



New South Wales

Casino Control Amendment (Liquor) Regulation 2008

under the

Casino Control Act 1992

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Casino Control Act 1992*.

GRAHAM WEST, M.P.,
Minister for Gaming and Racing

Explanatory note

The object of this Regulation is to make amendments to the *Casino Control Regulation 2001* that are consequential on the enactment of the *Liquor Act 2007* and on the amendments made to the *Casino Control Act 1992* by the *Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007*. In particular, the provisions of the *Liquor Act 1982* that are set out in the *Casino Control Regulation 2001* and that apply to licensed premises in the casino and the casino environs are replaced by modified provisions of the *Liquor Act 2007*.

This Regulation is made under the *Casino Control Act 1992*, including sections 89 and 170 (the general regulation-making power).

2008 No 217

Clause 1 Casino Control Amendment (Liquor) Regulation 2008

Casino Control Amendment (Liquor) Regulation 2008

under the

Casino Control Act 1992

1 Name of Regulation

This Regulation is the *Casino Control Amendment (Liquor) Regulation 2008*.

2 Commencement

This Regulation commences on 1 July 2008.

3 Amendment of Casino Control Regulation 2001

The *Casino Control Regulation 2001* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Omit the definitions of *Infringement Processing Bureau* and *IPB Code*.

[2] Clause 3, definition of “liquor”

Omit “*Liquor Act 1982*”. Insert instead “*Liquor Act 2007*”.

[3] Clause 10 Certain contracts not controlled contracts

Omit clause 10 (2) (m). Insert instead:

- (m) contracts relating to the provision of training courses approved under section 64 of the Act or training courses conducted with the approval of the Authority under Part 4A of this Regulation (as in force before 1 July 2008) or under Division 1 of Part 5 of the *Liquor Regulation 2008*,

[4] Part 4A

Omit the Part. Insert instead:

Part 4A Responsible service of alcohol training

34B Definitions

In this Part:

licence, *licensee* and *licensed premises* have the same meanings as they have in the *Liquor Act 2007*, as applied by Schedule 5 and modified by Schedule 6.

recognised RSA certificate means a recognised RSA certificate within the meaning of Division 1 of Part 5 of the *Liquor Regulation 2008*, and includes any recognised RSA certificate within the meaning of this Part (before its substitution by the *Casino Control Amendment (Liquor) Regulation 2008*) and in force immediately before 1 July 2008.

staff member, in relation to licensed premises, means any agent or employee of, or person purporting to act on behalf of, the licensee of the premises.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

34C Obligations of licensee as to responsible service of alcohol

The licensee of licensed premises must not cause or permit a staff member to sell, supply or serve liquor by retail on the premises unless the staff member holds a recognised RSA certificate.

Maximum penalty: 50 penalty units.

34D Obligations of staff members as to responsible service of alcohol

A staff member of licensed premises must not sell, supply or serve liquor by retail on the premises unless the staff member holds a recognised RSA certificate.

Maximum penalty: 10 penalty units.

34E Obligations in relation to persons carrying on certain security activities

- (1) The licensee of licensed premises must not employ or engage a person to carry on activities as a crowd controller or bouncer on or about the premises unless the person holds a recognised RSA certificate.

Maximum penalty: 50 penalty units.

- (2) A person must not, in the course of the person's employment, carry on activities as a crowd controller or bouncer on or about licensed premises unless the person holds a recognised RSA certificate.

Maximum penalty: 10 penalty units.

Note. Under the *Security Industry Act 1997*, a person who is employed to act as a crowd controller, venue controller or bouncer is required to hold a class 1C licence under that Act.

34F Conduct of promotional activities

For the purposes of this Part:

- (a) liquor that is sold, supplied or served on licensed premises as part of a promotional activity conducted by someone other than the licensee is taken to have been sold, supplied or served by retail, and
- (b) any person by whom liquor is sold, supplied or served on licensed premises as part of a promotional activity conducted by someone other than the licensee is taken to be a staff member.

34G Licensee to keep register of recognised RSA certificates

- (1) It is a condition of a licence for licensed premises that the licensee must keep a register containing:
 - (a) a copy of the recognised RSA certificate for the licensee, and
 - (b) a copy of the recognised RSA certificate for each staff member whose duties include the sale, supply or service of liquor by retail, and
 - (c) a copy of the recognised RSA certificate for each person employed or engaged by the licensee to carry on activities as a crowd controller or bouncer on or about the licensed premises.
- (2) It is a condition of a licence for licensed premises that the licensee must make the register kept under this clause available for inspection on request by a police officer or inspector.

[5] Clause 35 Application of Liquor Act 2007 to casino

Omit “*Liquor Act 1982*” wherever occurring in clause 35 (1) and (2).

Insert instead “*Liquor Act 2007*”.

[6] Clause 35 (2) (b)

Omit “section 42”. Insert instead “section 61”.

[7] Clause 35A Drinking water to be available free of charge on licensed premises

Omit clause 35A (2). Insert instead:

- (2) In this clause and in clauses 35B–35E:
licence, licensee and *licensed premises* have the same meanings as they have in the *Liquor Act 2007*, as applied by Schedule 5 and modified by Schedule 6.

[8] Clauses 35C–35E

Insert after clause 35B:

35C Discount liquor promotions or advertisements

- (1) This clause applies to any promotion or advertisement involving the discounting of liquor that is conducted, or published, by or on behalf of a licensee.
- (2) If a promotion or advertisement to which this clause applies:
 - (a) appears in the printed or electronic media, or

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (b) is conducted on or in the vicinity of the licensed premises or appears inside or in the vicinity of the licensed premises, or
 - (c) is made available for the public to participate in or view, the Authority may, by notice in writing, require the licensee to include, as part of the promotion or advertisement, a message that encourages the responsible consumption of alcohol.
- (3) The Authority may, in making any such requirement, specify:
- (a) the content of the message, and
 - (b) the manner in which the message is to appear as part of the promotion or advertisement (including the size, colour and nature of the message and its placement in relation to the promotion or advertisement).
- (4) A licensee must comply with a notice given to the licensee under this clause.
Maximum penalty: 50 penalty units.

35D Codes of practice

- (1) The Authority may approve of a code of practice that deals with the responsible sale, supply, service and promotion of liquor.
- (2) The Authority may approve of any such code of practice for all licences or for particular licences only.
- (3) If the Authority approves of a code of practice in relation to a licence, it is a condition of the licence that the licensee complies with the code.

35E Display and availability of licence etc

- (1) This clause applies to any member of staff of licensed premises who:
 - (a) sells, supplies or serves liquor on the licensed premises, or
 - (b) carries on any security activity (such as a crowd controller or bouncer) on or about the licensed premises, or
 - (c) exercises any functions under the *Liquor Act 2007* (as applied by Schedule 5 and modified by Schedule 6).
- (2) It is a condition of a licence that a copy of each of the following are available at all times for the information of the members of staff of the licensed premises to which this clause applies:
 - (a) the licence,

- (b) any minors area authorisation held in relation to the licence,
- (c) any conditions imposed by the Authority on the licence or any such authorisation.

[9] Clause 38 Divulging of information

Omit the clause.

[10] Clause 39

Omit the clause. Insert instead:

39 Evidence of age

Any of the following documents is, for the purposes of the Act, evidence that the person is at least 18 years of age, but only if the document bears a photograph of the person and indicates (by reference to the person's date of birth or otherwise) that the person is of or above that age and only if the document has not expired and otherwise appears to be in force:

- (a) a motor vehicle driver or rider's licence or permit issued by the Roads and Traffic Authority or by the corresponding public authority of another State or Territory or under the law of another country,
- (b) a Photo Card issued under the *Photo Card Act 2005*,
- (c) a document (referred to as ***an existing RTA proof of age card***) issued by the Roads and Traffic Authority under section 117EA of the *Liquor Act 1982* and in force immediately before 1 July 2008,
Note. Existing RTA proof of age cards cease to be valid for any purpose on 14 December 2008.
- (d) a proof of age card (however described) issued by a public authority of the Commonwealth or of another State or Territory for the purpose of attesting to a person's identity and age,
- (e) an Australian or foreign passport.

[11] Clause 40 Casino precinct

Omit the clause.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

[12] Clause 41 Penalty notice offences

Omit clause 41 (2). Insert instead:

- (2) For the purposes of section 150 of the *Liquor Act 2007* (as applied by this Regulation and modified to read as set out in Schedule 6):
- (a) each offence created by a provision specified in Column 1 of Part 3 of Schedule 8 is prescribed, and
 - (b) the prescribed amount of penalty for such an offence is the amount specified opposite the offence in Column 2 of Schedule 8.

[13] Schedules 5 and 6

Omit the Schedules. Insert instead:

Schedule 5 Application of Liquor Act 2007 to casino

(Clause 35)

Part 1 Provisions of Liquor Act 2007 applying to licensed premises

Sections 3–11, 40 (1) and (2), 52, 53, 56, 66–75, 77, 79–81, 91, 92, 95, 97, 99–102, 111–113, 117–119, 123–136, 145–147, 149–152, 155, 157, 158 and 160.

Clauses 2, 3, 17–21 and 26 of Schedule 1.

Part 2 Additional provisions of Liquor Act 2007 applying to casino premises

Sections 22, 27, 40 (4) and (5), 41–43, 45–47, 55, 60, 61, 76, 78, 82–85, 87–90, 94, 107, 120, 121 and 137–143.

Schedule 6 Applied provisions of Liquor Act 2007 as modified

(Clause 35)

Part 1 Preliminary

3 Regard to be had to harm minimisation and other measures

Each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:

- (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
- (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
- (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

4 Definitions

- (1) In this Act:

Authority means the Casino, Liquor and Gaming Control Authority constituted under the *Casino, Liquor and Gaming Control Authority Act 2007*.

bar area means a part of licensed premises (being a part not operated by a casino operator) in which liquor is ordinarily sold or supplied for consumption on the premises, but does not include:

- (a) a restaurant, or
- (b) a part of the licensed premises in respect of which a minors area authorisation under section 121 is in force, whenever the authorisation operates to authorise the use by a minor of that part, or
- (c) a part of the licensed premises in which liquor is sold or supplied exclusively to residents.

beer means liquor that is beer, ale, lager, pilsener, porter, stout or any other fermented malt liquor or any fermented liquor made from hops or that for the purposes of sale is held out to be beer.

casino has the same meaning as in the *Casino Control Act 1992*.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

casino environs means premises the subject of an order under section 89 (3) of the *Casino Control Act 1992*.

casino operator means a person who is the holder of a licence under Part 2 of the *Casino Control Act 1992* to operate a casino.

close associate means a close associate within the meaning of the *Casino, Liquor and Gaming Control Authority Act 2007*.

