

# Liquor and Fair Trading Legislation (Red Tape Reduction) Amendment Bill 2014

## Explanatory Notes

### Short title

The short title of the Bill is the Liquor and Fair Trading Legislation (Red Tape Reduction) Amendment Bill 2014.

### Policy objectives and the reasons for them

The objectives of the Bill are to:

- make reductions to the regulatory burden on the liquor and tourism industries by amending the *Liquor Act 1992* (Liquor Act);
- make additional miscellaneous amendments to the Liquor Act to ensure clarity, effectiveness and that the original policy intent is achieved;
- repeal the following 14 obsolete church and community organisation Acts:
  1. *All Saints Church Lands Act 1924 15 Geo 5 No. 23*
  2. *Anglican Church of Australia Act 1895 Amendment Act 1901 1 Edw 7 No. 21*
  3. *Anglican Church of Australia Act 1977*
  4. *Anglican Church of Australia (Diocese of Brisbane) Property Act 1889 53 Vic*
  5. *Ann Street Presbyterian Church Act 1889 53 Vic*
  6. *Boonah Show Ground Act 1914 5 Geo 5*
  7. *Chinese Temple Society Act 1964*
  8. *Presbyterian Church of Australia Act 1971*
  9. *Queensland Congregational Union Act 1967*
  10. *Roman Catholic Church (Corporation of the Sisters of Mercy of the Diocese of Cairns) Lands Vesting Act 1945 9 Geo 6*
  11. *Roman Catholic Church (Northern Lands) Vesting Act 1941 6 Geo 6*
  12. *Roman Catholic Relief Act 1830 10 Geo 4 No. 9 (NSW)*
  13. *Wesleyan Methodists, Independents, and Baptists Churches Act 1838 2 Vic No. 7 (NSW)*
  14. *Wesleyan Methodist Trust Property Act 1853 17 Vic (NSW)*.
- relocate a number of technical and administrative provisions contained in the obsolete church and community organisation Acts into the following Acts, as saving and consequential amendments:
  1. *Anglican Church of Australia Act 1895*
  2. *Anglican Church of Australia Constitution Act 1961*
  3. *Oaths Act 1867*
  4. *Presbyterian Church of Australia Act 1900*

- repeal section 96 of the *Fair Trading Act 1989* (Fair Trading Act) in relation to directors' liability.

Removing regulatory inefficiency is a critical priority for Queensland businesses and community organisations, disadvantaged by a large volume of red tape and its associated regulatory burden. The liquor industry has particularly been subject to an underlying micro-regulatory philosophy. The industry plays a crucial role in both providing services to the community and attracting tourism to the State. However, while there have been significant technological advances in the last two decades, until 2013 the legislation and regulatory controls had not changed accordingly.

To address red tape in the liquor and gaming industries, the Government appointed a Liquor and Gaming Red Tape Reduction Expert Panel (expert panel), comprising of business, Government and community representatives, to review liquor licensing and gaming laws. The expert panel contributed to the creation of a Government discussion paper titled *Red tape reduction and other reform proposals for regulation of liquor and gaming* (discussion paper) which was released for public consultation on 15 February 2013.

A number of significant red tape reforms to liquor legislation have already been made through the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Act 2013*, the *Liquor (Red Tape Reduction) and Other Legislation Amendment Act 2013* and the *Construction and Tourism (Red Tape Reduction) and Other Legislation Amendment Act 2014*. The Bill continues this reform process.

In accordance with the Government's commitment to reducing red tape, further amendments to liquor legislation, designed to reduce the regulatory burden, are given effect by the Bill (detail is provided in the Achievement of policy objectives section of these Explanatory Notes).

Similarly, the repeal of the 14 church and community organisation Acts removes, on the recommendation of the Queensland Law Reform Commission, legislation from the statute book that is obsolete, while the repeal of section 96 of the Fair Trading Act aligns that Act with Queensland, and Australia-wide, policy on vicarious liability of executive officers.

As with the previous red tape reduction Bills in 2013 and 2014, the reduction in red tape from this Bill will have significant benefits for Queensland. This will include benefits for the tourism industry and other business operators such as hoteliers, encouraging operators to set up in Queensland and provide greater employment opportunities for Queenslanders. Additionally, it will reduce the red tape on clubs and community organisations allowing them to provide better services to the Queensland community.

## **Achievement of policy objectives**

### **Objective: Make reductions to the regulatory burden on the liquor and tourism industries by amending the Liquor Act**

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

*Provide flexibility in the timeframe in which an approved manager must be available*

The Liquor Act provides that certain licensed venues require an approved manager, who is trained in the Responsible Management of Licensed Venues. Section 155AD(2) requires that an approved manager for these certain licensed premises must be present at the premises or reasonably available during ordinary trading hours of 10am to midnight and approved extended trading hours from 7am to 10am, and must be present on the premises during approved extended trading hours between midnight and 5am.

The Bill will provide greater flexibility for venues that do not trade after midnight. The Bill will allow approved managers to be more than one hour from these non-late night trading premises provided they are contactable by telephone, with a maximum absence of no more than three days at a time and no more than seven days cumulative absence per calendar month.

