodging complaints, for persons who consider they have been treated unfairly when refused entry to licensed premises.
 117. To deal with the opposing views on this matter, it is proposed to introduce a provision that will allow for the prescription of criteria that will be grounds for refusal of entry or removal from premises. A provision will also be introduced to allow persons to lodge formal complaints with the Director Liquor Licensing, who will cause these complaints to be investigated. Justified complaints will result in a breach of licence conditions and will be dealt with accordingly. There will be no appeal to the Court in such cases.
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Proposed action

The Act will be amended to include a provision allowing the prescription of criteria to allow the licensee/manager to refuse entry and to remove persons from licensed premises. There will be right of appeal against such action.

Police to have right to remove persons from licensed premises

118. The Mattingley Committee recommended that section 115(8) of the Act be amended to allow the police the right to remove persons who commit offences under the Liquor Licensing Act from licensed premises. Under the present provisions, the police may only assist with the removal of such persons. The Committee also suggests that the police should be able to take this action without first seeking out the licensee to require such persons to leave.
119. I support this recommendation.

Proposed action

Section 115(8) of the Act be amended to grant a police officer the right to remove a person from licensed premises without first seeking out the licensee to make a demand on that person to leave.

ROLE OF LOCAL GOVERNMENT

120. The Mattingley Committee recommended that inspections of licensed premises become the responsibility of local government, an action that has met with a mixed reaction. The intention of the proposal was to remove the present duplication between the two levels of government, with liquor licensing inspectors and local government health inspectors carrying out similar duties with respect to licensed premises.
121. There was mixed support from local government for the idea, but industry has expressed strong concern that the implementation of this proposal would result in a wide diversity of standards across the State. My concerns reflect those of the industry. Accordingly, the responsibility for the inspection of licensed premises will not be transferred to local government.
122. However, rather than retain an operational involvement in the inspection of premises, I propose that actual inspections be contracted out to for example local government, private industry, with the Liquor Licensing Division retaining a co-ordinating and standard setting role.

Proposed action

The responsibility for the inspection of licensed premises remain with the Liquor Licensing Division.

LIQUOR PURCHASES REGISTER

123. The Mattingley Committee recommended that records of liquor purchases (the liquor register) may be kept in computerised format, thus assisting licensees with access to information technology. The Committee also recommended that the records should contain information as prescribed in regulation, although the Director could approve otherwise.
124. I have received a significant number of complaints from the industry about the arduous nature of the maintenance of a liquor register. I remain unconvinced about the need to retain registers - access to the information would be available from other sources, that is invoices. I therefore propose to abolish the requirement that registers be maintained.
125. However, there will be a requirement that licensees continue to submit annual returns giving aggregate data (annual cost/revenue) about purchases/sales. Data on both regular and low alcohol sales will be required. There will also be a provision allowing the Director to request such information on transfer of a licence, or at any other time the Director considers necessary.
126. The accuracy of the data will be monitored by officers of the Liquor Licensing Division through audits of invoices etc.
127. To reduce the incidence of liquor licence fee avoidance, the Act will be amended to ensure that all liquor delivered to licensed premises is assessable unless prior approval of the Director is obtained for the lending and/or transfer of stock between premises. Penalties for avoidance will be increased as a deterrent to falsifying annual returns of liquor purchases.

Proposed action

The liquor register will be abolished.

Annual returns of total sales/purchase will be required. Returns may be required by the Director on transfer of a licence, or at any other time the Director considers necessary.

OTHER AMENDMENTS

128. During the consultative process a number of other matters have been identified as requiring change. These matters are those that have been generally supported, or that have not been opposed. They include:
- a. clarification of discretionary powers under section 33 of the Act
 - b. clarification of matters concerning the definition of licensed premises;
 - c. the introduction of a provision to broaden the scope of the Director to impose conditions on licences and to impose penalties for breaches of these conditions;
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- d. allowing licences to be granted subject to the provision of local government approval;
- e. clarification of section 110 with respect to breaches of conditions on licences;
- f. amending section 117 of the Act to reflect other legislation relating to noise or behaviour and providing the Director with the power to impose sanctions on the licences of persons guilty of behaviour that may be described as a public nuisance;
- g. limiting to 10 per cent, the number of licences that a person may hold in a licence category.

129. Details of these matters are provided in Attachment 3.

Proposed action

The amendments, as described in Attachment 3 to the Liquor Licensing Act will be implemented

130. I will have further discussions with the Minister for Aboriginal Affairs and the Minister for Police on section 119 of the Act which makes it an offence to consume liquor in any place or on any premises, including any park or reserve, without the consent of the occupier, or of the person or authority having control, of that place. The Minister for Aboriginal Affairs made strong representations to amend section 119 to allow local authorities, according to the needs of the community, to define areas of parks and reserves as "public drinking areas". It is understood that some towns and communities have defined some public drinking areas on an informal basis.

TECHNICAL AMENDMENTS

131. In the five years that the Liquor Licensing Act has been in operation, a significant number of necessary amendments to the legislation have been identified. These amendments are generally of a technical or administrative kind, and for one reason or another the previous Government chose not to consider any amendments to the Liquor Licensing Act 1988. Many of these technical amendments were identified in the Mattingley Committee's report and are listed in Attachment 4.
132. The Act will be amended to overcome the technical and administrative difficulties which have been identified.

Proposed action

Technical amendments as described in Attachment 4 will be implemented.