Director means the Director of Liquor and Gaming holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

employ includes engage under a contract for services and **employee** includes a person engaged under a contract for services.

evidence of age document for a person means any of the following documents that bears a photograph of the person and that indicates (by reference to the person's date of birth or otherwise) that the person has attained a particular age, but does not include any such document that has expired or otherwise appears not to be in force:

- (a) a motor vehicle driver or rider's licence or permit issued by the Roads and Traffic Authority or by the corresponding public authority of another State or Territory or under the law of another country,
- (b) a Photo Card issued under the *Photo Card Act 2005*,
- (c) a document (referred to as **an existing RTA proof of age card**) issued by the Roads and Traffic Authority under section 117EA of the *Liquor Act 1982* and in force immediately before the repeal of that section,
Note. Existing RTA proof of age cards cease to be valid for any purpose on 14 December 2008.
- (d) a proof of age card (however described) issued by a public authority of the Commonwealth or of another State or Territory for the purpose of attesting to a person's identity and age,
- (e) an Australian or foreign passport.

financial institution means a bank or authorised deposit-taking institution.

former Act means the *Liquor Act 1982* as applied and modified under the regulations under the *Casino Control Act 1992*.

inspector means an inspector within the meaning of the *Casino, Liquor and Gaming Control Authority Act 2007*.

intoxicated—see section 5.

licence means a licence in force under section 10.

licensed premises means the premises or part of the premises in the casino or casino environs on which the sale or supply of liquor is authorised by a licence.

licensee means the holder of a licence.

liquor means any of the following:

- (a) a beverage which, at 20° Celsius, contains more than 1.15% ethanol by volume,
- (b) anything that is not a beverage referred to in paragraph (a) but, for the purposes of sale, is held out to be beer or spirits,
- (c) any vapour that would, as a liquid, be a beverage as referred to in paragraph (a),
- (d) an alcohol-based food essence (being a food flavouring preparation in liquid form that, at 20° Celsius, contains more than 1.15% ethanol by volume) that is packaged:
 - (i) in the case of vanilla essence (whether natural or imitation)—in a container of more than 100 millilitres capacity, or
 - (ii) in any other case—in a container of more than 50 millilitres capacity,

except in circumstances where the alcohol-based food essence is sold in that container by wholesale.

local liquor accord—see section 131.

manager of licensed premises means a person appointed by the licensee under section 66 to manage the licensed premises.

meal means a genuine meal consumed by a person at a dining table and includes, in the case of a licence that authorises the sale of liquor to a resident for consumption away from the licensed premises:

- (a) a meal supplied by the licensee for immediate consumption (otherwise than at a dining table) on or away from the premises, and
- (b) a picnic-style hamper supplied by the licensee for consumption (otherwise than at a dining table) away from the premises on the same day as it is supplied.

minor means a person who is under the age of 18 years.

owner of premises means the person entitled to the rents or profits of the premises.

prohibited drug and **prohibited plant** have the same meanings as in the *Drug Misuse and Trafficking Act 1985*.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

related corporation of a licensee means a corporation that, within the meaning of the *Corporations Act 2001* of the Commonwealth, is a related body corporate of the licensee.

resident of licensed premises means a person (other than the licensee) who resides, or is staying overnight in, a part of the premises that has been set aside for the purposes of accommodation.

responsible adult, in relation to a minor, means an adult who is:

- (a) a parent, step-parent or guardian of the minor, or
- (b) the minor's spouse or de facto partner, or
- (c) for the time being standing in as the parent of the minor.

responsible person for licensed premises means any of the following:

- (a) the licensee,
- (b) the manager of the premises,
- (c) an employee or agent of the licensee or manager,
- (d) a person acting or purporting to act on behalf of the licensee or manager.

restaurant means premises (however described) in respect of which the primary purpose is the business of preparing and serving meals to the public.

sell includes any of the following:

- (a) barter or exchange,
- (b) offer, agree or attempt to sell,
- (c) expose, send, forward or deliver for sale,
- (d) cause or permit to be sold or offered for sale.

supply includes dispose of or deliver.

- (2) In this Act, a reference to the **exercise of a function** includes a reference to the exercise or performance of a power, authority or duty.
- (3) Notes included in the text of this Act do not form part of this Act.

5 Meaning of "intoxicated"

- (1) For the purposes of this Act, a person is **intoxicated** if:
 - (a) the person's speech, balance, co-ordination or behaviour is noticeably affected, and

-
- (b) it is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor.
 - (2) Accordingly, a reference in this Act to **intoxication** in relation to licensed premises is a reference to the presence of intoxicated persons on the licensed premises.
 - (3) The Director is to issue guidelines to assist in determining whether or not a person is intoxicated for the purposes of this Act. Such guidelines are to be made publicly available in such manner as the Director considers appropriate.
 - (4) The guidelines issued by the Director may also indicate circumstances in which a person may be assumed not to be intoxicated for the purposes of this Act.

6 Exemptions from Act

- (1) This Act does not apply to or in respect of the following:
 - (a) [not applied]
 - (b) the sale of spirituous or distilled perfume as perfumery only and not for drinking,
 - (c) the sale of liquor for medicinal purposes by:
 - (i) a registered medical practitioner, or
 - (ii) a nurse authorised under the *Nurses and Midwives Act 1991* to practise as a nurse practitioner, or
 - (iii) a midwife authorised under that Act to practise as a midwife practitioner, or
 - (iv) a registered pharmacist,
 - (d) the sale of liquor to an adult at an auction conducted by an auctioneer, but only if the requirements referred to in subsection (2) are complied with,
 - (e) the sale of liquor taken in execution or under similar process, or forfeited to the Crown, if the sale is by or on behalf of the sheriff or a sheriff's officer, or a bailiff or a police officer,
 - (f), (g) [not applied]
 - (h) the sale of liquor authorised by a law of the Commonwealth for the export of the liquor from the Commonwealth,
 - (i) the sale of liquor that is part of a sale of flowers or food designed to be delivered as a gift to a person (not being the purchaser) specified by the purchaser, but only if:

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (i) the liquor is delivered together with the flowers or food to the person so specified at a place other than the premises at which the business of the vendor is conducted, and
 - (ii) the liquor has been purchased by the vendor on a retail basis, and
 - (iii) the volume of liquor supplied in respect of each gift delivered by the vendor does not exceed 2 litres, and
 - (iv) the person to whom the liquor is delivered is an adult,
- (j), (k) [not applied]
- (l) the sale or supply of liquor in such other circumstances as may be prescribed by the regulations under the *Casino Control Act 1992*.
- (2) For the purposes of subsection (1) (d) of the Act, the following requirements are prescribed:
- (a) the auctioneer conducting the auction must be a person who carries on business (or is employed) as a professional auctioneer,
 - (b) the auction must be publicly promoted as an auction involving the sale of liquor,
 - (c) the Authority must be notified, in the form and manner approved by the Authority, that the auctioneer sells liquor by auction otherwise than under the authority of a licence under this Act,
 - (d) the auctioneer must comply with any direction given to the auctioneer by the Authority as to the quantity or type of liquor that may be sold by auction or as to the manner or frequency in which liquor is sold by auction.

Part 2 Principal offences relating to sale and supply of liquor

7 Licence required to sell liquor

- (1) A person must not sell liquor unless the person is authorised to do so by a licence.
Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.
- (2) A person does not commit an offence under subsection (1) if the person is an employee or agent of a licensee and the sale is made

in accordance with this Act and the authorisation conferred by the licence.

- (3) A person who is the occupier, manager or person apparently in control of any premises on or from which liquor is sold in contravention of subsection (1) is taken to have sold the liquor unless it is proved that the person:
- (a) had no knowledge of the sale, and
 - (b) had used all due diligence to prevent the sale of liquor on or from the premises.

8 Keeping or using unlicensed premises

- (1) A person must not:
- (a) open, keep or use any premises for the purpose of selling liquor, or
 - (b) permit any premises to be opened, kept or used by another person for the purpose of selling liquor, or
 - (c) have the care or management of any premises opened, kept or used for the purpose of selling liquor, or
 - (d) assist in conducting the business of any premises opened, kept or used for the purpose of selling liquor,

unless the premises are licensed premises or are otherwise authorised under this Act to be used for the sale or supply of liquor.

Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

- (2) A person who is found on, or who is found entering or leaving, any premises opened, kept or used in contravention of subsection (1) is guilty of an offence.

Maximum penalty: 5 penalty units.

9 Sale or supply of liquor contrary to licence

- (1) A licensee or an employee or agent of a licensee must not sell or supply liquor, or cause or permit liquor to be sold or supplied:
- (a) in contravention of the conditions to which the licence is subject, or
 - (b) otherwise than in accordance with the authority conferred on the licensee by or under this Act.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (2) Without limiting subsection (1), a licensee must not:
 - (a) keep licensed premises open for the sale or supply of liquor, or
 - (b) sell or supply liquor,at a time when the licensee is not authorised under this Act to sell or supply liquor.
- (3) A licensee must not sell, or employ or permit another person to sell, liquor on premises other than premises on which the licensee is authorised by the licence or this Act to sell the liquor.
Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

Part 3 Licence

10 Authority may grant licence

- (1) The Authority may grant a licence authorising the licensee to sell or supply liquor by retail on the premises specified in the licence (being premises forming part of the casino or casino environs):
 - (a) in the case of a licence held by a casino operator:
 - (i) for consumption on the licensed premises, or
 - (ii) to a resident for consumption away from the licensed premises, but only if the requirements of subsection (4) are complied with, or
 - (b) in any other case—for consumption on the licensed premises only.
- (2) A licence authorises the licensee to sell or supply liquor in accordance with this Act and the conditions of the licence.
- (3) The authorisation conferred by a licence is subject to this Act and the regulations under the *Casino Control Act 1992*.
- (4) The following requirements are specified for the purposes of subsection (1) (a) (ii):
 - (a) the sale of liquor for consumption away from the licensed premises must be ancillary to the provision of a meal for consumption away from the licensed premises,
 - (b) the volume of liquor supplied to any such resident on any one day must not exceed 2 litres.

11 Licence conditions—general provisions

- (1) A licence is subject to:
 - (a) such conditions as may be imposed, or are taken to have been imposed, by the Authority (whether at the time the licence is granted or at any later time) under this Act, and
 - (b) such conditions as are imposed by this Act or as may be prescribed by the regulations under the *Casino Control Act 1992*, and
 - (c) such other conditions as are authorised to be imposed on the licence under this Act.
- (2) A licensee must comply with any conditions to which the licence is subject.
Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.
- (3) For the purposes of this Act, a condition to which a licence is subject includes any provision of this Act that imposes a requirement or restriction (other than as an offence) on or in relation to the licence, licensee or licensed premises concerned.

22 Licensed restaurants—primary purpose test

- (1) A licence for premises to be used as a restaurant must not be granted in respect of the premises if the primary purpose of the business or activity carried out on the premises is the sale or supply of liquor.
- (2) The authorisation conferred by a licence for a restaurant does not apply if the primary purpose of the business or activity carried out on the licensed premises is the sale or supply of liquor.

27 Requirement to provide food on licensed premises

- (1) Liquor may only be sold or supplied on licensed premises if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied under the authorisation of the licence.
- (2) If any requirements are prescribed by the regulations under the *Casino Control Act 1992* in relation to the nature and quality of any such food, those requirements must be complied with.
- (3) Subsection (1) is subject to such exceptions as may be approved by the Authority in relation to any particular licensed premises.

Part 4 Licensing procedures and related matters

40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may only be made by a corporation.
- (3) [not applied]
- (4) An application for a licence must:
 - (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee determined by the Authority, and
 - (c) [not applied]
 - (d) comply with such other requirements as may be approved by the Authority.
- (5) If, before an application for a licence is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must immediately notify the Authority of the particulars of the change.
Maximum penalty: 20 penalty units.