During the authorised absence (as above) of a present or reasonably available approved manager, a liquor licensee will have to:

- nominate, in writing, a person trained in the Responsible Service of Alcohol (RSA) to be temporarily in charge of the premises, who will be subject to the same requirements regarding attendance and availability as an approved manager; and
- notify the RSA-trained person of their nomination via a written notice containing key information such as the period of absence, and retain this notification at the premises, where it must be available to an inspector on request.

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

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

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

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

As delegates of the chief executive under the Security Providers Regulation, liquor inspectors have the power to view the crowd controller register maintained under the security providers

legislation. There is therefore no foreseeable impact on compliance and enforcement activities.

*Issuing of notices or requisitions by investigators*

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

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

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

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

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

*Exempting campdrafting events from the requirement for a community liquor permit*

Currently, section 13(1)(d) of the Liquor Act provides an exemption from the requirement to obtain a community liquor permit (CLP) for a fundraising event if the sale of liquor meets a number of requirements. These criteria include that liquor is not sold at the event for more than eight hours and that the event starts and finishes on the same day. However, the Liquor Act provides an exception for small regional shows from these two particular criteria, allowing them to be eligible for a CLP exemption even if they operate over a number of days.

The majority of campdrafting events do not meet the general CLP exemption as they sell liquor from 10am to midnight and occur over more than one day. Given that campdrafting events, similar to small regional shows, are considered low risk, the Bill amends the CLP exemption provisions in the Liquor Act to provide a specific exemption for campdrafting

events similar to the exemption provided to small regional shows. This will allow the sale of liquor at these low risk events for up to 14 hours and over three consecutive days. All of the other existing restrictions, including the limiting of trading hours for the event to 7am to 12 midnight, are to remain.

#### *Risk-assessed management plan exemptions*

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

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

Preparation of a RAMP can be time consuming and burdensome and it is considered the level of regulatory burden placed on licensees of low risk premises is not commensurate with the level of risk posed. Further, processing timeframes for liquor applications and approvals made by these licensees are protracted as a result of the requirement for the Commissioner for Liquor and Gaming (Commissioner) to approve the licensee's RAMP. It is for this reason that applications for low risk cafes and restaurants were previously exempted from requiring a RAMP. For the same reasons, the Bill extends the exemption to applications for other low risk licence types. These are:

- subsidiary off-premises licence with a principal activity of florist;
- subsidiary off-premises licence with a principal activity of gift baskets;
- subsidiary on-premises licence with a principal activity of caterer;
- subsidiary on-premises licence with a principal activity of education;
- industrial canteen licence;
- producer/wholesaler licence (provided there is no on-site consumption); and
- community other licences.

The current safeguard that allows the Commissioner to impose a condition on a licence for an approved RAMP to be required for any licensed premises, if the Commissioner believes it is necessary under section 105A(3) of the Liquor Act, will continue to apply to the newly exempted licence types.

#### *Increase maximum guests for bed and breakfast exemption*

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

An amendment is therefore made by the Bill to increase the maximum number of guests a B&B can cater to and still be eligible for the exemption from six to eight adult guests.

*Sale of takeaway liquor to signed-in guests and visitors*

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

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

*Deeming of all police officers as investigators under the Liquor Act*

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

*Allow after hours consumption for residents and their guests outside their rooms*

Under Part 4 of the Liquor Act, commercial hotel licences, commercial special facility licences and subsidiary on-premises licences whose principal activity is the provision of accommodation are authorised to sell liquor on the licensed premises, for consumption on the premises, at any time to a resident, or to a guest of a resident in the resident's company, but only for consumption in a residential unit outside of approved trading hours.

This restriction is overly burdensome on industry, as residents may wish to consume liquor after hours in other areas of the premises such as foyer bars, and could generally do so safely. To provide greater flexibility in the legislation, amendment is made to sections 62, 65A and 67B(3) to allow after hours consumption of liquor by residents and guests in their company to take place in either a residential unit, or in another part of the premises approved by the Commissioner for the purpose.

*Allow sale of craft beer at promotional events*

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

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

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

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

The Bill provides that only genuine craft breweries may seek to market their product under the authority of a licence condition or permit. The Bill defines a craft brewery, in part, as a brewery with a beer production level of less than 40 million litres per annum. A large "mainstream" brewery will intentionally be ineligible to have its producer/wholesaler licence conditioned to allow for the sale of craft beer at promotional events, and will be equally ineligible to apply for a craft beer producer's permit.

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

The Bill also requires a licensee or permittee to maintain relevant records relating to craft beer sold, supplied or ordered at promotional events. Failure to comply with these record-keeping requirements will constitute an offence, with maximum penalties consistent with similar, existing offences under the Liquor Act.

The amendments will assist the development of the Queensland (and Australian) craft beer industry by affording craft breweries, particularly in regional areas which may not otherwise have access to the regular retail network, new opportunities to market their products. This outcome will contribute to the Government's objective to grow a four pillar economy based on tourism, agriculture, resources and construction.