ATTACHMENT 1

<u>DAY</u>	<u>EXISTING HOURS</u>	<u>PROPOSED CHANGES</u>
<u>Hotels and Taverns</u>		
Monday to Saturday	6 am to midnight	ETPs for trade up to 2.00 am Monday to Saturday
Sunday	12 noon to 9 pm	10 am to 10 pm
Good Friday	At any time to a lodger	12 noon to 10 pm ancillary to a meal (to a lodger any time)
Christmas Day	At any time to a lodger	12 noon to 10 pm ancillary to a meal (to a lodger any time)
Anzac Day	At any time to a lodger 12 noon to 12 midnight	
<u>Clubs</u>		
Monday to Saturday	6 am to 12 midnight	
Sunday	10 am to 10 pm	
Good Friday	Any time to a lodger who is a club member	To comply with provisions for other licence holders, permit clubs to trade to 2 am if New Year's Day falls on a Sunday.
Christmas Day	12 noon to 10 pm ancillary to a meal or to a lodger who is a member of the club	
Anzac Day	12 noon to 12 midnight or at any time to a lodger who is a member of the club.	
<u>Cabarets</u>		
Monday to Saturday	6 pm to 6 am	
Sunday	8 pm to 12 midnight	6 pm to 6 am
Good Friday	12 midnight to 3 am	
Christmas Day	12 midnight to 3 am	
Anzac Day	12 midnight to 3 am 6 pm to 12 midnight if not a Sunday	
<u>Liquor Stores</u>		
Monday to Saturday	8 am to 10 pm	
Sunday	No trading	By extended trading permit
Good Friday	No trading	
Christmas Day	No trading	
Anzac Day	12 noon to 10 pm	
<u>Licensed Restaurants</u>		
Monday to Saturday	At any time	
Sunday	At any time	
Good Friday	Up to 3 am and at any time to a lodger	At any time
Christmas Day	At any time	
Anzac Day	At any time other than between 3 am and 12 noon	

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Producers

Monday to Saturday	At any time	
Sunday	At any time	
Good Friday	No trading	12 noon to 10 pm
Christmas Day	No trading	
Anzac Day	Any time after 12 noon	

Wholesalers

Monday to Saturday	
Sunday	At any time
Good Friday	At any time
Christmas Day	No trading
Anzac Day	No trading
	Any time after 12 noon

PUBLIC INTEREST CRITERIA

Questions normally addressed by the licensing authority in assessing the public interest.

1. Will the application reduce the extent of alcohol abuse? (There are instances where extended hours could help to encourage patrons to drink more sensibly).
2. Will persons who reside, work or travel in the vicinity of the licensed premises be likely to experience an undue degree of offence, annoyance, disturbance or inconvenience?
3. Do the police and the local shire support the proposal? If they object, are there reasonable grounds to support the objection?
4. Is there a public need for the application? (Public need can be demonstrated by petitions, survey results, letters of support and statements of evidence.)
5. Is the licensee or the approved manager (applicant) accredited. Does the licensee have suitable experience (to be demonstrated by either attending approved courses or passing an examination)? Does the licensee adopt responsible serving practices? If so, what responsible server practices do they use? Does the licensee have a previous conviction; when did it occur and what are the circumstances of the conviction?
6. Are the premises suitable? (Factors such as the appropriateness of the location, access of patrons, lighting, availability of parking, and building acoustics are examined.)
7. What entertainment or food is provided? Is it consistent with the application proposed? (Check advertising and the nature of patrons attracted to the premises.)
8. What are the expectations and attitude of the local community? (This changes from place to place, for example, the expectations of the community in Wiluna can be quite different from those in Northbridge.)
9. Will the application benefit tourism, and/or encourage further investment and employment?
10. Is there an adverse effect on other licensed premises? (The extended hours may be undesirable if the premises has an unfair trading advantage over other licensed premises, particularly if it is demonstrated the application would affect the viability of another licence. It is important to note however that viability is not a grounds for objection. The weighting of this criteria can be related to Object 5(a) of the Act, e.g. non-viable premises are contrary to the proper development of the liquor industry. Experience also shows that those premises in financial difficulties sometimes tend to adopt irresponsible server practices.)

OTHER AMENDMENTS TO THE LIQUOR LICENSING ACT

Discretion vested in the licensing authority

1. Section 33, which describes the discretion of the licensing authority should be rewritten to state clearly the extent of the discretion of the two arms of the authority.
2. The Court should retain judicial discretion to those matters identified as appropriate under the Liquor Licensing Act. The discretion of the Director Liquor Licensing should be restricted to administrative matters.
3. Matters concerning the suitability of persons to hold licences (33(6)) and the standards of premises (33(7)) will be the responsibility of the Director Liquor Licensing and the relevant provisions may need to be removed from this section.

Clarification of matters concerning the definition of premises

4. Where there is a conditional approval for transfer, a licensee may not vacate premises until the approval is finalised without terminating the existing licence. A provision is required in section 37 to allow, with the approval of the licensing authority, the transfer to take place where this situation applies.
5. The definition of "elsewhere" and exclusive possession" in relation to licensed premises needs clarification.
6. The provisions in section 62 regarding conditional grants for uncompleted premises need to be clarified so conditional grants are recognised as licences and subject to all relevant conditions. Also the section needs to be amended to allow for the Director to cancel a conditional grant if not completed within the time allowed.