41 Statement as to interested parties

- (1) An application for a licence must be accompanied by a written statement, made by a person having knowledge of the facts, specifying:
 - (a) that the person has made all reasonable inquiries to ascertain the information required to complete the statement, and
 - (b) whether there are any persons (other than financial institutions) who will be interested in the business, or the profits of the business, carried on under the licence, and
 - (c) if there are any such persons, their names and dates of birth and, in the case of a proprietary company, the names of the directors and shareholders.
- (2) For the purposes of subsection (1), a person is interested in the business, or the profits of the business, carried on under the licence if the person is entitled to receive:
 - (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying

on of the business (whether the entitlement arises at law or in equity or otherwise), or

- (b) any rent, profit or other income in connection with the use or occupation of premises on which the business is to be carried on.

42 Investigations, inquiries and referrals in relation to licence applications

- (1) If the Authority receives an application for a licence, the Authority may carry out such investigations and inquiries in relation to the application as the Authority considers necessary for a proper consideration of the application.
- (2) [not applied]
- (3) [not applied]
- (4) The Authority may refer to the Commissioner of Police details of the application together with any supporting information in relation to the application that the Authority considers to be appropriate for referral to the Commissioner.
- (5) The Commissioner of Police may inquire into, and report to the Authority on, such matters concerning the application as the Authority may request.

43 Authority may require further information

- (1) The Authority may, by notice in writing, require a person who has applied to the Authority for a licence, or a close associate of any such person, to do one or more of the following things:
- (a) provide, in accordance with directions in the notice, such information as, in the opinion of the Authority, is relevant to the investigation of the application and is specified in the notice,
- (b) produce, in accordance with directions in the notice, such records as, in the opinion of the Authority, are relevant to the investigation of the application and permit examination of the records, the taking of extracts from them and the making of copies of them,
- (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
- (d) furnish to the Authority such authorisations and consents as the Authority requires for the purpose of enabling the Authority to obtain information (including financial and

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

other confidential information) from other persons concerning the person and the person's associates.

- (2) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.
- (3) The Authority may refuse to determine an application if a requirement made under this section in relation to the application is not complied with.

45 Decision of Authority in relation to licence application

- (1) The Authority may, after considering an application for a licence, grant the licence or refuse to grant the licence.
- (2) The Authority may, in such circumstances as the Authority considers appropriate, treat an application for a licence as having been withdrawn.
- (3) The Authority must not grant a licence unless the Authority is satisfied that:
 - (a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and
 - (b) practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place, and
 - (c) if development consent is required under the *Environmental Planning and Assessment Act 1979* (or approval under Part 3A of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates—that development consent or approval is in force.
- (4) The Authority must refuse an application if it determines, after subsection (5) has been complied with:
 - (a) that the applicant is not a suitable person to be the holder of a licence, or
 - (b) that a person who is, was or will be a close associate of the applicant is not a suitable person to be a close associate of the holder of a licence, or
 - (c) that a person who occupies a position of authority in the corporation that is the applicant is not a suitable person to

occupy such a position in a corporation that is to be the holder of a licence.

- (5) A determination under subsection (4) may not be made unless:
- (a) the applicant has been made aware of reasons for the possibility of such a determination, and
 - (b) the applicant has been given an opportunity to make submissions, and to bring to the attention of the Authority any matter related to those reasons that the applicant thinks fit.

46 Duration of licences

- (1) Except during any period of suspension, a licence continues to be in force until such time as it is surrendered to the Authority, cancelled or otherwise ceases to be in force or, in the case of a licence that is granted for a specified term, when that term expires.
- (2) A licence may be surrendered only in accordance with such arrangements as may be approved by the Authority.

47 Granting of licence

- (1) The Authority may determine a fee (not exceeding \$2,000) for the granting of a licence. If any such fee is determined, the licence does not take effect unless the fee has been paid.
- (2) The Authority may, in granting a licence, specify requirements that are to be complied with before the licence takes effect. The licence does not take effect until such time as any such requirements have been complied with.
- (3) A licence is to be in the form approved by the Authority.

52 Authority may impose special licence conditions

(1) **Conditions relating to harm minimisation**

The Authority may impose conditions on a licence prohibiting or restricting activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption).

(2) **Conditions relating to serving of liquor**

The Authority may impose conditions on a licence requiring a licensee, in specified circumstances:

- (a) to cease to serve liquor on the licensed premises, or

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

(b) to restrict access to the licensed premises in a manner and to the extent provided by the conditions, or both, from a time of day that is earlier than the time at which, as otherwise required by the licence, trading must cease.

(3) **Conditions relating to local liquor accords**

The Authority may impose conditions on a licence requiring the licensee to participate in, and to comply with, a local liquor accord.

53 Authority may impose, vary or revoke licence conditions

- (1) Without limiting any other provision of this Act, the Authority may at any time:
- (a) on application by the Commissioner of Police, or
 - (b) on the Authority's own initiative,
- impose conditions not inconsistent with this Act to which a licence is to be subject.
- (2) The Authority may at any time:
- (a) on application by the licensee or the Commissioner of Police, or
 - (b) on the Authority's own initiative,
- vary or revoke a condition of a licence that has been imposed (or taken to have been imposed) by the Authority under this Act.
- (3) An application under subsection (1) or (2) must:
- (a) be in the form and manner approved by the Authority, and
 - (b) in the case of an application by a licensee—be accompanied by the fee determined by the Authority, and
 - (c) be accompanied by such information and particulars as may be required by the Authority, and
 - (d) comply with such other requirements as may be approved by the Authority.
- (4) The Authority must not impose a condition on a licence after it has been granted, or vary or revoke a condition that has been imposed (or taken to have been imposed) by the Authority, unless the Authority has:
- (a) given the licensee a reasonable opportunity to make submissions in relation to the proposed decision, and
 - (b) taken any such submissions into consideration before making the decision.

55 Requirement to provide information in relation to persons interested in licensee's business

- (1) If a person (other than the licensee or a financial institution) becomes interested in the business, or the conduct of the business, carried out on licensed premises, it is a condition of the licence that the Authority is provided with the following information within 28 days after the other person becomes so interested:
 - (a) the name and date of birth of the person so interested and, in the case of a proprietary company, the names of the directors and shareholders,
 - (b) a statement, signed by the licensee, that the licensee has made all reasonable inquiries to ascertain the information referred to in paragraph (a).
- (2) For the purposes of subsection (1), a person is interested in the business, or the conduct of the business, carried out on licensed premises if the person is entitled to receive:
 - (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or
 - (b) any rent, profit or other income in connection with the use or occupation of the premises on which the business is to be carried on.
- (3) The information required to be provided to the Authority under this section may be provided by the interested person.
- (4) If a person ceases to be a person who, in accordance with this section, is interested in the business, or the conduct of the business, carried out on licensed premises, it is a condition of the licence that the Authority is, within 28 days of the person ceasing to have that interest, notified in writing that the person is no longer such an interested person.

56 Incident registers

- (1) If the sale or supply of liquor after midnight on licensed premises is authorised at least once a week on a regular basis, it is a condition of the licence that the licensee maintains an incident register in the form approved by the Authority.
- (2) An incident register required to be kept under this section is to record details of the following incidents that occur outside of the standard trading period for the licensed premises:

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (a) any incident involving violence or anti-social behaviour occurring on the licensed premises,
 - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the licensed premises and that involves a person who has recently left, or been refused admission to, the premises,
 - (c) any incident that results in a person being turned out of the licensed premises under section 77.
- (3) The incident register must also record details of any action taken in response to any such incident.

60 Transfer of licence

- (1) The Authority may, on application made in accordance with this section, approve the transfer of a licence to a person who, in the opinion of the Authority, would be entitled to apply for the same kind of licence in relation to the licensed premises.
- (2) An application for approval to transfer a licence may be made by the licensee or the person to whom the licence is proposed to be transferred.
- (3) [not applied]
- (4) An application for approval to transfer a licence must:
 - (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee determined by the Authority and such information and particulars as may be prescribed by the regulations under the *Casino Control Act 1992*, and
 - (c) if made by a person other than the licensee—be accompanied by the written consent of the licensee to the proposed transfer, and
 - (d) comply with such other requirements as may be approved by the Authority.
- (5) An application for approval to transfer a licence to another person is to be dealt with and determined by the Authority as if it were an application for the granting of a licence to the other person and the other person was the applicant for the licence. Accordingly, sections 40–43 and 45–47 apply in relation to an application under this section.
- (6)–(10) [not applied]

-
- (11) The Authority must not approve the transfer of a licence unless satisfied:
- (a) that practices will be in place at the licensed premises of the transferee as soon as the licence is transferred that ensure as far as reasonably practicable that liquor is sold, supplied and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and
 - (b) that those practices will remain in place.
- (12) The transfer of a licence has effect as if the licence had been granted to the transferee.

61 Application for transfer of licence on dispossession of licensee

- (1) This section applies in relation to a licence if:
- (a) the licensee is evicted from the licensed premises, or
 - (b) the owner of the licensed premises comes into, or becomes entitled to, possession of the licensed premises to the exclusion of the licensee, or
 - (c) the owner of the licensed premises comes into possession of the premises.
- (2) An application for a transfer of the licence may be made by the owner of the licensed premises.
- (3) The owner of the licensed premises who comes into, or is entitled to, possession of the premises is taken to be the licensee of the premises until:
- (a) the day that is 28 days after this section becomes applicable, or
 - (b) the day on which an application is made under subsection (2),
- whichever first occurs.
- (4) If an application is made under subsection (2) not later than 28 days after this section becomes applicable, the applicant is, until the application is determined by the Authority, taken to be the licensee under the licence to which the application relates.
- (5) The Authority is not to determine an application for the transfer of a licence under this section unless:
- (a) the Authority is satisfied:
 - (i) that notice of the application was given to the dispossessed licensee at least 3 clear days before the

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

Authority determines the application (or that all reasonable steps necessary for giving notice were taken by or on behalf of the applicant and that failure to give notice was not due to any neglect or default of the applicant), and

- (ii) if so notified, that the dispossessed licensee has been given a reasonable opportunity to make submissions in relation to the application, and
 - (b) the Authority is satisfied that any lessee of the licensed premises has been notified of the application for the transfer of the licence and been given a reasonable opportunity to make submissions in relation to the application, and
 - (c) the Authority has taken any submissions made under this subsection into consideration.
- (6) Section 60 applies, with such modifications as are necessary, in relation to an application for the transfer of a licence under this section.

66 Appointment of managers

A licensee:

- (a) must appoint a manager approved by the Authority under this Act for the licensed premises, and
- (b) must not cause or permit the conduct of business under the licence for a period of more than 28 days except under the personal supervision and management of a person so approved.

Maximum penalty: 50 penalty units.

67 Restrictions on who may be appointed as manager

- (1) The following provisions apply to the appointment under section 66 of a manager of licensed premises:
 - (a) a person may not be appointed as the manager of licensed premises unless the person is approved by the Authority to manage licensed premises and the approval applies to the premises or class of premises concerned,
 - (b) only an individual may be appointed to manage licensed premises,
 - (c) a person cannot be appointed as the manager of licensed premises if at the time of the appointment the person already holds an appointment as the manager of other licensed premises.

-
- (2) [not applied]
 - (3) An appointment in contravention of this section is void for the purposes of this Act.