**Objective: Make additional miscellaneous amendments to the Liquor Act to ensure clarity, effectiveness and that the original policy intent is achieved**

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

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

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

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

*Proof of Age*

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

Section 6 of the Liquor Act was last amended in relation to proof of age documentation in 1994. Since that time there have been significant changes relating to identity verification, security features of proof of age cards and security surrounding the storage of personal information of card holders.

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

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

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

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

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

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

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

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

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

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

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

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

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

#### *Amend the cancellation or suspension procedure for approved managers*

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

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

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

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

*Use of car parks for sale and consumption of liquor*

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

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

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

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

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

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

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

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

**Objective: repealing the church and other community organisation Acts**

In July 2012, the Attorney-General requested the Queensland Law Reform Commission (the Commission) to review 29 Acts relating to the establishment and management of various church and community organisations. Following consultation with church and community organisations, the Commission released a report in December 2013, titled: *A Review of Religious and Certain Other Community Organisation Acts*, which was tabled in the Legislative Assembly on 4 March 2014. Among other things, the report recommended:

- repealing 10 Acts in their entirety;
- repealing a further four Acts, following the relocation of some technical and minor administrative provisions to other related church and community organisation Acts; and

- amending the remaining 15 Acts to repeal obsolete provisions and consolidate legislation, where possible.

The Bill implements the Commission's recommendations in relation to the 14 Acts (as listed above). Notably, in consulting with the various church and community organisations, the Commission identified particular issues in relation to each Act and sought the views of the relevant religious or community organisations on those specific issues. As well as providing their views on the issues raised, stakeholders also provided factual (and, in some cases, historical) information that was invaluable to the Commission in determining whether the Acts, or any of their provisions, are now obsolete. Both the Commission and stakeholders advised that the repeal of these Acts would positively impact and benefit only the organisations associated with the particular Acts as they could cease to be associated with now archaic legislation.

In addition, the repeal of the 14 obsolete church and other community organisation Acts will achieve the policy objective of reducing the statute book by approximately 120 statutory pages and 290 legislative requirements. As the recommendations regarding the remaining 15 Acts are more complex than repeals, they are being considered separately and are not included in this Bill.

In some instances, due to the historical nature of the 14 Acts being repealed, a different drafting approach has been adopted to that originally recommended by the Commission. To this end, the Office of the Queensland Parliamentary Counsel (OQPC) has drafted a number of saving and consequential amendment provisions to the church Acts slightly differently to that recommended by the Commission's report. The OQPC's preferred drafting approach provides the same outcome.

### **Objective: repealing section 96 of Fair Trading Act**

With respect to repealing section 96 of the Fair Trading Act, the *Directors' Liability Reform Amendment Act 2013*, which commenced on 1 November 2013, implemented the policy of State legislation only including directors' liability provisions when appropriately justified and, generally, devoid of 'onus of proof' reversal clauses. It also made the liability of executive officers more consistent across Australian jurisdictions. The repeal achieves the objective of bringing the Fair Trading Act in line with the broader Queensland policy.

## **Alternative ways of achieving policy objectives**

The policy objectives can only be achieved via legislative amendments as they apply to an existing regulatory framework prescribed in primary legislation. The Bill does not increase the regulatory framework; rather, it makes changes to the existing framework to either reduce its scope or improve its effectiveness.

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

These initiatives are intended to reduce barriers to the development of the liquor industry, in line with economic, social and technological changes. They will benefit Queensland by

enhancing the ability of the tourism, community club and other related sectors to employ Queenslanders and provide services and choices for the wider community.

The policy objective of repealing the 14 church and other community organisation Acts follows the recommendation of the Commission's review and subsequent report titled, *A Review of Religious and Certain Other Community Organisation Acts*, as tabled in the Legislative Assembly on 4 March 2014. No other means of achieving the policy objective is possible.

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

## **Estimated cost for government implementation**

No additional cost is anticipated for Government to implement these amendments.

## **Consistency with fundamental legislative principles**

The amendments in the Bill are generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

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

Section 4(2)(b) of the *Legislative Standards Act 1992* (Legislative Standards Act) requires legislation to have sufficient regard to the institution of Parliament. Under section 4(4)(c) of the Legislative Standards Act, a Bill will have sufficient regard to the institution of Parliament if it authorises the amendment of an Act only by another Act.

The Bill amends the Liquor Act to ensure that certain substances that contain the specified amount of ethanol to constitute liquor, such as food additives and personal hygiene products, are not subject to the Liquor Act, except where prescribed in the Liquor Regulation. It also provides a head of power for a maximum amount of the substance to be prescribed in the Liquor Regulation, with the sale of the substance in amounts over the maximum to be subject to the Liquor Act. Therefore, the Bill may breach fundamental legislative principles, as it authorises the amendment of an Act by subordinate legislation.

This potential breach of fundamental legislative principles is considered justifiable. It is generally not the intention of the Act to regulate products such as food additives, as they are not intended to be directly consumed as liquor. However, because of their alcohol content, there is a risk that these substances could be misused. If misuse occurs, swift action will be required to regulate sale of the substance and minimise the harm from this misuse. Therefore, it is considered appropriate for this action to be facilitated by amendment to subordinate legislation, to allow immediate executive action to protect the community.