Imposition of conditions on licences and penalties for breaches

7. Section 64 of the Act concerns the power of the licensing authority to vary, impose or cancel conditions on licences. This section needs strengthening.
8. A provision should be inserted to allow for the most restrictive (on the industry) condition to apply, where a condition imposed under the Liquor Licensing Act is inconsistent with a condition or conditions imposed lawfully by or under any other law.

9. Section 64(3) needs to be amended to allow a general power to impose conditions that are in the public interest. This will allow the Director the scope to impose conditions relating to lewd or indecent behaviour.
10. The ability of the Director to impose penalties for breaches of licence conditions should be strengthened and broadened.

Licences to be granted subject to local authority approval

11. The Mattingley Committee recommended that to enable applicants, planners and architects to proceed more confidently with projects, sections 39, 40 and 77(5) of the Act be amended to provide that the liquor licensing authority may grant licences on application, subject to the later provision of local authority approval.
12. This recommendation will be taken up on the basis that such conditional approval may be granted only where there are no objections to a licence, and that the provisional approval may be withdrawn on request to the Director of Liquor Licensing by the local authority.

Clarification of section 110

13. Section 110 requires clarification to ensure that an offence for a breach of a condition on a licence does not have to be directly associated with the sale and supply of liquor.

Complaints under section 117

14. Section 117 of the Act will be amended to reflect the requirements of other over arching legislation regarding noise and public nuisance. For example, the Noise Abatement Act allows complaints to be lodged with a local authority from one or more persons about excessive noise.
15. Section 117 will also be amended to permit individuals to lodge complaints, except those relating to noise, with local police, who can then investigate and, if necessary refer the matter to the Director Liquor Licensing with recommendations regarding the imposition of penalties against licences.
16. The provisions allowing the Director Liquor Licensing to investigate complaints about licensees by other agencies, such as local government and the Environmental Protection Authority, and to impose sanctions on licences will be strengthened.

Limit on number of licences

17. In response to strong representation from sectors of the liquor industry, a limit of 10 per cent will be placed on the number of licences that a licensee may hold in a licence category, subject to licensees having five years to comply with the requirement.

Provision	Recommended Amendment	Reason for Amendment
Section 3 - Interpretations Definition of "liquor"	Amend the definition of "liquor" so that the percentage of ethanol is prescribed in regulation.	This will allow the flexibility to adopt national standards without legislative amendment.
Section 3 - Interpretations Definition of a "meal"	Expand the definition of a meal so that a meal may be eaten either while seated at a dining table or at luncheon counter, while ensuring the retention of the current restrictions on unaccompanied juveniles on licensed premises.	Some diner style restaurants serve meals at a luncheon counter, so there is a need to expand the definition of a meal.
Section 3 - Interpretations Definition of "protection order"	Expand the definition of "protection order" to include a reference to section 89.	This amendment will clarify that protection orders can also be granted under section 89.
Section 3 - Commissioner of Police	Include a definition of Commissioner of Police as the person holding that office or his delegate.	This will allow the Commissioner of Police delegation powers, for example under sections 95(5)(a) and 117(1).
Section 4 - Interpretation of "amount paid or payable for liquor", and point of sale.	In section 4(2), insert in line 4 after "value" the words "or where no amount is so paid or payable" or similar wording to achieving this effect. Amend section 4(6) to permit licensees to store liquor off the licensed premises.	To clarify the power of the Director to determine a value for liquor, where a person claims that no amount was paid for the liquor and no licence fee can be determined pursuant to section 132. A Crown Law opinion verified that it is not clear that all licensees can apply for storage of liquor off the licensed premises. This amendment will clarify the provisions.
Section 7 - Constitution of the Licensing Authority	This section describes the two arms of the Licensing Authority, and subsection 3(b) provides that the Director may not impose a licence condition which is inconsistent with a condition imposed by the Court. An exception should be made to this in the case of conditions to be made by the Director under section 117 on a "noise complaint".	In those special cases, the Director will have carried out an inquiry in the presence of the parties, and the aims of achieving neighbourhood peace under section 117 should not be frustrated just because in some cases the remedy will involve altering a licence condition previously imposed by the Court.

Provision	Recommended Amendment	Reason for Amendment
Section 9 - Appointment of the Judge of the Liquor Licensing Court	Provide that (8) does not apply in the case of an Acting Judge.	A person should be able to be appointed as an Acting Judge, to be called upon to act from time to time as necessary, and be able to continue legal practice in the meantime.
Section 10 - Acting Judge	Section 10 should be amended to make clear that section 9(8) does not apply to the appointment of an Acting Judge.	The view that section 10(2) imports the provisions of section 9(8) into section 10 has limited the field of candidates qualified to be appointed as an Acting in Judge of the Court.
Section 16 - Procedure	Delete section 16(15) of the Act	The Director Liquor Licensing has not complied with this provision, there has been no obvious detriment to the industry and there is no need to retain the provision.
Section 17 - Representation	Amend section 17(1) by adding in a subsection (e) "or any other person as approved by the Licensing Authority".	This section is unusually restrictive in that only the parties themselves or legal practitioners can be represented in proceedings. In line with the objects of the Act to provide a flexible and informal system to determine applications, other persons should be able to represent parties such as architects, town planners etc.
Section 21 - Costs	Provide that the power of the Court to award costs in (1) relates not only to proceedings, but also any step in proceedings (e.g. interlocutory matters).	The Act makes no provision for the Court to award costs for interlocutory proceedings.
Section 24 - Power of Director to refer to, or assist, the Court	Empower the Director also to refer for determination by the Court any matter from which the Director considers appropriate.	This would facilitate the sharing of business between the Director and the Court.
Section 28 - Appeals	Make sections 28(2) and 28(3) consistent so that appeals may be only on questions of law.	This is to clarify section 28 and minimise unnecessary appeals to the Supreme Court.