68 Approval of persons to manage licensed premises

- (1) An application for the Authority's approval of a person to manage licensed premises must be in the form and manner approved by the Authority and be accompanied by the fee determined by the Authority.
- (2) The Authority may grant any such application or refuse to grant the application.
- (3) In determining an application for approval of a person to manage licensed premises, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence.
- (4) The Authority's approval may not be given unless the Authority is satisfied that the person concerned:
 - (a) is a fit and proper person to manage licensed premises, and
 - (b) understands the person's responsibilities in relation to, and is capable of implementing, practices in place at licensed premises for ensuring the responsible sale, supply and service of alcohol and the prevention of intoxication, and
 - (c) if the Authority has required the person to attend a course of training or instruction approved by the Authority—has completed the course to the standard required by the Authority.
- (5) If the Authority is satisfied that there is nothing that might preclude the Authority from approving of the person to manage licensed premises, but requires more information before making a final decision, the Authority may give a provisional approval of the person to be such a manager.
- (6) A provisional approval is sufficient to authorise the appointment of the person, in accordance with section 69, as manager of the licensed premises until such time as the Authority confirms the approval of the person.
- (7) An approval or provisional approval of a person to manage licensed premises may be given so as to apply in relation to any particular licensed premises, to all licensed premises of a specified class or to all licensed premises, as the Authority thinks fit.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

69 Notice of appointments

- (1) A licensee must give the Authority notice of the appointment of a person as manager of licensed premises.
Maximum penalty: 20 penalty units.
- (2) The appointment of a manager is not in force until the licensee has given the Authority notice of the appointment as required by this section, accompanied by the declaration referred to in subsection (5) (b).
- (3) The appointment of a manager is revoked by the licensee giving notice under this section of the appointment of a new manager or by the licensee or manager giving the Authority notice of the manager's ceasing to act as manager.
- (4) A notice under this section may specify a day that is later than the day the notice is given as the day the notice is to take effect, and the notice takes effect accordingly.
- (5) A notice under this section:
 - (a) must be completed in writing in the form approved by the Authority, and
 - (b) must be accompanied by a declaration in writing, in a form approved by the Authority, of the person to be appointed as manager of the premises concerned:
 - (i) signifying the person's acceptance of the appointment, and
 - (ii) certifying such matters as the form of notice may require (including matters relating to the person's responsibilities in relation to, and capacity to implement, practices in place at the premises for ensuring the responsible sale, supply and service of alcohol, and the prevention of intoxication, on the premises).
- (6) In any proceedings in which the question of whether notice was given to the Authority under this section is at issue, the party alleged to have given the notice bears the onus of establishing on the balance of probabilities that the notice was given.

70 Liability of licensee for contravention by manager

The licensee of licensed premises is taken to have contravened any provision of this Act that the manager of the licensed premises has contravened as a result of section 91 unless the licensee establishes that the licensee:

-
- (a) did not authorise or knowingly permit the contravention by the manager, and
 - (b) maintained control over and supervision of the activities of the manager of the licensed premises in an effort to prevent any such contravention occurring.

71 Liability of directors etc of corporate licensees

- (1) If a licensee that is a corporation contravenes (whether by act or omission) any provision of this Act, each person who occupies a position of authority in the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.
- (2) If a licensee that is a corporation is taken to have contravened (whether by act or omission) any provision of this Act or the regulations under the *Casino Control Act 1992* by reason of a contravention by the manager of the licensed premises, each person who occupies a position of authority in the corporation is taken to have contravened the same provision unless the person establishes that the person:
 - (a) was not knowingly a party to any authorisation by the corporation of the contravention by the manager, and
 - (b) took all reasonable steps (within the scope of the person's authority) to ensure that the corporation maintained control over and supervision of the activities of the manager of the licensed premises in an effort to prevent any such contravention by the manager occurring.
- (3) A person may be proceeded against and convicted under a provision in accordance with this section whether or not the corporation or manager of the licensed premises has been proceeded against or convicted.
- (4) This section does not affect any liability imposed on a corporation or the manager of licensed premises for an offence committed by the corporation or manager under this Act.
- (5) Without limiting any other law or practice regarding the admissibility of evidence, evidence that an officer, employee or agent of a corporation (while acting in his or her capacity as such) had, at any particular time, a particular intention, is evidence that the corporation had that intention at that time.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

72 Corporate licences—interpretative provisions

- (1) A reference in this Act to a *position of authority* in a corporation is a reference to the position of chief executive officer, director or secretary of the corporation.
- (2) For the purposes of this Act, a person who occupies a position of authority in a corporation is to be regarded as interested in an application for a licence made by the corporation and as interested in the business of the licensed premises to which a licence held by the corporation relates.
- (3) For the purposes of this Act, a person who is a shareholder in a corporation is not (merely because of being a shareholder) to be regarded as a person who will be interested in an application for a licence made by the corporation or in the business, or the profits or conduct of the business, to be carried on pursuant to the licence applied for or of the licensed premises to which a licence held by the corporation relates.

Part 5 Regulation and control of licensed premises

Division 1 Conduct on licensed premises

73 Prevention of excessive consumption of alcohol on licensed premises

- (1) A licensee must not permit:
 - (a) intoxication, or
 - (b) any indecent, violent or quarrelsome conduct, on the licensed premises.Maximum penalty: 100 penalty units.
- (2) A licensee or an employee or agent of a licensee must not, on the licensed premises, sell or supply liquor to an intoxicated person. Maximum penalty: 100 penalty units.
- (3) A person (other than a licensee or an employee or agent of a licensee) must not, on licensed premises, supply liquor to an intoxicated person. Maximum penalty: 10 penalty units.
- (4) If an intoxicated person is on licensed premises, the licensee is taken to have permitted intoxication on the licensed premises unless the licensee proves:

-
- (a) that the licensee, and the licensee's employees or agents, took the steps set out in subsection (5) or all other reasonable steps to prevent intoxication on the licensed premises, or
 - (b) that the intoxicated person did not consume alcohol on the licensed premises.
- (5) For the purposes of subsection (4) (a), the following are the relevant steps:
- (a) asked the intoxicated person to leave the premises,
 - (b) contacted, or attempted to contact, a police officer for assistance in removing the person from the premises,
 - (c) refused to serve the person any alcohol after becoming aware that the person was intoxicated.

74 Sale of stolen goods and possession, use or sale of drugs on licensed premises

- (1) A licensee must not permit the licensed premises to be used for the sale of:
- (a) any goods that the licensee suspects of being stolen, or
 - (b) any substance that the licensee suspects of being a prohibited plant or a prohibited drug.
- Maximum penalty: 50 penalty units.
- (2) A licensee must not permit the possession or use on the licensed premises of any substance that the licensee suspects of being a prohibited plant or a prohibited drug.
- Maximum penalty: 50 penalty units.
- (3) An employee or agent of a licensee or a person (other than the licensee) in charge of licensed premises must not permit the licensed premises to be used for the sale of:
- (a) any goods that the employee, agent or person suspects of being stolen, or
 - (b) any substance that the employee, agent or person suspects of being a prohibited plant or a prohibited drug.
- Maximum penalty: 50 penalty units.
- (4) An employee or agent of a licensee or a person (other than the licensee) in charge of licensed premises must not permit the possession or use on the licensed premises of any substance that the employee, agent or person suspects of being a prohibited plant or a prohibited drug.
- Maximum penalty: 50 penalty units.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (5) It is a defence to a prosecution for an offence under this section if it is proved that the goods concerned were not stolen or that the substance concerned was not a prohibited plant or a prohibited drug.

75 Directions to licensees and staff of licensed premises

- (1) The Authority may give a licensee, or any employee or agent of a licensee, a written direction concerning any matter relating to the licensed premises (including any conduct on the licensed premises).
- (2) The direction takes effect when the direction is given to the licensee or person concerned or on a later date specified in the direction.
- (3) A licensee, employee or agent who, without reasonable excuse, fails to comply with a direction under this section is guilty of an offence.
Maximum penalty: 50 penalty units.
- (4) The power conferred by this section includes a power to give a direction to adopt, vary, cease or refrain from any practice on or in respect of the licensed premises.
- (5) The Authority may revoke or vary a direction given under this section.
- (6) A direction under this section must not be inconsistent with this Act and the authorisation conferred by the licence concerned.

Division 2 Exclusion of persons from licensed premises

76 Self-exclusion of patrons from licensed premises

- (1) A person (*the participant*) may request a licensee to enter into an agreement (*a self-exclusion agreement*) with the person under which the person agrees to be prevented from entering or remaining on the licensed premises specified in the agreement.
- (2) A self-exclusion agreement is to be in the form approved by the Authority. The approved form may contain specified requirements that must be complied with in relation to such an agreement, including specifying the circumstances in which licensees are required to comply with a request to enter into an agreement. The approved form may also include provision for the manner in which a self-exclusion agreement may be terminated by the parties to the agreement.

-
- (3) If a request is made by a person to enter into a self-exclusion agreement, the licensee must enter into the agreement if the circumstances in which the request is made comply with the circumstances specified in the form approved by the Authority.
 - (4) A self-exclusion agreement may, if the licensee who enters into the agreement is a party to a local liquor accord, also apply in relation to any or all of the other licensed premises that are subject to the accord, but only if those other premises are specified in the agreement. In any such case, the licensee of each of the premises is taken to have entered into the agreement concerned.
 - (5) Each of the parties to a self-exclusion agreement is required to comply with the terms of the agreement.
 - (6) It is lawful for a responsible person for licensed premises specified in a self-exclusion agreement, using no more force than is reasonable in the circumstances:
 - (a) to prevent the participant from entering the licensed premises, and
 - (b) to remove the participant, or cause the participant to be removed, from the licensed premises.
 - (7) No civil or criminal liability is incurred by a responsible person for licensed premises to which a self-exclusion agreement relates:
 - (a) for any act done or omitted to be done in good faith, and in accordance with this section, to or in respect of the participant concerned, or
 - (b) if the participant enters or remains on the licensed premises to which the agreement relates.

77 Non-voluntary exclusion of persons from licensed premises

- (1) In this section:

authorised person means a licensee, an employee or agent of a licensee or a police officer.

vicinity of licensed premises means any place less than 50 metres from any point on the boundary of the premises.
- (2) An authorised person may refuse to admit to, or may turn out of, licensed premises any person:
 - (a) who is at the time intoxicated, violent, quarrelsome or disorderly, or

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (b) whose presence on the licensed premises renders the licensee liable to a penalty under this Act, or
 - (c) who smokes, within the meaning of the *Smoke-free Environment Act 2000*, while on any part of the licensed premises that is a smoke-free area within the meaning of that Act, or
 - (d) who uses, or has in his or her possession, while on the premises any substance that the authorised person suspects of being a prohibited plant or a prohibited drug, or
 - (e) whom the authorised person, under the conditions of the licence or according to a term (of the kind referred to in section 134) of a local liquor accord, is authorised or required to refuse access to the licensed premises.
- (3) If, under subsection (2), a person has been refused admission to, or has been turned out of, licensed premises, an authorised person may, at any time, refuse to admit that person to the licensed premises or may turn the person out of the licensed premises.
- (4) If a person in respect of whom an authorised person is, under subsection (2) or (3), entitled to refuse admission to the licensed premises is on the premises, the person must, on being required so to do by an authorised person, leave the premises.
Maximum penalty: 50 penalty units.
- (5) For the purposes of this section, such reasonable degree of force as may be necessary may be used to turn a person out of licensed premises.
- (6) A person who has been refused admission to, or turned out of, licensed premises in accordance with this section because the person was intoxicated, violent, quarrelsome or disorderly, must not re-enter or attempt to re-enter the premises within 24 hours of being refused admission or being turned out.
Maximum penalty: 50 penalty units.
- (7) After the 24-hour period ends in relation to any such person, an authorised person is not prevented from exercising the powers under subsection (3) in relation to the person.
- (8) A person who has been refused admission to, or turned out of, licensed premises in accordance with this section because the person was intoxicated, violent, quarrelsome or disorderly, must not, without reasonable excuse:
- (a) remain in the vicinity of the premises, or

-
- (b) re-enter the vicinity of the premises within 6 hours of being refused admission or being turned out.
Maximum penalty: 50 penalty units.
- (9) Without limiting subsection (8), a person has a reasonable excuse for remaining in, or re-entering, the vicinity of the licensed premises if:
- (a) the person reasonably fears for his or her safety if he or she does not remain in, or re-enter, the vicinity of the premises, or
 - (b) the person needs to remain in, or re-enter, the vicinity of the premises in order to obtain transport, or
 - (c) the person resides in the vicinity of the premises.
- (10) In the prosecution for an offence under subsection (8), the burden of proving that a person had a reasonable excuse for remaining in, or re-entering, the vicinity of the licensed premises concerned is on the person charged.
- (11) The functions that may be exercised under this section by an authorised person who is a licensee or employee or agent of a licensee may only be exercised in relation to the licensed premises to which the licensee's licence relates.
- (12) A reference in this section to turning a person out of licensed premises includes a reference to causing the person to be turned out.