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

### *Use of car parks for sale and consumption of liquor*

Section 4(2)(a) of the Legislative Standards Act requires legislation to have sufficient regard to the rights and liberties of individuals. Clause 30 of the Bill provides for a new Division 1AB under Part 6 of the Liquor Act that requires a licensee to seek the Commissioner's approval for the sale, supply or consumption of liquor in a car park. A new section 331 inserted by Clause 47 of the Bill intends that the requirement to seek this approval applies even if the licensee is authorised by a licence condition to use a car park for the sale, supply and consumption of liquor.

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

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

## **Consultation**

### *Liquor amendments*

A number of the red tape reduction amendments contained in the Bill arise from consultation with a number of stakeholders via the Liquor and Gaming Red Tape Reduction Expert Panel.

The panel comprises both industry and community representatives, including Queensland Hotels Association, Clubs Queensland, RSL and Services Clubs Association Queensland, Cabarets Queensland, Australasian Casino Association, Restaurants and Catering Industry Association, Queensland Tourism Industry Council, Gambling Help Network, and the Gold Coast Youth Service.

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

### *Fair trading amendments*

As part of the review, the Commission undertook consultation with organisations associated with each specific Act included in the review. Overall, there was support for the proposal to repeal the 14 obsolete Acts. Two of the 14 organisations impacted by the proposed repeal of their associated Acts did not respond to the Commission's attempts to consult with their organisation, including the Chinese Temple Society (which did not respond to the

Commission's two written attempts), and the Wesleyan Methodists (of which no relevant stakeholders could be identified by the Commission).

The Commission also placed a notice calling for submissions on the Queensland Government 'Get Involved' website, and invited submissions from the Not-For-Profit-Law Committee of the Queensland Law Society. At the end of the consultation period, the Commission had received 18 submissions from various religious and other community organisations, indicating support for the repeal of obsolete legislation.

Additionally, an exposure draft of the Bill was released on 20 October 2014 for targeted consultation with stakeholders, namely the Anglican and Catholic Churches, who were impacted by drafting changes, which diverged from Commission's original recommendations. The Catholic Church advised the *Roman Catholic Church (Northern Lands) Vesting Act 1941* could be repealed in its entirety as its provisions have been spent. The Anglican Church advised they had no objection to the amendments as included in the Bill.

Although no general community consultation has been undertaken on the proposed amendment to the Fair Trading Act, the policy approach on directors' liability was subject to public consultation via the Parliamentary Legal Affairs and Community Safety Committee on the *Directors' Liability Reform Amendment Bill 2012*, which tabled its report (No. 25) in the Legislative Assembly on 15 March 2013.

## **Consistency with legislation of other jurisdictions**

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

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

The repeal of section 96 of the Fair Trading Act will make the liability of executive officers in Queensland more consistent with other Australian jurisdictions.

## Notes on Provisions

### Part 1 Preliminary

Clause 1 cites the short title of the Act.

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

### Part 2 Amendment of Fair Trading Act 1989

Clause 3 states that Part 2 amends the *Fair Trading Act 1989*.

Clause 4 makes a consequential amendment to section 31 of the Act, to remove an obsolete reference to section 96.

Clause 5 makes a consequential amendment to section 33 of the Act, to remove an obsolete reference to section 96.

Clause 6 repeals section 96 of the *Fair Trading Act 1989*.

### Part 3 Amendment of Liquor Act 1992

Clause 7 states that Part 3 amends the *Liquor Act 1992*.

Clause 8 amends section 4, which provides definitions for the Liquor Act. The clause amends a number of existing definitions for ‘disciplinary action’, ‘fundraising event’, ‘investigator’, ‘risk-assessed management plan’ and ‘small regional show’ to reflect changes to the Liquor Act by effect of this Bill. The clause also inserts new definitions, such as ‘car park’, ‘car park approval’, ‘campdrafting event’, ‘campdrafting competition’, ‘craft beer’, ‘craft brewery’, ‘document’, ‘promotional event’, ‘regulated car park’ and ‘related body corporate’. These new definitions clarify amended or new provisions within the Liquor Act given effect by this Bill.

Clause 9 amends section 4B to clarify and simplify the meaning of liquor.

Clause 10 amends section 6 to provide greater clarity as to which documents are considered to be acceptable evidence of age under the Liquor Act. Additionally, the amended section ensures the integrity of evidence of age documentation by ensuring evidence of age documentation are subject to appropriate approval processes by responsible regulatory entities. All current documentation that is approved as acceptable evidence of age will continue to be approved, so no entity will lose their current ability to provide acceptable evidence of age documentation.

Clause 11 amends section 13 of the Liquor Act to provide that subsection (1)(d) will apply to a campdrafting event as defined under section 4.