Provision	Recommended Amendment	Reason for Amendment
Section 30 - Division of responsibilities	<p>Consistent with the remainder of section 30(1), provide that the Court should determine applications under (1)(d) for substantial alterations to Category A licensed premises or conditions only if an objection has been lodged or on recommendation from the Director Liquor Licensing.</p> <p>Amend section (1)(g) to empower the Director to cancel licences in cases involving decisions about premises and the suitability of persons as licensees.</p>	<p>It would appear there is a drafting error in the Act that under the current Act all applications for alteration/redefinition category A licences which are not objected should be referred to the Court when all other applications are only referred to the Court if objected to.</p> <p>This will clarify the situation regarding suspended licences.</p>
Section 31 - Licences, generally	Section 31(1) : This provision should be amended to clarify whether "licence" includes the conditional grant of a licence.	As drafted section 31(1) is not clear and needs to be clarified.
Section 32 - Duration of licences	<p>Provide for (2)(b) also to apply to a protection order under section 89, and an interim authorisation under section 86.</p> <p>Clarify (5) to ensure that offences which would apply outside permitted trading hours for a licence not under suspension apply for the whole period that the licence is suspended (e.g. offences under section 111(2)).</p> <p>Amend (5) to allow the Director to prescribe procedures for the cancellation of licences in regulation.</p>	<p>A reference to those other sections should be made for greater clarity.</p> <p>Under the current Act it is unclear whether offences under section 111(2) apply to a licence in suspension, this proposed amendment will lead to greater clarity.</p> <p>This will overcome problems where licensees hold a licence in suspension for an indefinite period, while it is not attached to a particular premises.</p>
Section 33 - Discretion vested in Licensing Authority	Provide specifically in (6) that the person's character and reputation are relevant, and offences under any Act, whether or not an Act of Western Australia, may be taken into account.	This amendment would provide more scope for declaring a person unfit by reason of their reputation or character.

Provision	Recommended Amendment	Reason for Amendment
Section 34 - Restriction on certain applications	<p>Delete all reference to shareholders.</p> <p>Amend section 34 so that the Director has the discretion to consider applications to approve a manager of licensed premises, where the applicant is an undischarged bankrupt if special circumstances apply.</p> <p>Amend section 34(2)(c) to delete "special circumstances apply" and insert "there is no conflict of interest between the applicant's employment position and the operation of the licence" or similar.</p>	<p>This provision sets out classes of persons who may not obtain licences (eg bankrupts, juveniles). It also provides that such person may not be approved as shareholders in proprietary companies. This is unnecessary, as shareholders do not necessarily direct the affairs for a company.</p> <p>There are already adequate provisions elsewhere in the Act to refuse approval for shareholders who are undesirable (eg section 37(1)), so all reference to shareholders in section 34 should be deleted.</p> <p>The current provisions are extremely rigid and there may be cases where discretion should be exercised in the case of manager.</p> <p>This amendment clarifies the position in relation to this subsection.</p>
Section 37 - Requirements relating to licences and permits, generally	<p>In (1)(a), rationalise (i) and (ii).</p> <p>In (1)(a)(ii), provide that a manager does not have to be approved until the licence is to commence operations.</p> <p>In (1)(d)(iii), makes sense of "would not to be appropriate" by deleting "to".</p>	<p>Greater clarity.</p> <p>The nomination and approval of a manager should in that case be made a further condition to be satisfied under section 62 before the licence may operate. This is to cater for cases when there is a delay between the conditional grant and the commencement of operations under the licence, during which period the conditional licensee will find a person to be manager.</p> <p>Required to make sense of the sentence.</p>

Provision	Recommended Amendment	Reason for Amendment
Section 38 - Requirements for the grant of a Category A licence	In (5), extend the limit on further applications for the same site to any place within the affected area defined for the first application. The Director would still be able to overrule this in the special cases described.	Subsection (5) provides limits on further applications for the same site if an application has been refused on the reasonable requirements criterion during the preceding 12 months. It should follow since section 38 applies to the affected area that another application within the same affected area should be limited as well.
Sections 39 and 40 - Certificates of Local Health Authority and Local Planning Authority	<p>Simplify these sections and their relationship to section 37(1)(d) and (2) by providing that, in all applications which relate to the use or state of premises or land under a licence, all relevant approvals, consents, permits and the like must be produced by the applicant unless the Authority considers there is good reason to exempt the applicant from this.</p> <p>In other words, the requirement should be that, in any case where approval or the like is necessary under planning, health, building or planning legislation, a certificate must be produced from the relevant authority stating either that all necessary matters have been satisfied or, if not, what deficiency exists.</p> <p>Here, and in section 77(5) relating to alterations to premises, it should also be provided that the grant of an application may be made subject to the later provision of specified approvals or the like.</p> <p>Further, provide that only relevant approvals, consents, permits and the like must be provided, but they must be provided at the time the application is lodged, or else the application may be dismissed or not further processed.</p>	This proposed amendment will lead to simplification.