78 Banning orders

- (1) The Authority may, by order in writing given to a person, prohibit the person from entering or remaining on the licensed premises specified in the order.
- (2) An application for an order under this section may be made by:
 - (a) an inspector, or
 - (b) the Commissioner of Police.
- (3) The application must be in the form approved by the Authority.
- (4) The Authority may make such an order under this section only if the Authority is satisfied that the person the subject of the proposed order has repeatedly been intoxicated, violent, quarrelsome or disorderly on or in the immediate vicinity of licensed premises.
- (5) [not applied]

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (6) An order under this section must specify a period (not exceeding 6 months) during which the order is in force.
- (7) In deciding whether to make an order under this section, the Authority is not to take into consideration the person's race or ethnic or national origins.
- (8) A person who is the subject of an order under this section must not enter or attempt to enter, or remain on, the licensed premises to which the order relates.
Maximum penalty: 50 penalty units.

Division 3 Disturbance complaints

79 Making of complaint

- (1) A person may complain to the Authority that the quiet and good order of the neighbourhood of licensed premises are being unduly disturbed because of:
 - (a) the manner in which the business of the licensed premises is conducted, or
 - (b) the behaviour of persons after they leave the licensed premises (including, but not limited to, the incidence of anti-social behaviour or alcohol-related violence).
- (2) Such a complaint must be in writing and be made or verified by statutory declaration.
- (3) A complaint under this section may only be made by any of the following persons (referred to in this Division as *the complainant*):
 - (a) a person authorised in writing by 3 or more persons residing in the neighbourhood of the licensed premises or a person who is such a resident and is authorised in writing by 2 or more other such residents,
 - (b) the Commissioner of Police,
 - (c) a person authorised by the local consent authority in relation to the licensed premises,
 - (d) a person who satisfies the Authority that his or her interests, financial or other, are adversely affected by the undue disturbance to which the person's complaint relates.
- (4) A complaint may relate to more than one licensed premises.

80 Authority may convene conference

- (1) If the Authority receives a complaint under this Division, the Authority may convene a conference to hear submissions relating to the complaint.
- (2) A conference may relate to more than one complaint.
- (3) A conference convened in relation to licensed premises the subject of a complaint may be extended to include any other licensed premises if the Authority is satisfied:
 - (a) that the evidence given in support of the complaint would support a complaint against the other licensed premises, or
 - (b) that, assuming that the complaint is shown to be justified, action taken in relation to the licensed premises the subject of the complaint will be ineffective unless similar action is taken in relation to the other licensed premises.
- (4) Any licensed premises to which a conference is extended as referred to in subsection (3) is, for the purposes of this Division, taken to be the subject of a complaint under this Division.
- (5) Notice of the time and place of the conference is to be given to all complainants and the licensee or licensees as specified by the Authority.
- (6) The conference is to be presided over by the Authority and the procedure at the conference is to be determined by the Authority.

81 Decision by Authority in relation to complaint

- (1) The Authority may, after giving each complainant present and the licensee (if present) a reasonable opportunity to be heard in relation to a complaint under this Division:
 - (a) impose a condition on the licence concerned, or
 - (b) adjourn the conference subject to implementation and continuation of undertakings given by the licensee, or
 - (c) issue a warning to the licensee, or
 - (d) take no action.
- (2) The conditions that may be imposed on a licence include, but are not limited to, conditions relating to any one or more of the following:
 - (a) noise abatement,
 - (b) prohibition of the sale or supply of liquor before 10 am and after 11 pm,

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (c) prohibition of, or restriction on, activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption),
 - (d) restricting the trading hours of, and public access to, the licensed premises,
 - (e) requiring the licensee to participate in, and to comply with, a local liquor accord.
- (3) The Authority is to take the following matters into consideration before making a decision under subsection (2):
- (a) the order of occupancy between the licensed premises and the complainant,
 - (b) any changes in the licensed premises and the premises occupied by the complainant, including structural changes to the premises,
 - (c) any changes in the activities conducted on the licensed premises over a period of time.
- (4) For the purposes of subsection (3), **complainant** does not include a complainant who is the Commissioner of Police or a person authorised by the local consent authority.

Division 4 Closure orders

82 Short-term closure of licensed premises

- (1) The Authority may, by notice served on a licensee or a person apparently in charge of licensed premises, order the licensee to close the licensed premises from a time specified in the order until a later specified time.
- (2) The Authority may only make an order under this section:
 - (a) on the application of the Commissioner of Police, and
 - (b) only if the Authority is satisfied that a serious breach of this Act has occurred, or is likely to occur, on the premises and that the closure of the premises is necessary to prevent or reduce a significant threat or risk to the public interest.
- (3) Without limiting the generality of subsection (2), circumstances in which there may be a significant threat or risk to the public interest include circumstances in which there is:
 - (a) a threat to public health or safety, or
 - (b) a risk of substantial damage to property, or
 - (c) a significant threat to the environment, or

-
- (d) a risk of serious offences (having a maximum penalty of not less than 2 years imprisonment) being committed on the premises.
 - (4) An order may not require the closure of premises for a period longer than 72 hours.
 - (5) Subject to subsection (4), an order may require the closure of premises until specified conditions are met.
 - (6) A licensee must not fail to comply with an order made under this section.
Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.
 - (7) More than one order closing the same premises may not be made under this section in any period of one week.

83 Urgent application for short-term closure order

- (1) An application under section 82 may be made by telephone.
- (2) The Authority must not issue an order under section 82 on an application made by telephone unless the Authority is satisfied that the order is required urgently and that it is not practicable for the application to be made in person.
- (3) An application under this section must be made by facsimile if the facilities to do so are readily available for that purpose.
- (4) A member of the Authority who issues an order under section 82 on an application made by telephone must:
 - (a) complete and sign the order, and
 - (b) furnish the order to the applicant or inform the applicant of the terms of the order and of the date and time when it was signed.
- (5) If an order under section 82 is issued on an application made by telephone and the applicant is not furnished with the order, the applicant must:
 - (a) complete a form of order in the terms indicated by the member of the Authority under subsection (4), and
 - (b) write on the form the name of the member of the Authority and the date and time when the order was signed.
- (6) A form of order so completed is taken to be an order issued under section 82.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (7) An order under section 82 issued on an application made by telephone is to be furnished by the Authority by transmitting it by facsimile, if the facilities to do so are readily available, and the copy produced by that transmission is taken to be the original document.
- (8) In this section:
 - (a) *telephone* includes radio, facsimile or other communication device, and
 - (b) a reference to facsimile includes a reference to any electronic communication device which transmits information in a form from which written material is capable of being reproduced with or without the aid of any other device or article.

84 Order by Authority for long-term closure of licensed premises

- (1) The Authority may, on the application of the Commissioner of Police, order a licensee to close the licensed premises from a time specified in the order until a later specified time.
- (2) The Authority may not make an order under this section unless:
 - (a) the licensee or manager of the licensed premises is the subject of an investigation by the NSW Police Force, or the licensed premises are the subject of a complaint under Division 3, or disciplinary action under Part 9 has been (or is proposed to be) taken by the Authority against the licensee or manager or a close associate of the licensee, and
 - (b) the licensee has been given notice of the application for closure of the licensed premises and has been given a reasonable opportunity to make submissions to the Authority in relation to the application, and
 - (c) the Authority is satisfied that a serious breach of this Act has occurred, or is likely to occur, on the licensed premises and that the closure of the premises is necessary to prevent or reduce a significant threat or risk to the public interest.
- (3) Without limiting the generality of subsection (2), circumstances in which there may be a significant threat or risk to the public interest include circumstances in which there is:
 - (a) a threat to public health or safety, or
 - (b) a risk of substantial damage to property, or
 - (c) a significant threat to the environment, or

-
- (d) a risk of serious offences (having a maximum penalty of not less than 2 years imprisonment) being committed on the premises.
 - (4) An order ceases to have effect at the time specified or when a complaint concerning the licensee or manager of the premises is determined under this Act, whichever is the earlier.
 - (5) An order may not require the closure of premises for a period longer than 6 months.
 - (6) An order may require the closure of premises until specified conditions are met.
 - (7) A licensee must comply with an order made under this section.
Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

85 Further long-term closure orders

- (1) The Authority may grant 2 or more orders in respect of premises under section 84.
- (2) An application for another order may be made, and determined, before the end of a current order.

Division 5 Late hour entry declarations**87 Authority may make late hour entry declaration**

- (1) The Authority may, in accordance with this Division, make a late hour entry declaration.
- (2) The purpose of such a declaration is to prevent patrons entering licensed premises during late trading hours even though the premises are authorised to trade during that time.
- (3) A late hour entry declaration must be in writing and specify:
 - (a) the area or locality to which it applies, and
 - (b) the licensed premises (or class of licensed premises) to which it applies, and
 - (c) the times when it applies.
- (4) A late hour entry declaration has effect despite any other provision of this Act or the conditions of a licence relating to any licensed premises to which the declaration applies.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

88 Effect of late hour entry declaration

- (1) The licensee of any licensed premises to which a late hour entry declaration applies must not permit patrons to enter the licensed premises during the time the declaration applies.
Maximum penalty: 50 penalty units.
- (2) For the avoidance of doubt, patrons already present in licensed premises at the time from which a late hour entry declaration applies to the premises may:
 - (a) leave the premises at any time, or
 - (b) remain on the premises while the premises are authorised to trade,but are not permitted to re-enter the premises during the time the declaration applies.

89 Provisions relating to making of late hour entry declaration

- (1) The Authority must give written notice of a proposed late hour entry declaration:
 - (a) to each licensee whose licensed premises are the subject of the proposed declaration, and
 - (b) to the local consent authority for those premises.
- (2) Any such licensee or the local consent authority may, within 21 days after the notice is given to that licensee or that authority (as the case requires), make a written submission to the Authority in relation to the proposed declaration.
- (3) The Authority must, before deciding whether to make a late hour entry declaration, take into consideration any submissions received by the Authority under subsection (2).

90 Authority may vary or revoke late hour entry declaration

- (1) The Authority may, in accordance with this section, vary or revoke a late hour entry declaration.
- (2) The Authority must give written notice of a proposed variation or revocation of a late hour entry declaration:
 - (a) to each licensee whose licensed premises are subject to the declaration, and
 - (b) to the local consent authority for those premises.
- (3) Any such licensee or the local consent authority may, within 21 days after the notice is given to that licensee or that authority (as

the case requires), make a written submission to the Authority in relation to the proposed variation or revocation.