Clause 12 inserts a new section 14AB to provide that the Act does not apply to substances if they are only used as a preservative or medium in which fruit is offered for sale to the public in sealed containers and with the contents visible; a food additive or ingredient for food preparation, such as Chinese cooking wine or soy sauce; a personal hygiene product that is

not swallowed, such as perfume, mouthwash or topical disinfectants; or a medicine or substance used for medicinal or chemical purposes, such as cough syrup. The clause also provides that, despite subsection (1), the Act does apply to an aforementioned substance if the substance is being used as a beverage or for manufacturing a beverage, or if a regulation prescribes the substance, and the sale is not by wholesale. A regulation may also prescribe a maximum amount of a prescribed substance, and the Act will apply to that substance if it is sold in a container containing more than the amount prescribed.

Clause 13 amends section 14B to remove the current exemptions relating to the sale in good faith of spirituous or distilled perfume as perfumery and the sale of a spirituous cooking essence, as these provisions are to be incorporated in the new section 14AB. This clause also increases the maximum number of guests that a bed and breakfast may cater to and be subject to the exemption from holding a liquor licence to eight adults.

Clause 14 amends section 62 to provide more flexibility as to where residents and their guests in premises under a commercial hotel licence can consume liquor outside ordinary or approved extended trading hours, subject to approval of the Commissioner.

Clause 15 amends section 65A to provide more flexibility as to where residents and their guests in premises under a commercial special facility licence can consume liquor outside the trading hours stated in the licence, subject to approval of the Commissioner.

Clause 16 amends section 67B to provide more flexibility as to where residents and their guests in premises under a subsidiary on-premises licence where the principal activity is accommodation can consume liquor outside ordinary or approved trading hours, subject to approval of the Commissioner.

Clause 17 amends section 73 to provide that a condition applying to a producer/wholesaler licence may authorise the licensee to sell or supply a sample of craft beer, produced by the licensee at the licensee's craft brewery, at a promotional event, but only if the organiser of the promotional event has given the licensee written consent to sell or supply craft beer at the event. However, a licence condition under this section is not intended to authorise a producer/wholesaler licence to be granted or held for premises, or part of premises, where the promotional event is proposed to be held. Therefore there will be no inconsistency with section 58(2) in situations where a producer/wholesaler licensee has a promotion at an event that is already subject to another licence, such as a commercial special facility licence.

Clause 18 inserts new section 74A to identify additional conditions which the Commissioner may impose on a producer/wholesaler licence to regulate the sale or supply of craft beer at a promotional event, such as sale and sampling limits. In particular, section 74A provides that, unless a condition imposed by the Commissioner states otherwise, a licensee may not sell and supply more than nine litres of craft beer to a person at a promotional event. However, this limit intentionally applies only to craft beer supplied at the event, and does not limit the volume of craft beer able to be ordered by a person from a licensee at a promotional event for later delivery. The section also identifies the circumstances in which the Commissioner is precluded from imposing a condition on a producer/wholesaler licence which authorises sale or supply of craft beer at a promotional event.

Clause 19 amends section 75 to clarify that the restrictions stated in that section regarding the sale or supply of liquor under a producer/wholesaler licence do not apply where the sale or

supply of craft beer at a promotional event is authorised by a condition applying to the licence.

Clause 20 inserts new section 75A which clarifies that the area occupied by the holder of a producer/wholesaler licence at a promotional event (whether or not explicitly identified in a condition applying to the licence) is not licensed premises for the purposes of the producer/wholesaler licence. However, section 75A also includes a deeming provision to enable certain regulatory and offence provisions within Part 6 to apply to the area occupied by the holder of a producer/wholesaler licence at a promotional event as if that area is licensed premises. This deeming provision is necessary in order to safely regulate the sale or supply of craft beer at a promotional event in a manner compatible with the main objectives of the Liquor Act, and consistent with the regulation of craft beer sold or supplied under a craft beer producer permit. Importantly, only specific provisions of Part 6 will be deemed to apply to the area occupied by the holder of a producer/wholesaler licence at a promotional event, in order to avoid imposition of unnecessary red tape as well as to avoid any unintended conflict with section 58(2) of the Liquor Act.

Clause 21 amends section 77 to enable a community club licensee to sell liquor on the licensed premises to a guest of a club member or reciprocal club member, or a visitor to the club, for consumption off the premises.

Clause 22 amends section 100 to provide for a new permit type, being a craft beer producer permit.

Clause 23 inserts a new Part 4A Division 8, which sets out the requirements for, and authority of, a craft beer producer permit.

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

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

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

Section 103Z identifies that the area occupied by a permittee at a promotional event for the sale or supply of craft beer, whether or not defined under a condition applying to the permit,

is taken to be the premises to which a craft beer producer permit relates. As a result, the existing regulatory and offence provisions under Part 6 of the Liquor Act regarding permittees generally, and premises to which a permit relates, will apply to a craft beer producer permit. This amendment will facilitate regulation of the sale of craft beer at promotional events in a manner compatible with the main objectives of the Liquor Act.

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

Clause 24 amends section 105A to extend the current exemption that applies to restaurants and cafes from the requirement to complete a RAMP as part of the application process, to other low risk licensed premises such as florists and producer/wholesalers. As a safeguard, the Commissioner will still be able to require a licensee to prepare a RAMP if necessary to ensure compliance with the Act, to minimise alcohol related disturbances or harm or for other purposes listed in subsection 105A(3).