Provision	Recommended Amendment	Reason for Amendment
Section 41 - Hotel licences	<p>Amend section 41(2) to make it clear that hotels/taverns can deliver liquor.</p> <p>Amend section 41(2), this section should be amended to clarify whether a hotel or tavern licence is not only authorised but required to sell packaged liquor.</p> <p>Make it clear that, on an application for any of the three "types" of hotel licence, the Authority may grant that "type" or one of the other "types" without further advertising, depending on what the evidence reveals are the reasonable requirements of the public. Related to this, the passage following section 41(1)(b) should preferably be deleted.</p> <p>Insert a provision to provide that a hotel licence may be substituted for a hotel restricted licence only if the Authority is satisfied that the reasonable requirements for the public justify take-away liquor sales.</p>	<p>This would legalise a current practice by the majority of hotels and taverns</p> <p>Greater clarity.</p> <p>This amendment provides greater flexibility where it is in the public interest that such variation should be approved.</p>
Section 42 - Cabaret licences	Remove the apparent inconsistency between (1) and (3) by inserting in (3) a reference to other types of entertainment allowed under (1).	This amendment will clarify in both instances the type of entertainment permitted on cabaret premises.
Section 48 - Club or club restricted licence	<p>In (4), provide that it a further condition that the club must not contravene, or operate outside, its aim and objects.</p> <p>Create offence for breaches of this section.</p> <p>In 48(7) delete "in relation to the sale of liquor".</p>	<p>This amendment will give the Licensing Authority greater controls over clubs.</p> <p>This will clarify the situation where a club may be contravening its constitution and rules but may not be selling liquor at the time.</p>

Provision	Recommended Amendment	Reason for Amendment
Section 50 - Restaurant Licences	<p>As with hotel and hotel restricted licences under section 41(5), provide that holders of restaurant licences which have extended trading permits under section 60(4)(c) must provide meals and accommodation for lodgers on request. The exemptions from this under section 41(5) should also apply.</p> <p>Also provide that the requirement under section 105 to keep a register of lodgers should also apply to these licences.</p>	<p>This amendment will bring restaurants with extended trading permits which allow the restaurant to provide liquor in a similar fashion to hotels with respect to lodgers into line with hotel licences.</p> <p>As above.</p>
Section 58 - Wholesaler's licences	Amend section 58(1) to remove the requirement for wholesalers to only be able to sell liquor in aggregate quantities of more than 9 litres.	Present requirement is too restrictive.
Section 59 - Occasional licences	Section 93 of the Liquor Licensing Act permits the Director to refer a licence to the Court for cancellation. There seems to be no power within the Act to allow the Director to cancel an occasional licence.	In some instances, there is a requirement to cancel an occasional licence.
Section 60 - Extended trading permits	<p>Provide that the requirement under (3)(c) does not apply in the case of an extended trading permit granted to a restaurant licence under subsection (4)(c).</p> <p>Make it clear that permits may be granted to holders of club licences to allow liquor to be sold outside the constraints of section 48(2), provided that they are not so frequent as to affect the nature of the club as a facility for its members, or cause significant detriment to other licences in the vicinity.</p>	<p>The current provisions are contradictory, this amendment will clarify them.</p> <p>This change would allow clubs to sell liquor in special circumstances, or on special occasions.</p>
Section 63 - Restriction on power to vary terms fixed or conditions imposed by the Act	To facilitate conversion of a "club restricted" licence to a "club" licence, provide that the authority may remove the "restricted" conditions and status from a club licence under section 48(1)	This gives the licensing authority and the clubs greater flexibility to convert a club restricted licence to a club licence.
Section 66 - Plans and specifications	Amend (6) (or perhaps section 99) to provide that the Director may also require new plans if there is no application before the Director.	In some instances existing plans may be very old or may have been accidentally destroyed or lost, this amendment would allow the Director to request new plans, if warranted.

Provision	Recommended Amendment	Reason for Amendment
Section 67 - Advertisement of applications	<p>It is recommended that there should no longer be any right to object to the transfer of a licence. Therefore, the requirement under subsection 1(c) to advertise a transfer application should be amended to allow the Director to advertise if this is considered appropriate.</p> <p>Section 67(5)(a)(ii) to be deleted.</p>	<p>Few applications for transfer are objected to. The only grounds for objection are that the applicant is not fit and proper an issue which is investigated by the Licensing Authority.</p> <p>The police will still be able to make reports and submissions on an applicant's fitness under section 69, and the industry and public will still be notified of any approved licensee under section 67(5)(b).</p> <p>This provision has not been administered, with no detriment to the industry.</p>
Section 68 - Notice of applications	Make it clear that solicitors acting for an applicant may sign and lodge an application on their client's behalf.	This amendment will clarify an existing accepted practice.
Section 72 - Requirement for consent	<p>Amend (1)(b) to provide that the requirement to obtain the consent of the owner of premises before a licence is removed also applies in the case of a temporary removal.</p> <p>Clarify (6) by specifying that, in the case of a removal application, "lessor" there means the lessor of the premises to which the licence is to be removed, not the lessor of the premises from which it is to be removed.</p>	<p>This amendment is required to protect the interests of the owner.</p> <p>This amendment will lead to greater clarity.</p>