- (4) The Authority must, before deciding whether to vary or revoke a late hour entry declaration, take into consideration any submissions received by the Authority under subsection (3).

Division 6 General provisions relating to licensed premises

91 Responsibilities and liabilities in relation to licensed premises

- (1) The manager of any licensed premises is, subject to this Act, responsible at all times for the personal supervision and management of the conduct of the business of the licensed premises under the licence.
- (2) If an element of an offence under this Act or the regulations under the *Casino Control Act 1992* is an act or omission by a licensee, the manager of the licensed premises is, while responsible under subsection (1), responsible for the offence as though that person were also the licensee and is liable for the offence accordingly.
- (3) This section does not affect any liability of a licensee for a contravention by the licensee of a provision of this Act.

92 Control of business conducted on licensed premises

- (1) A licensee or a related corporation of the licensee must not:
- (a) lease or sublease the right to sell liquor on the licensed premises, or
 - (b) lease or sublease any part of the licensed premises on which liquor is ordinarily sold or supplied, or
 - (c) lease or sublease any other part of the licensed premises except with the approval of the Authority.

Maximum penalty: 50 penalty units.

- (2) The owner of licensed premises must not:
- (a) lease or sublease any part of the premises on which liquor is ordinarily sold or supplied to any person other than the licensee or a related corporation of the licensee, or
 - (b) except with the approval of the Authority, lease or sublease any other part of the licensed premises to any person other than the licensee or a related corporation of the licensee.

Maximum penalty: 50 penalty units.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

94 Boundaries of licensed premises

- (1) The boundaries of licensed premises are to be specified by the Authority when the licence is granted.
- (2) The specified boundaries of any licensed premises may be changed by the Authority on the Authority's own initiative or on the application of:
 - (a) the owner of the premises, or
 - (b) the licensee, or
 - (c) a casino operator.

95 Name of licensed premises

- (1) A licensee must cause to appear and be maintained on the front of the licensed premises, in accordance with subsection (1A), a sign that specifies:
 - (a) a name for the licensed premises (not being a name that is a prohibited name for the licensed premises under this section), and
 - (b) the name of the licensee, and
 - (c) any other particulars prescribed by the regulations under the *Casino Control Act 1992*.Maximum penalty: 5 penalty units.
- (1A) The sign referred to in subsection (1) must so appear and be maintained near the principal public entrance to the licensed premises in such a manner that it may be read from the part of a public place on which the front of the premises abuts.
- (2) A licensee must not alter the name referred to in subsection (1)
 - (a) unless the Authority has:
 - (a) approved in writing of the proposed new name, and
 - (b) endorsed the change of name on the licence.Maximum penalty: 5 penalty units.
- (3) The Authority may not approve an alteration of the name of licensed premises if the name as proposed to be altered is a prohibited name for the licensed premises under this section.
- (4) A licensee must not cause or permit the use on any sign displayed on the exterior of the licensed premises or in any advertising with respect to the licensed premises of a name that is a prohibited name for the licensed premises under this section.
Maximum penalty: 5 penalty units.

- (5) A name is a prohibited name for licensed premises under this section if:
- (a) it is a name or a name of a kind, or contains words or words of a kind, prescribed by the regulations under the *Casino Control Act 1992* as prohibited, either in relation to all licensed premises or in relation to the particular class of licensed premises of which the licensed premises form part, or
 - (b) it is a name that the Authority has notified the licensee in writing is prohibited as being objectionable, inappropriate or misleading.
- (6) A regulation for the purposes of subsection (5) may be made so as to apply to licensed premises generally or so as to apply only to a specified class or specified classes of licensed premises.
- (7) A name may not be prohibited in respect of licensed premises by notification under this section if the regulations under the *Casino Control Act 1992* provide that the name is permitted for use in relation to the licensed premises concerned or in relation to the particular class of licensed premises concerned.
- (8) It is a defence to a prosecution for an offence under this section if it is proved that:
- (a) the licensee had taken all reasonable precautions to avoid commission of the alleged offence, and
 - (b) at the time of the alleged offence, the licensee did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.

97 Breath analysis equipment

- (1) Evidence of the results of a test indicating the presence or concentration of alcohol in the breath or blood of a person by means of a breath analysing instrument installed on licensed premises is not admissible:
- (a) in any civil proceedings against the licensee of the licensed premises (subject to subsection (2)), or
 - (b) in any criminal proceedings.
- (2) This section does not prevent the admission into evidence in civil proceedings of the results of a test if it is established that at the time of the test:
- (a) the breath analysing instrument concerned did not comply with the relevant Australian Standard (as in force at the date of the manufacture of the instrument), or

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (b) the licensee was aware or should have been aware that the instrument was not operating correctly, or
 - (c) subsection (4) was being contravened in respect of the breath analysing instrument concerned.
- (3) For the purposes of this section, a ***breath analysing instrument*** is an instrument that is designed to ascertain by analysis of a person's breath the concentration of alcohol present in the person's breath or blood, being an instrument of a type specified in AS 3547—1997: *Breath alcohol testing devices for personal use*, published by Standards Australia. That standard, as in force from time to time, is the relevant Australian Standard for the purposes of this section.
- (4) At all times that a breath analysing instrument installed on licensed premises is available for use by patrons on those premises there must be prominently displayed on or in close proximity to the instrument a sign that complies with the following requirements:
- (a) the sign must be clearly legible and in good condition and so positioned that its contents can be easily read by a person using the instrument,
 - (b) the sign must display the following matter in print of a type size and character that will be clearly legible to a person using the instrument:
IMPORTANT INFORMATION ABOUT BREATH TESTING
Readings given by this instrument are NOT ACCEPTED by the Police or the Courts.
Your blood alcohol level can rise for 1 hour or more after your last drink.
- (5) If subsection (4) is contravened, the licensee of the licensed premises is guilty of an offence.
Maximum penalty: 20 penalty units.

Part 6 Miscellaneous offences and regulatory controls

99 Responsible sale, supply, service or promotion of liquor

- (1) The regulations under the *Casino Control Act 1992* may make provision for or with respect to requiring or encouraging the adoption of responsible practices in the sale, supply, service and promotion of liquor.

-
- (2) In particular, the regulations under the *Casino Control Act 1992* may make provision for or with respect to the following:
- (a) restricting or prohibiting the conduct of promotions or other activities (including the discounting or supply of liquor free of charge) that could result in misuse or abuse of liquor, such as binge drinking or excessive consumption,
 - (b) the standards to be observed on licensed premises in the sale and service of liquor, for the purpose of preventing misuse or abuse of liquor,
 - (c) requiring licensees, managers and other persons engaged in the sale, supply, service and promotion of liquor and other activities on the licensed premises to undergo courses of training that will promote responsible practices in those activities,
 - (d) specifying the circumstances in which the Authority may, in accordance with those regulations, require promotions or advertisements that involve the discounting of liquor to be accompanied by messages that encourage the responsible consumption of alcohol.
- (3) Without limiting subsection (2), the regulations under the *Casino Control Act 1992* may adopt with or without modification the standards contained in an industry code of practice as standards to be observed on licensed premises in the sale, supply, service and promotion of liquor.

100 Sale of undesirable liquor products

- (1) A licensee must not sell or supply any of the following liquor products:
- (a) an alcoholic ice block—a product that is sold in an individual package or individual packages for consumption in frozen form and that, at 20° Celsius, contains more than 1.15 per cent ethanol by volume,
 - (b) a product that is sold in an aerosol container for consumption by humans and that, at 20° Celsius, contains more than 1.15 per cent ethanol by volume,
 - (c) any milk product that is sold or supplied under a name that consists of, or includes, the words “Moo Joose” and that, at 20° Celsius, contains more than 1.15 per cent ethanol by volume,

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

(d) any alcoholic vapour that is sold or supplied for consumption in that form.

Maximum penalty: 50 penalty units.

(2) In subclause (1) (c), *milk product* includes any product made from reconstituted milk (that is, any substance in the nature of milk that has been prepared from milk concentrate or milk powder).

101 Authority may restrict or prohibit sale or supply of undesirable liquor products

(1) The Authority may, by notice in writing given to a licensee, restrict or prohibit the licensee selling or supplying a liquor product specified in the notice.

(2) The Authority may restrict or prohibit the sale or supply of any such specified liquor product by notice under this section only if the Authority is satisfied that:

(a) the name of the liquor product, or its design or packaging, is indecent or offensive, or

(b) the name of the liquor product, or its design or packaging, encourages irresponsible, rapid or excessive consumption of the product, or

(c) the name of the liquor product, or its design or packaging, is likely to be attractive to minors, or

(d) the liquor product is likely, for any reason, to be confused with soft drinks or confectionery, or

(e) the liquor product is, for any other reason, likely to have a special appeal to minors, or

(f) it is otherwise in the public interest to restrict or prohibit the licensee selling or supplying the liquor product.

(3) The Authority must not give a notice under this section unless the Authority is satisfied that:

(a) the liquor product is being sold on the licensed premises to which the proposed notice relates, and

(b) the premises are situated in an area or locality in respect of which there are significant concerns regarding intoxication or underage or irresponsible drinking.

(4) The Authority must not give a notice under this section to a licensee unless the Authority has:

-
- (a) provided the licensee with a reasonable opportunity to make submissions in relation to the proposed restriction or prohibition, and
 - (b) taken any such submissions into consideration in deciding whether to give the notice.
- (5) [not applied]
- (6) A notice under this section may, but need not, relate to a liquor product that is an undesirable liquor product as referred to in section 100.
- (7) A licensee must comply with a notice given to the licensee under this section.
Maximum penalty: 50 penalty units.

102 Authority may restrict or prohibit undesirable promotion of liquor

- (1) The Authority may, by notice in writing given to a licensee, restrict or prohibit the licensee carrying on, or being involved in, an activity that:
 - (a) promotes the sale or supply of liquor, and
 - (b) is specified or described in the notice.
- (2) The Authority may restrict or prohibit any such activity only if the Authority is of the opinion that:
 - (a) the promotion is likely to have a special appeal to minors because of the use of designs, names, motifs or characters in the promotion that are, or are likely to be, attractive to minors or for any other reason, or
 - (b) the promotion is indecent or offensive, or
 - (c) the promotion involves the provision of liquor in non-standard measures or the use of emotive descriptions or advertising that encourages irresponsible drinking and is likely to result in intoxication, or
 - (d) the promotion involves the provision of free drinks, or extreme discounts or discounts of a limited duration, that creates an incentive for patrons to consume liquor more rapidly than they otherwise might, or
 - (e) the promotion otherwise encourages irresponsible, rapid or excessive consumption of liquor, or
 - (f) the restriction or prohibition is otherwise in the public interest.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (3) A licensee must comply with a notice given to the licensee under this section.

Maximum penalty: 50 penalty units.

- (4) The Authority must not give a notice under this section unless the Authority has issued publicly available guidelines that indicate the kinds of activities or promotions that the Authority would consider being the subject of a notice under this section.

107 Production of licence on licensed premises

- (1) A responsible person for licensed premises must, if requested to do so by a police officer or inspector while on the licensed premises, produce the licence to the officer or inspector.

Maximum penalty: 5 penalty units.

- (2) A person does not commit an offence under subsection (1) if the person is an employee or agent of the licensee (otherwise than in the capacity as manager of the licensed premises).