Clause 25 amends section 136 to provide that failure to comply with a condition of a car park approval is a ground for disciplinary action.

Clause 26 inserts a new section 137CB to provide for the immediate suspension of a car park approval if the Commissioner believes on reasonable grounds that grounds for disciplinary action exist. The intention is that the suspension may be applied to car park approvals granted in respect of future events that have not yet occurred.

Clause 27 amends section 142AE to provide that a licensee need not record details of an incident in the incident register if the incident must be recorded in the crowd controller register maintained under the *Security Providers Act 1993*.

Clause 28 amends section 142ZAA to provide that where an approved manager has their approval cancelled due to being an identified participant in a criminal organisation, and the Commissioner knows or suspects the holder of the approval is employed by a licensee for a licensed premises or permittee for a premises to which a permit relates, the Commissioner must give that employer written notice of the decision to cancel the approval.

Clause 29 amends section 142ZE to provide that where an approved manager has their approval suspended or cancelled, and the Commissioner knows or suspects the holder of the approval is employed by a licensee for a licensed premises or permittee for a premises to which a permit relates, the Commissioner must give that employer written notice of the decision to cancel the approval

Clause 30 inserts a new Division 1AB into Part 6 of the Act. The new Division 1AB replaces the former section 153A to provide greater clarity around the sale, supply or consumption of liquor in a car park.

Like the former section 153A, the new section 142ZZE inserted by clause 30 expressly prevents the sale, supply or consumption of liquor in the car park of licensed premises. However, the new Division 1AB is more specific than the former 153A in stating that a licensee may apply to the Commissioner for a “car park approval” that will allow the sale, supply and/or consumption of liquor in the car park of the licensee’s licensed premises. The

new section 142ZZF proposes that, in addition to any requirements that must accompany the application under section 105, an application for a car park approval must also state the name of the relevant premises and the days on which the licensee proposes to sell, supply or allow liquor to be consumed in the car park of the premises. It is intended that an application (and approval) will relate to a specific date.

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

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

The new section 142ZZI provides that the Commissioner may apply conditions to a car park approval to ensure compliance with the Act, or to minimise alcohol-related disturbances or public disorder in the locality. The Commissioner may also apply conditions to give effect to the main purposes of the Act as stated in section 3(a). Section 128C is referenced to provide guidance as to the type of matters that the Commissioner may address in a condition to give effect to the main purposes of the Act in section 3(a). The Commissioner may also specifically condition a car park approval about the provision of amplified entertainment. For example, the Commissioner may prohibit amplified entertainment, or impose a decibel limit, or specify that amplified entertainment may only be provided during some of the hours to which the car park approval relates. Finally, clause 30 inserts a new section 142ZZJ dealing with the authority of a car park approval.

Clause 31 inserts new section 148AB which introduces offence provisions relating to the sale or supply of craft beer at a promotional event, with maximum penalties aligned to comparable offences under the Liquor Act for failure to undertake responsible practices and promotions.

Clause 32 omits section 153A which, prior to these amendments, stated that a licensee could not, without the Commissioner's approval, sell, supply or allow liquor to be consumed in the car park of licensed premises. This section has been replaced by the new Division 1AB in Part 6.

Clause 33 amends the definition of *exempt minor* under section 155 to additionally include premises to which a craft beer producer permit relates, unless the minor's presence contravenes a condition of the permit. This amendment is necessary to provide for circumstances where a craft beer producer may be selling or supplying their craft beer at a promotional event which is able to be attended by minors, such as a market or fair. However, the Commissioner retains authority under Part 5 to condition the permit to preclude minors being in the proximity of the craft beer producer in order to minimise any potential for harm.

Clause 34 amends section 155AC to identify that Part 6 Division 1A does not apply to premises to which a craft beer producer permit relates.

Clause 35 amends section 155AD to provide for exemptions to the requirement that an approved manager is present or reasonably available at licensed premises as proposed by clause 36.

Clause 36 inserts new sections 155AG and 155AH. The new section 155AG provides for an exemption to the requirement that an approved manager must be on licensed premises or reasonably available as required by section 155AD of the Act. The exemption applies only to premises that do not trade after midnight and therefore do not require an approved manager to be physically present on the premises. The amendments provide that a venue may operate for a period of no more than three consecutive days (and no more than seven days in total per month) in circumstances where an approved manager is not reasonably available. However, the exemption applies only in circumstances where an approved manager for the premises (or the licensee of the premises, if the licensee is an individual) remains contactable by telephone. Additionally, the licensee must nominate an RSA-trained person to undertake the responsibilities of an approved manager under section 142ZF(2) during the period in which the approved manager will not be available. The nomination must be in writing, contain certain information as provided for in the amendment (including the period during which the nomination applies), and must be signed by the nominated person to indicate their consent. The nominated person must then be present at or reasonably available to the premises during the stated period. Section 155AH requires the nomination to be retained on the licensed premises and made available for inspection by an investigator on request.