Provision	Recommended Amendment	Reason for Amendment
Section 73 - The general right of objection	<p>Repeal section 73(1) of the Act, and provide that interveners under section 69 (but not section 70) are deemed to be parties to proceedings in which they have intervened, for the purposes of reviews or appeals.</p> <p>Provide that the Licensing Authority may grant leave for substitution of an objector before the matter is determined, where the objector is a licensee and has obtained that licence between the date of application and the hearing date.</p> <p>Provide that all notices of objection must be served on the applicant by, or on behalf of, the objector.</p> <p>Also provide that the Director may reject or refuse to deal with a notice of application or objection which is clearly not in accordance with the Act, for example because it does not have attached the necessary planning certificates. There should be no review of such a decision.</p> <p>Clarify the Authority's discretions under (5) and (6) in the context of proposed changes to the appeal procedures.</p>	<p>This amendment clarifies the provisions.</p> <p>This strengthens the Director's powers to refuse to deal with certain applications or objections.</p> <p>Amendment required for clarification.</p>
Section 80 - Temporary removal or redefinition	Include a provision to allow the Director Liquor Licensing, in the case of fire or other unavoidable or unforeseen circumstance to vary the requirement that liquor must be sold for consumption on the premises.	This would rectify an omission in the Act, identified as a result of a recent fire in the bar at the Manning Hotel.
Section 81 - Applications for removal	<p>Delete (3)(a).</p> <p>Provide that the waiver under (4) may be granted only on application by the applicant, so that it may be required to be advertised under section 67(2).</p>	<p>The applicant's fitness is not relevant to a removal application.</p> <p>This amendment clarifies that the applicant must make an application in order for the Director to consider dispensing the requirement to advertise.</p>

Provision	Recommended Amendment	Reason for Amendment
Section 86 - Interim authorisations to carry on business	<p>Strengthen (5) to allow a receiver and manager or an administrator to take over the licence temporarily. Clarify whether (6) refers to an official receiver or an official manager.</p> <p>To include provision for the appointment of an administrator.</p>	<p>These amendments give greater flexibility to cover a number of situations which sometimes occur in the commercial world.</p> <p>A recent change to the Corporation Law now includes the position of administrator in addition to a receiver and manager.</p>
Section 87 - Protection orders	<p>Amend (6) to provide that the Director, not the Court, should determine any dispute between two or more persons claiming the temporary right to operate a licence under sections 86 or 87.</p> <p>At present, (6) refers only to disputes between two persons each applying for a protection order, or two persons each claiming to exercise a right under section 86. It should be expanded to include a dispute between two persons, one claiming a right under section 86 and the other applying for a protection order.</p>	<p>It is important that such disputes be settled quickly, and the Director is in the best position to do this.</p> <p>By expanding this section these sorts of situation that do occur can be covered by the Act.</p> <p>Consideration to be given to combining sections 87 and 89.</p>
Section 88 - Effect of a protection order	Amend (1) so that it also refers to a protection order granted under section 89, and an authorisation under section 86.	This amendment clarifies the existing provisions.
Section 89 - Disputes as to leases	<p>This section allows certain action to be taken by the Director where a dispute arises between parties to a lease of licensed premises.</p> <p>Section 89 should be clarified by providing that action may be taken by the Director only where he considers it is appropriate to protect the licence or the public's ability to obtain liquor, or is otherwise relevant to the integrity of the licence.</p>	As worded, it is too wide as it can conceivably relate to disputes which are not relevant to the licence.

Provision	Recommended Amendment	Reason for Amendment
Sections 90-93 - Suspension and cancellation of licences	<p>Insert a provision to allow an application to be made to lift a suspension, as no such provision exists now.</p> <p>Amend section 93 of the Act so that the Director has the discretion to cancel licences where a licence has been suspended for more than 28 days and the licensee or another party have not sought to reactivate the business under the licence.</p>	<p>This proposed amendment would clarify the existing provisions.</p> <p>The Division has many licences that have been in suspension for long periods of time where the licensee has ceased to carry on business at the licensed premises. The procedure to apply to the Court for cancellation of the licence is both onerous on the Division as well as the time of the Judge. Parties will still have a remedy if aggrieved for a review of the Director's decision pursuant to section 25.</p>

Provision	Recommended Amendment	Reason for Amendment
Section 95 - Disciplinary action	<p>Section 95 should be amended to clarify whether a complaint against the approved manager of licensed premises is competent: compare section 101(1).</p> <p>Expand 95(4)(f) to allow relevant offences under any other Acts (e.g. the Environmental Protection Act for exceeding permitted noise levels, and the Police Act) also to be taken into account.</p> <p>Make it clear in 95(4)(f) that Infringement Notices issued under section 167 to, and paid by licensees, staff or employees of the licensee can be used as grounds for complaint. (Section 167(7) may also need amendment.)</p> <p>Repeal section 95(7) and insert a provision requiring the complainant to arrange service of the complaint.</p> <p>Amend section 95 (and possibly section 96) so that complaints can be listed and considered separately or jointly and as such can be penalised separately or jointly.</p>	<p>In some instances it is appropriate that other offences be taken into account.</p> <p>This amendment clarifies the existing provisions.</p> <p>It is neither practical nor in accordance with the principle for a Court of record such as that established under this Act to undertake this function. It can easily lead to the perception that the Court itself has some interest in the determination of disciplinary matters which are of a quasi-criminal nature. Such potential is unsatisfactory and unjustified.</p> <p>Under the current provisions of sections 95 and 96, it is unclear whether the Judge can consider separate complaints listed together as a whole and penalise accordingly.</p>
Section 99 - Maintenance of premises	Simplify the scheme of issuing directions by deleting the step set out in subsection (4), so that if a direction is issued but not complied with, the next step is to impose the penalty set out in subsection (7) once the licensee has been given a chance to be heard.	Greater simplification of existing provisions.