111 Carrying liquor away from licensed premises

- (1) A person must not carry away any liquor from licensed premises.
Maximum penalty: 5 penalty units.

- (2) A person does not commit an offence under subsection (1) if:
- (a) the liquor was in the person's possession when the person entered the licensed premises, or
 - (b) the sale of liquor for consumption away from the licensed premises is authorised under the licence and the liquor was, in accordance with section 10 (4), sold to the person for consumption away from licensed premises.

112 Obtaining liquor by false representation

A person must not obtain, or attempt to obtain, liquor on licensed premises by falsely representing that the person:

- (a) is a resident of the premises or a guest of a resident of the premises, or
- (b) is intending to eat, or has eaten, a meal on the premises, or
- (c) is intending to purchase, or make use of, a product or service provided or supplied on the premises, or
- (d) is attending a function on the premises, or
- (e) is an employee or agent of the licensee.

Maximum penalty: 5 penalty units.

113 Carrying liquor for sale

- (1) A person must not:
 - (a) carry liquor about for the purpose of sale, or
 - (b) offer or expose liquor for sale at or on any place other than a place at or on which liquor may lawfully be sold, or
 - (c) carry liquor, for the purpose of sale, to a place other than a place at or on which liquor may lawfully be sold.

Maximum penalty: 20 penalty units.

- (2) If liquor is carried, offered or exposed by a person in contravention of subsection (1) and is so carried, offered or exposed on behalf of another person, that other person is taken to have contravened that subsection.
- (3) It is a defence to a prosecution for a contravention of subsection (1) or (2) if it is proved that the liquor was carried, offered or exposed for the purpose of a sale that may lawfully be made.
- (4) In the prosecution for an offence under this section, the burden of proving that liquor that has been carried about, or carried to any place, was not so carried for the purpose of sale is on the person charged.

Part 7 Special provisions relating to minors**Division 1 Underage drinking****117 Offences relating to sale or supply of liquor to minors**

- (1) **Selling liquor to minors**

A person must not sell liquor to a minor.
Maximum penalty: 100 penalty units or 12 months imprisonment (or both).
- (2) **Supplying liquor to minors on licensed premises**

A person must not supply liquor to a minor on licensed premises.
Maximum penalty: 100 penalty units or 12 months imprisonment (or both).
- (3) It is a defence to a prosecution for an offence under subsection (1) or (2) if it is proved that:
 - (a) the person to whom the liquor was sold or supplied was of or above the age of 14 years, and

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (b) before the liquor was sold or supplied to the person the defendant was provided with an evidence of age document that may reasonably be accepted as applying to the person and as proving that the person was of or above the age of 18 years.
- (4) **Supplying liquor to minors on other premises**
A person must not, on any premises (other than licensed premises) in the casino or the casino environs, supply liquor to a minor unless the person is a parent or guardian of the minor.
Maximum penalty: 100 penalty units or 12 months imprisonment (or both).
- (5) It is a defence to a prosecution for an offence under subsection (4) if it is proved that the defendant was authorised to supply liquor to the minor by the parent or guardian of the minor.
- (6) **Obtaining liquor for minors from licensed premises**
A person must not obtain liquor from licensed premises on behalf of a minor unless the person is the parent or guardian of the minor.
Maximum penalty: 100 penalty units or 12 months imprisonment (or both).
- (7) It is a defence to a prosecution for an offence under subsection (6) if it is proved that the defendant was authorised to obtain liquor on behalf of the minor by the parent or guardian of the minor.
- (8) **Allowing liquor to be sold or supplied to minors on licensed premises**
A licensee must not, on licensed premises, allow liquor to be sold or supplied to a minor.
Maximum penalty: 100 penalty units or 12 months imprisonment (or both).
- (9) It is a defence to a prosecution for an offence under subsection (8) if it is proved that the liquor was supplied to the minor by the parent or guardian of the minor.
- (10) **Burden of proof**
In the prosecution for an offence under this section, the burden of proving that a person was a parent or guardian of a minor, or was authorised by a parent or guardian of a minor, is on the person charged.
- (11) [not applied]

- (12) For the purposes of this section, *supply* of liquor includes serving liquor to a person.

118 Offences relating to consumption etc of liquor by minor

(1) Minor not to obtain, consume or carry away liquor

A minor must not:

- (a) consume liquor on licensed premises, or
- (b) consume liquor on the premises of an unlicensed restaurant unless the minor consumes the liquor in the company of, and with the permission of, his or her parent or guardian, or
- (c) obtain, or attempt to obtain, liquor for consumption on licensed premises, or
- (d) carry liquor away, or attempt to carry liquor away, from licensed premises unless the minor was ordered or requested by another person to carry the liquor away from the licensed premises.

Maximum penalty: 20 penalty units.

(2) Person not to send, order or request minor to obtain liquor

A person must not:

- (a) send a minor to licensed premises, or
- (b) order or request a minor to go to licensed premises, for the purpose of obtaining liquor.

Maximum penalty: 30 penalty units.

119 Licensee not to allow minors to sell or supply liquor on licensed premises

- (1) A licensee must not cause or allow a minor to sell, supply or serve liquor on the licensed premises except with the approval of the Authority.

Maximum penalty: 50 penalty units.

- (2) The Authority must not give approval under this section that would allow a person under the age of 18 years to be in the casino.

120 Responsible adult not to allow minor to consume liquor on licensed premises

- (1) If, under this Act or as required by the conditions of a licence, a minor is required to be accompanied by a responsible adult while on licensed premises, the responsible adult who is accompanying

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

the minor must not allow the minor to consume liquor on the licensed premises.

Maximum penalty: 30 penalty units.

- (2) In the prosecution for an offence under this section, the defendant has the burden of proving that he or she was not the responsible adult in relation to the minor at the relevant time.

Division 2 Minors on licensed premises

121 Minors on licensed premises in company of responsible adult

- (1) The Authority may, on the application by a licensee, grant an authorisation (*a minors area authorisation*) to enable the use by a minor of a specified part of licensed premises in the casino environs while in the company of a responsible adult.
- (2) The specified part of the licensed premises to which a minors area authorisation applies may, if the authorisation so provides, comprise the whole of the premises.
- (3) An application for a minors area authorisation must:
 - (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by such fee as is determined by the Authority, and
 - (c) comply with such other requirements as may be approved by the Authority.
- (4) In determining an application for a minors area authorisation, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence.
- (5) If, before an application for a minors area authorisation is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including information provided under this subsection), the applicant must immediately notify the Authority of the particulars of the change.

Maximum penalty: 20 penalty units.
- (6) The Authority may determine a fee in respect of the granting of a minors area authorisation. If any such fee is determined, the authorisation does not take effect unless the fee has been paid.
- (7) The Authority may, in granting a minors area authorisation, specify requirements that are to be complied with before the authorisation takes effect. The authorisation does not take effect until such time as any such requirements have been complied with.

-
- (8) A minors area authorisation:
- (a) is subject to such conditions:
 - (i) as are imposed by the Authority (whether at the time the authorisation is granted or at a later time), or
 - (ii) as are imposed by or under this Act or as are prescribed by the regulations under the *Casino Control Act 1992*, and
 - (b) may be varied or revoked by the Authority on the Authority's own initiative or on application by the licensee or the Commissioner of Police.
- (9) Any such application by a licensee to vary or revoke a minors area authorisation (including any conditions to which the authorisation is subject that have been imposed by the Authority) must be accompanied by such fee as is determined by the Authority.
- (10) For the purposes of this Act, any condition to which a minors area authorisation is subject is taken to be a condition of the licence to which the authorisation relates.
- (11) A minors area authorisation has effect only while all the conditions to which it is subject are being complied with.
- (12) The Authority must not impose a condition on a minors area authorisation, or revoke or vary such an authorisation, other than a variation made on application by a licensee, unless the Authority has:
- (a) given the licensee to whom the authorisation relates a reasonable opportunity to make submissions in relation to the proposed decision, and
 - (b) taken any such submissions into consideration before making the decision.
- (13) This section does not authorise the revocation or variation of a condition to which a minors area authorisation is subject if the condition is imposed by this Act or is prescribed by the regulations under the *Casino Control Act 1992*.

123 Minor not to enter or remain on licensed premises

- (1) A minor who:
- (a) enters or remains in a bar area of licensed premises not operated by a casino operator, or

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (b) in contravention of the conditions of the licence, enters or remains in a part of licensed premises operated by a casino operator,
is guilty of an offence.
Maximum penalty: 20 penalty units.
- (2) A minor does not commit an offence under subsection (1) if the minor is an apprentice or trainee (within the meaning of the *Apprenticeship and Traineeship Act 2001*) and has entered, or is on, the premises concerned for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee.
- (3) A minor does not commit an offence under subsection (1) (a) if the minor:
- (a) is present in the bar area only for so long as is reasonably necessary to pass through the area in order to conveniently gain access to another area of the licensed premises that the minor may enter without contravening this Act, or
 - (b) is performing in a show or other live entertainment performance held in the bar area,
and is in the company of a responsible adult while in the bar area.
- (3A) A minor who for any purpose enters or remains in:
- (a) a part of licensed premises that is not operated by a casino operator and that is an area to which a minors area authorisation under section 121 relates, or
 - (b) a part of licensed premises that is operated by a casino operator and that is authorised by the conditions of the licence for use by a minor in the company of an adult,
is guilty of an offence unless the minor does so in the company of a responsible adult.
Maximum penalty: 20 penalty units.
- (4), (5) [not applied]
- (6) In the prosecution for an offence under this section, the defendant has the burden of proving that a particular person was the responsible adult in relation to the defendant at the relevant time.

124 Licensee not to allow minors to enter or remain in certain licensed premises

- (1) If a minor:
- (a) enters a bar area on licensed premises, or

-
- (b) enters a part of licensed premises to which a minors area authorisation under section 121 is in force, but is not in the company of a responsible adult, or
- (c) enters, in contravention of the conditions of the licence, a part of licensed premises operated by a casino operator, the licensee is guilty of an offence.
Maximum penalty: 50 penalty units.
- (2) If a minor:
- (a) is in a bar area on licensed premises, or
- (b) is in a part of licensed premises to which a minors area authorisation under section 121 is in force, but is not in the company of a responsible adult, or
- (c) is, in contravention of the conditions of the licence, in a part of licensed premises operated by a casino operator, the licensee is guilty of an offence unless the minor is immediately removed from the area or premises concerned.
Maximum penalty: 50 penalty units.
- (3) A licensee does not commit an offence under this section if the minor:
- (a) is at least 14 years of age and produces to the licensee (or an employee or agent of the licensee) an evidence of age document that may reasonably be accepted as applying to the minor and as proving that the minor is of or above the age of 18 years, or
- (b) is an apprentice or trainee (within the meaning of the *Apprenticeship and Traineeship Act 2001*) who has entered, or is on, the licensed premises concerned for the purpose only of receiving trade training (not being training in the sale, supply or service of liquor) as such an apprentice or trainee, or
- (c) has entered, or is on, the licensed premises concerned for such purposes, or in such circumstances, as may be approved by the Authority and are specified in the licence concerned.
- (4) A licensee does not commit an offence under this section in relation to a minor entering, or being or remaining in, a bar area if the minor:
- (a) is present in the bar area only for so long as is reasonably necessary to pass through the area in order to conveniently

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

gain access to another area of the licensed premises that the minor may enter without contravening this Act, or

(b) is performing in a show or other live entertainment performance held in the bar area,

and is in the company of a responsible adult while in the bar area.