Clause 37 amends section 158 to reflect changes in terminology as a consequence of the amendment of section 6 (Acceptable evidence of age).

Clause 38 amends section 159 to reflect changes in terminology as a consequence of the Bill's amendment of section 6 (Acceptable evidence of age).

Clause 39 inserts sections 162B and 162C, which respectively provide that it is an offence for a person to take liquor into, or away from, an area subject to a CPEP or CLP. However, the provisions do not apply to the holder of the permit, or their employees or agents, where taking liquor into or away from the venue is in accordance with the permit or for the purpose of conducting the event.

Clause 40 amends section 172 to clarify that the section does not apply to orders for craft beer taken at a promotional event under the authority of a craft beer producer permit or a section 73(2)(a) licence condition of a producer/wholesaler licence.

Clause 41 inserts a new Division 1A into Part 7, containing a new section 173NR to provide a

definition of 'document' for Part 7.

Clause 42 inserts a new section 183AA to enable an investigator to require a person, by written notice, to produce any documents the investigator believes on reasonable grounds the person has possession or control of and are relevant to the administration or enforcement of the Liquor Act.

Clause 43 amends section 217 to require a licensee under a producer/wholesaler licence, or a permittee under a craft beer producer permit, to maintain a record of all promotional events at which the person has given free samples of their craft beer, sold their craft beer for takeaway consumption, or taken orders for their craft beer. This additional requirement is necessary to enable the Office of Liquor and Gaming Regulation to monitor attendance by craft beer producers at promotional events and to ensure that craft beer producers are only selling their own products at those events in accordance with the licence or permit authority. As the Liquor Act already requires a licensee to maintain a record of which liquor products they have sold, merely asking a licensee or permittee to keep a list of the events which they attend is not considered to be an onerous request. Failure to comply with this further reporting requirement will be an offence attracting a maximum penalty of 350 penalty units, the same maximum penalty which currently applies to existing offences under the section for failure to keep relevant records.

Clause 44 amends section 226 to provide that a person who contravenes a condition of a car park approval commits an offence against the Act.

Clause 45 inserts new section 228C to clarify that, where a craft beer producer sells or supplies craft beer at a promotional event held at premises that are subject to a commercial special facility licence, the conditions of the commercial special facility licence regarding the supply of liquor override any conflicting conditions or authority of the craft beer producer producer/wholesaler licence or craft beer producer's permit.

Clause 46 inserts a transitional provision to clarify how commencement of the new provisions relating to acceptable evidence of age documentation will impact the current legislative and licensing arrangements. New section 330 clarifies that current acceptable evidence of age documentation will continue to be accepted after section 6 is amended.

Clause 47 inserts new transitional provisions (sections 331 and 332) dealing with existing authorisations to conduct the sale, supply and consumption of liquor in a car park. Section 331 states that the new section 142ZZE applies to a licensee despite any condition on the licensee's licence that may authorise the use of the car park for the sale, supply or consumption of liquor. The intention is that all licensees in Queensland will be required to seek new approval under section 142ZZE for every specific occasion on which it is intended to sell, supply or allow liquor to be consumed in a car park – regardless of any pre-existing authorisation to conduct these activities. This will allow the Commissioner to consider the impact of each proposed event (as provided for in section 142ZZG) and condition any resultant approval appropriately. To remove any doubt, section 331 declares that any pre-existing authorisation granted by licence condition cannot be considered a car park approval under section 142ZZE. Section 332 provides that, if the Commissioner granted an approval to use a car park for the sale, supply or consumption of liquor under section 153A prior to the commencement of clause 30, the approval no longer has effect. This is intended to prevent a situation in which licensees may avoid the enhanced consideration and conditioning powers

(inserted by clause 30) by applying for car park approvals under the existing section 153A prior to commencement.

#### **Part 4 Amendment of Liquor Regulation 2002**

Clause 48 states that Part 4 amends the *Liquor Regulation 2002*.

Clause 49 replaces section 38AA to provide the prescribed criteria for a campdrafting event and a small regional show relevant to their respective definitions under section 4 of the Liquor Act. The existing prescribed criteria for a small regional show under section 38AA(a) and (b) have been moved to section 4 of the Liquor Act as a result of this Bill.

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

Clause 51 amends section 38A to change the references to ‘section 50’ to instead read ‘section 4’. This is a consequential change regarding the reinstatement of the regulation-making power in relation to RAMPs in the Liquor Act.

Clause 52 inserts a new section 41A to prescribe the maximum period for which a car park approval may be granted.

#### **Part 5 Amendment of Safe Night Out Legislation Amendment Act 2014**

Clause 53 states that Part 5 amends the *Safe Night Out Legislation Amendment Act 2014*.

Clause 54 amends section 2 to omit the reference to the commencement of section 48.

Clause 55 omits section 48 (Amendment of section 105A (Additional requirement for particular applications—risk-assessed management plan)). Section 48 is a consequential amendment resulting from the change in available extended trading hours for subsidiary on-premises licences (meals), set to commence on 1 July 2015. However, as the RAMP exemption under section 105A is being extended to apply to other low risk licence types, the construction of the section, including that relating to subsidiary on-premises licence (meals), is being changed so that the section 48 amendment is now redundant.