Provision	Recommended Amendment	Reason for Amendment
<p>Section 100 - Supervision and management</p>	<p>Simplify the procedures relating to changeover of managers by substituting a requirement that, where a manager is required to be appointed, it shall be an offence for a licensee, once the position of manager is vacant, to allow more than seven days to pass without applying for a replacement manager (who may be temporary). Once an application is lodged, the manager may commence work even though the application is not determined.</p> <p>An amendment to Section 35(2)(d)(ii) may be required.</p> <p>Provision is also to be made for more than one approved manager to be approved in respect of the one premises</p> <p>In Section 100(11) delete the reference to " 7 days".</p> <p>Section 100: This section should be amended to clarify the power of the Licensing Authority to approve the appointment of a manager when the licensee is a natural person.</p> <p>Make provision so that potential managers can make application as individual to be approved even though they may not at the time be working for a particular licensed premises or they may not be at the time working as a manager. This will create pool of approved persons who upon being employed in a management position in a licensed premises, the licensee would then inform the licensee authority of that person's name and that would be included on the licence document after a probity check.</p> <p>Clarification and simplification of these sections is required.</p>	<p>The amendment is required for simplification and to clarify that an manager can commence work even though the application has not been determined.</p> <p>This amendment would streamline the current provisions for licensees and the workload of the division</p>

Provision	Recommended Amendment	Reason for Amendment
Section 102 - Approval of corporate management and control	Amend the provisions relating to approval of shareholders by adopting a general provision requiring that the Director be notified of any change in shareholding of a proprietary company within seven days. If it appears that the new shareholding vests control of the company in an undesirable person or persons, the Director should have power to require the licensee, within 28 days or being advised of the change, to show cause why the change should not be vetoed.	This section currently provides that approval must be obtained before a person assumes a position of authority in a licensee company, or changes a shareholding in a proprietary company. The provisions relating to shareholders are unduly onerous and should be replaced with the suggested amendment.
Section 104 - Profit sharing	<p>In (2), add to the list of exceptions disbursement by way of dividends to a company shareholder or benefits to approved beneficiaries under trusts related to the licence.</p> <p>Amend section 104(3) by deleting section 104(3)(a)(i)&(ii) and inserting "The Director may on application by an interested person, approve an agreement or arrangement."</p> <p>Profit sharing should not include arms length lease transactions based on turnover.</p>	<p>This amendment will legalise an accepted commercial practice which should not require approval from the licensing authority.</p> <p>This will simplify this provision as it is sometimes difficult to substantiate that the arrangements is either in the public interest or in the interest of the tourist industry.</p>
Section 108 - Certain services to be provided	Delete from section 108(2) the words "within obligatory trading hours"	With the repeal of section 98 regarding obligatory trading hours, the provisions of this section are no longer required.
Section 110 - Sale or consumption of liquor, and taking of liquor from, licensed premises or premises to which a certificate of exemption relates	Amend section 110(7)(c) to permit liquor merchants (wholesalers, liquor stores, hotel bottle shops) to make credit sales.	This amendment would legalise an accepted business practice whereby the purchase of liquor by liquor merchants is usually invoiced with a period to pay the account. It is not intended to allow casual (over the bar sales) drinkers to incur credit sales from public bars. The Director will be able to impose credit restrictions as a condition on a licence if required.

Provision	Recommended Amendment	Reason for Amendment
Section 112 - Applications of sections 109, 110 and 111	Amend 112(1)(b) by deleting the words ... "the sale to, or " ... from this section.	The current wording of this section makes it lawful for unlicensed persons to sell liquor door to door to a person at their place of residence. This was clearly never the intent of the legislation.
Section 116 - Licences to be produced and names exhibited	In relation to (1), also provide that any purported appointment of an attorney to operate or deal with a licence on behalf of a licensee is void. The whole of (1) should be specified to apply from the date of proclamation so that no new or existing powers of attorney are accepted.	In the past, a "power of attorney" arrangement as a licence has not been recognised as personally vested. An amendment to this provision will reflect current policy.
Section 121 - Juveniles on licensed premises	<p>Make it an offence (to be dealt with by an infringement notice) for a juvenile to enter or remain on licensed premises in those circumstances under (4) where it is an offence for licensee to allow a juvenile to enter or remain in certain parts of licensed premises, that is the juvenile is accompanied by an appropriate person under the terms of the Act.</p> <p>To the exceptions under (8), add the case where the Director has granted a temporary dispensation (e.g. for a youths' function at which liquor is not available), under section 120(1)(e).</p> <p>Amend section 121(4) to make it clear that it is an offence for juveniles to be permitted on the licensed premises when liquor is at the time being sold or supplied anywhere on the licensed premises.</p>	<p>This should assist to deter juveniles from seeking to enter licensed premises.</p> <p>This amendment is required to provide clarity.</p>