#### **Part 6 Repeal of various Acts and related amendments**

Clause 56 lists the Acts this Part repeals, which include: *All Saints Church Lands Act 1924 15 Geo 5 No. 23*; *Anglican Church of Australia Act 1895 Amendment Act 1901 1 Edw 7 No. 21*; *Anglican Church of Australia Act 1977*; *Anglican Church of Australia (Diocese of Brisbane) Property Act 1889 53 Vic*; *Ann Street Presbyterian Church Act 1889 53 Vic*; *Boonah Show Ground Act 1914 5 Geo 5*; *Chinese Temple Society Act 1964*; *Presbyterian Church of Australia Act 1971*; *Queensland Congregational Union Act 1967*; *Roman Catholic Church (Corporation of the Sisters of Mercy of the Diocese of Cairns) Lands Vesting Act 1945 9 Geo 6*; *Roman Catholic Church (Northern Lands) Vesting Act 1941 6 Geo 6*; *Roman Catholic Relief Act 1830 10 Geo 4 No. 9 (NSW)*; *Wesleyan Methodists, Independents, and Baptists*

*Churches Act 1838 2 Vic No. 7 (NSW); Wesleyan Methodist Trust Property Act 1853 17 Vic (NSW).*

Clause 57 states that Division 2 amends the *Anglican Church of Australia Act 1895 Amendment Act 1901*.

Clause 58 amends, relocates and renumbers section 2 (Declaration of synod's powers with reference to lands held on trust for Anglican Church of Australia purposes and no other purposes whatsoever) of the *Anglican Church of Australia Act 1895 Amendment Act 1901* to a new section 13A of the *Anglican Church of Australia Act 1895*.

Clause 59 relocates and renumbers section 3 (Application of moneys arising from sales, mortgages, or leases) to a new section 13B of the *Anglican Church of Australia Act 1895*.

Clause 60 states that Division 3 amends the *Anglican Church of Australia Constitution Act 1961*.

Clause 61 amends the long title of the Act to remove obsolete clauses.

Clause 62 numbers the preamble of the Act and removes obsolete clauses.

Clause 63 amends section 2 (Constitution to have legal force and effect) to remove obsolete clauses and to insert a new subsection (2).

Clause 64 amends section 4 (Inconsistency with certain Acts) to remove an obsolete clause.

Clause 65 amends section 5 (Certain Acts continue to apply) to remove obsolete clauses.

Clause 66 amends section 8 (Taking of evidence on oath) to recognise currently designated arbitration tribunals to administer oaths.

Clause 67 amends the Schedule 2 heading to provide a heading for the schedule, together with relevant sectional references.

Clause 68 states that Division 4 amends the *Oaths Act 1867*.

Clause 69 amends section 1 (Oath substituted for the oaths and declaration now prescribed by law) of the *Oaths Act 1867* to remove an obsolete reference to the *Roman Catholic Relief Act 1830*, which is repealed.

Clause 70 states that Division 5 amends the *Presbyterian Church of Australia Act 1900*.

Clause 71 amends the long title to simplify its wording.

Clause 72 amends the preamble to update referencing to 'schedule 1' and numbers the paragraphs of the preamble, leaving four paragraphs in the preamble.

Clause 73 amends the order of the section, updates the operation clause of the section and renumbers section 1 (Adoption of Basis of Union and Articles of Agreement) to make it section 2.

Clause 74 relocates and renumbers section 2 (Short title) to make it section 1.

Clause 75 numbers the schedule (The scheme of union) as ‘schedule 1’.

Clause 76 states that Division 6 amends the *Presbyterian Church of Australia Act 1971*.

Clause 77 numbers and amends the wording of paragraphs 4 to 6 of the Preamble to make them consistent with the *Presbyterian Church of Australia Act 1900* and relocates them as paragraphs 6-8 of that Act’s preamble.

Clause 78 amends and renumbers section 3 (Union with other churches) to make it consistent with the *Presbyterian Church of Australia Act 1900* and relocates it as section 3 of that Act.

Clause 79 amends section 4 (Application of property held under certain trusts) to make it consistent with the *Presbyterian Church of Australia Act 1900* and relocates it as section 4 of that Act.

Clause 80 amends section 5 (Powers of commission) to make it consistent with the *Presbyterian Church of Australia Act 1900* and relocates it as section 5 of that Act.

Clause 81 amends, renames and renumbers ‘Schedule (Basis of union)’ to make it consistent with the *Presbyterian Church of Australia Act 1900* and relocates it as ‘schedule 2’ of that Act.

Clause 82 states that Division 7 amends the *Queensland Congregational Union Act 1967*.

Clause 83 inserts a new section 5 (Saving of operation of Act), which applies section 20A of the *Acts Interpretation Act 1954*.

Clause 84 states that Division 8 amends the *Wesleyan Methodists, Independents, and Baptists Churches Act 1838*.

Clause 85 inserts a new section 3 (Saving of operation of Act), which applies section 20A of the *Acts Interpretation Act 1954*.