Provision	Recommended Amendment	Reason for Amendment
Section 125 - Defences under this division	<p>The defence under (1)(c) should also apply in the case of licensed premises.</p> <p>Amend the definition in (2)(b) of a responsible adult to delete "a person who might reasonably have been expected to have had authority over the conduct of the juvenile".</p> <p>Further amend the definition in (2)(b) of a responsible adult to include "any person who, although not legally married to the minor, ordinarily lives with the minor as the minor's spouse on a permanent and domestic basis".</p> <p>The defences in this section should also apply in cases where the offence relates to a juvenile's presence on premises.</p>	<p>This amendment is required for greater clarity.</p> <p>The current provisions are too wide and should be deleted. There are cases where, for example, a 17 year old youth claims that his accompanying 19 year old brother is a responsible adult.</p> <p>This will clarify situations of defacto spouses.</p> <p>This amendment would be required if the amendment to section 121 was made to extend defences to juveniles.</p>
Section 126 - Suspected juvenile - proof of age	Extend the removal power to cases where a person is, or is reasonably suspected of being, on the premises contrary to the law.	For example, if the person appears to be, or is, a juvenile.
Section 131 - Fee for licence not wholly in operation during an assessment period	Amend section 131 by deleting the words after referred, that is, "as though the licence were a licence to which section 130 applied." Insert after referred "by taking into account the factors contained in section 129(2) and where required the licence fee payable in respect of a licence period to be apportioned under section 130."	This section is required to be redrafted to clarify the assessment of licence fee process in the circumstances provided by the section.

Provision	Recommended Amendment	Reason for Amendment
Section 134 - Factors affecting assessments	<p>Amend section 134 by including a provision to allow the Director to ascribe a value to liquor disposed of under a licence during an assessment period by a holder of a producer's licence or a wholesaler's licence.</p> <p>Amend section 134(3)(d) of the Act must be amended to make it clear that a licence fee need not be paid by the wholesaler, only in those circumstances where the wholesaler sells liquor to a person who holds a licence which permits that person to sell liquor of that type or kind.</p>	<p>This will clarify the assessing provision contained in section 133(4) in respect of the words "or otherwise disposes of" by the licensee during the relevant assessment period.</p> <p>During an assessment period, at times, suppliers dispose of liquor other than by sale, for example through tastings, promotion, sponsorship and staff giveaways. At present, doubt exists as to whether such transactions are assessable for the purpose of determining the licence fee payable by the licensee, in the appropriate licence period. This amendment will clarify the provisions.</p> <p>A producer can only sell liquor produced by itself.</p> <p>For example, if a wholesaler sells French champagne to the holder of a producer's licence, for that person's own consumption, then the wholesaler pays a licence fee on the champagne in the same way as it would if is sold to an unlicensed persons.</p>
Section 138 - Reassessment by the Director	Amend S 138(3) to add after "the original assessment" the words "and any such reassessment is subject to any further reassessment".	<p>Section 138 is at present impractical. Legal advice indicates that an annual licence fee can only be reassessed once, irrespective that the reassessed licence fee itself may be based on information that a later date has proved to be false or incomplete.</p> <p>The present provision is a hindrance to both the Director and the liquor industry and should be amended to enable the Director to reassess a licence fee even though it may have been previously reassessed.</p>

Provision	Recommended Amendment	Reason for Amendment
Section 157 - Evasion of fees due, etc	Amend section 157 by removing the word 'wilful act'	
Section 167 - Infringement notices	<p>Section 167 will need to reviewed in the context of the Fines, Penalties and Infringements Notices Enforcement Act 1994.</p> <p>Provide for additional sections to be included in the list of those for which infringement notices can be issued. These will include Ss 51(2), 51(4), 77(1), 100(4), 100(5), 101(3), 102(1), 104(1), 105(4), 108(2), 110(7), 111(1), 114(1), 115(1), 115(2), 117(7), 121(1), 121(2), 158(1)(a), 159(1), 159(3), 160(4). Also provide for the new offence to be created in S 121 of a juvenile being found on licensed premises.</p> <p>Delete the phrase "within 28 days" from section 167(5).</p> <p>Amend section 167(2)(a) by deleting 145(5) and inserting 145(4).</p>	<p>Penalty by way of infringement reduces the cost of prosecution.</p> <p>This will permit the withdrawal of an infringement notice that has been issued..</p> <p>This will clarify a typographical error.</p>

Provision	Recommended Amendment	Reason for Amendment
Section 169 - Complaints for offences	<p>Amend section 169(1) so that offences committed by licensees or approved managers (or persons deemed to be approved managers) within the metropolitan area are to be dealt with by the Judge of the Liquor Licensing Court not a stipendiary magistrate.</p> <p>Amend section 169(2) and (3) to allow 4 years to commence prosecutions for an offence relating to the recording of financial transactions.</p> <p>Insert in section 169(3) after " ... the sale or purchase "the words "or other disposal or acquisition".</p> <p>Include a provision to allow justices of the peace to deal with pleas of guilty for minor offences by individuals other than licensees and approved managers.</p>	<p>This will give a greater consistency in the sentencing for offences and licensees will appear before a specialist tribunal with experience in the area of Liquor Licensing.</p> <p>The two year period is not sufficient time to commence prosecutions, given that any financial examination by inspectors will be occurring some 12 months after the return is lodged.</p> <p>This is necessary so that the terminology equates to that in section 145(1).</p> <p>This would avoid unnecessary court proceedings which often involve the re-arrest of an accused person by way of a bench warrant.</p>
Section 172 - Averments and other evidentiary matters	Amend section 172(1) to provide for an averment on the matter of consent.	In the absence of any proof to the contrary, the amendment will provide that the defendant did not obtain consent from the landowner in respect of reserve or park drinking. It does not affect the right of a defendant to have the issue of consent fully tested at a hearing if consent is in issue.