(5), (6) [not applied]

(7) In the prosecution for an offence under this section, the defendant has the burden of proving that a particular person was the responsible adult in relation to a minor at the relevant time.

125 Responsible adult not to leave minor unaccompanied on licensed premises

(1) If, under this Act, a minor is required to be accompanied by a responsible adult while on licensed premises, the responsible adult who is accompanying the minor must not leave the minor unaccompanied on the licensed premises without first informing the licensee or an employee or agent of the licensee.

Maximum penalty: 30 penalty units.

(2) In the prosecution for an offence under this section, the defendant has the burden of proving that he or she was not the responsible adult in relation to a minor at the relevant time.

126 Minors must be refused entry to licensed premises

If:

(a) a licensee, or an employee of the licensee, is aware that a person (*the relevant person*) who may reasonably be suspected of being under the age of 18 years is attempting to enter the licensed premises, or a part of the licensed premises, and

(b) the presence of the relevant person on the licensed premises would, if the relevant person were under the age of 18 years, be an offence under this Act,

the licensee or employee must refuse the relevant person entry to the licensed premises or part of the licensed premises unless there is produced to the licensee or employee an evidence of age document that may reasonably be accepted as applying to the relevant person and as proving that the relevant person is of or above the age of 18 years.

Maximum penalty: 50 penalty units.

127 Notices to be displayed in relation to minors on licensed premises

- (1) A licensee must cause a notice to be displayed on the licensed premises in accordance with subsection (2).
Maximum penalty: 20 penalty units.
- (2) The notice referred to in subsection (1) must comply with the following:
 - (a) it must be in the following form:
IT IS AGAINST THE LAW TO SELL OR SUPPLY ALCOHOL TO, OR TO OBTAIN ALCOHOL ON BEHALF OF, A PERSON UNDER THE AGE OF 18 YEARS
 - (b) if liquor is sold at a bar or counter, the notice must be prominently displayed at the bar or counter, in such a manner and in such a position that a person standing at the bar or counter would reasonably be expected to be alerted to its contents,
 - (c) if liquor is not sold at a bar or counter but is otherwise sold, the notice must be prominently displayed at or near every entrance by which members of the public may enter the premises concerned, in such a manner and in such a position that a person coming in by the entrance would reasonably be expected to be alerted to its contents.
- (3) A licensee (other than a casino operator) is guilty of an offence unless there is continuously displayed:
 - (a) in each bar area on the licensed premises a notice in accordance with subsection (5), and
 - (b) in each part of the licensed premises in which a minor is permitted to remain only in the company and immediate presence of a responsible adult a notice in accordance with subsection (6).
Maximum penalty: 20 penalty units.
- (4) A licensee that is a casino operator is guilty of an offence unless there is continuously displayed in each part of the licensed premises from which minors are to be excluded, as required by a condition of the licence, a notice in accordance with subsection (5).
Maximum penalty: 20 penalty units.
- (5) A notice referred to in subsection (3) (a) or (4):
 - (a) must be displayed in such a manner and in such a place that it would be reasonable to expect that a person entering the

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- part of the licensed premises in which the notice is displayed would be quickly alerted to the contents of the notice, and
- (b) must be in the following form:
PERSONS UNDER THE AGE OF 18 YEARS ARE NOT PERMITTED IN THIS AREA BY LAW
- (6) A notice referred to in subsection (3) (b) or (4):
- (a) must be displayed in such a manner and in such a place that it would be reasonable to expect that a person entering the part of the licensed premises in which the notice is displayed would be quickly alerted to the contents of the notice, and
- (b) must be in the following form:
PERSONS UNDER THE AGE OF 18 YEARS MUST BE WITH A RESPONSIBLE ADULT IN THIS AREA BY LAW
- (7) Each notice referred to in this section must be in the form approved by the Authority and be obtained from the Authority.
- (8) Despite subsections (1)–(6), a notice that complied with section 114 or 116C of the *Liquor Act 1982* (as applied by the *Casino Control Regulation 2001* immediately before 1 July 2008) may continue to be used for the purposes of the corresponding provision of this section until 30 June 2009 or until the notice is replaced (whichever happens first).

Division 3 Other provisions relating to minors

128 Minor required to provide information

- (1) An authorised person may require a person (*the relevant person*) who is reasonably suspected of being a minor and who, if a minor, would be committing an offence under this Act:
- (a) to state the relevant person's full name, residential address and date of birth, and
- (b) to produce then, or at a police station within a reasonable time, an evidence of age document for the person.
- (2) A person who is the subject of a requirement under subsection (1) must not:
- (a) refuse or fail to state his or her full name, residential address and date of birth, or

-
- (b) without reasonable excuse, refuse or fail to produce an evidence of age document that may reasonably be accepted as applying to the person.

Maximum penalty: 20 penalty units.

- (3) In this section:

authorised person means a licensee, an employee or agent of a licensee, a police officer or an inspector.

129 Minor must not use false evidence of age

A minor who uses any document purporting to be an evidence of age document in order to gain entry to, remain in, or obtain liquor from, licensed premises, is guilty of an offence if the document is false in a material particular in relation to the minor.

Maximum penalty: 20 penalty units.

130 Minors not to be detained

A minor may not be imprisoned, or detained in a detention centre, as a consequence of a failure to pay:

- (a) a penalty for an offence under this Act, or
- (b) an amount ordered to be paid under Division 4 of Part 3 of the *Fines Act 1996* in respect of a penalty notice issued under this Act.

Part 8 Local liquor accords

131 Definitions

In this Part:

local liquor accord means any code of practice, memorandum of understanding or other arrangement that:

- (a) affects the supply of liquor, the opening and closing of licensed premises or other aspects of the management of or conduct of business on licensed premises, and
- (b) is entered into, in accordance with this Part, for the purpose of eliminating or reducing alcohol-related violence or anti-social behaviour or other alcohol-related harm.

132 Eligible parties to local liquor accord

Each of the following bodies or persons may be a party to a local liquor accord and is, for the purposes of this Part, an **eligible party**:

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (a) a licensee,
- (b) the Authority,
- (c) the NSW Police Force (to be represented by a police officer nominated by the Commissioner of Police),
- (d) a local council,
- (e) any body or organisation (such as a Chamber of Commerce) representing commercial or business interests in the relevant local area,
- (f) a community or residents' group with an interest in alcohol-related harm or the amenity of the relevant local area.

133 Establishing local liquor accord

- (1) Any 2 or more eligible parties (at least one of whom is a licensee) may prepare a draft local liquor accord in writing and submit it to the Commissioner of Police and the Authority for approval.
- (2) The draft local liquor accord must include:
 - (a) the names of the parties to the accord, and
 - (b) the name and address of the coordinator of the accord (being a party to the accord or the representative of a party), and
 - (c) the proposed area to which the accord is to apply.

134 Terms of local liquor accords

- (1) Without limiting the terms that may be included in a local liquor accord, an accord may make provision for or with respect to any one or more of the following:
 - (a) authorising or requiring any licensee who is a party to the accord:
 - (i) to cease to serve liquor (including take-away liquor) on the licensed premises, or
 - (ii) to restrict the public's access to the licensed premises in a manner and to the extent provided by the accord,or both, from a time of day that is earlier than the time at which, as required by the relevant licence, trading must cease,
 - (b) authorising or requiring any licensee who is a party to the accord:
 - (i) to restrict the use of glass containers, or

-
- (ii) to maintain an incident register, or
 - (iii) to install and operate closed-circuit television or any other security device, or
 - (iv) to provide security staff.
- (2) Entry by any person into a local liquor accord, and any conduct on the part of any person for the purpose of promoting or giving effect to the terms of a local liquor accord, are specifically authorised by this Act for the purposes of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*.
- (3) Conduct authorised by subsection (2) is authorised only to the extent (if any) to which the conduct, so far as it consists of things done to regulate the supply of liquor or in some other respect, would otherwise contravene Part IV of the *Trade Practices Act 1974* of the Commonwealth or the *Competition Code of New South Wales*.

135 Approval, variation and termination of local liquor accord

- (1) A local liquor accord takes effect when it is approved by the Commissioner of Police and the Authority.
- (2) In approving a local liquor accord, the Commissioner of Police and the Authority are to determine the area to which the accord is to apply.
- (3) In determining the area to which the accord is to apply, the Commissioner of Police and the Authority are to take into account the area proposed by the parties in the draft accord and any other relevant matters.
- (4) The Commissioner of Police and the Authority may vary an area to which an accord applies at any time by notice in writing to the coordinator of the accord (whether of their own initiative or on the application of the parties to the accord).
- (5) The coordinator of a local liquor accord is to notify the Commissioner of Police or the Authority if the parties to the accord wish to terminate the accord.

136 Requirement to contribute to costs of implementing local liquor accord

- (1) The Authority may give a direction to any licensee in an area to which an accord applies (including any licensee in the area who is not a party to the local liquor accord concerned) to contribute to the costs of promoting or giving effect to the accord.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (2) The licensee is required to comply with any such direction.

Part 9 Disciplinary action

137 Interpretation

- (1) In this Part, a reference:
- (a) to a licensee includes a reference to a former licensee, and
 - (b) to a manager includes a reference to a former manager, and
 - (c) to a conviction for an offence under this Act does not include a reference to a conviction for an offence prescribed by the regulations made under the *Casino Control Act 1992*.
- (2) Without limiting the grounds on which disciplinary action may be taken under this Part, the grounds for taking any such action may relate to conduct occurring before the commencement of this Part.
- (3) For the purposes of this Part, a person is *interested* in the business, or in the conduct or profits of the business, carried on under a licence if the person:
- (a) is named in the written statement referred to in section 41 that accompanied the application for the licence, or
 - (b) is a person referred to in section 55 who has become interested in the business, or the conduct of the business, carried out on the licensed premises concerned, or
 - (c) is an individual who occupies a position of authority in the corporation that holds the licence, or
 - (d) in the case where the person referred to in paragraph (a) or (b) is a proprietary company:
 - (i) is a director of, or shareholder in, the proprietary company, or
 - (ii) is a director of, or shareholder in, a corporation that, within the meaning of the *Corporations Act 2001* of the Commonwealth, is a related body corporate of the proprietary company.

138 Authority may carry out inquiries and investigations in relation to proposed complaint

- (1) The Authority may carry out such investigations and inquiries as the Authority considers necessary in order to ascertain whether a complaint should be made under this Part in relation to:

-
- (a) a licensee, or
 - (b) a manager, or
 - (c) a close associate of a licensee.
- (2) The Commissioner of Police may inquire into, and report to the Authority on, such matters as the Authority may request concerning the licensee, manager or close associate to whom the complaint, if made, would relate.
- (3) The Authority may, by notice in writing, require a licensee, manager or close associate who is the subject of an investigation under this section to do one or more of the following things:
- (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as, in the opinion of the Authority, is relevant to the investigation and is specified in the notice,
 - (b) produce, in accordance with directions in the notice, such records as, in the opinion of the Authority, are relevant to the investigation and permit examination of the records, the taking of extracts from them and the making of copies of them,
 - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
 - (d) furnish to the Authority such authorisations and consents as the Authority requires for the purpose of enabling the Authority to obtain information (including financial and other confidential information) from other persons concerning the person under investigation and the person's associates.
- (4) A person who complies with a requirement of a notice under subsection (3) does not on that account incur a liability to another person.
- (5) A person must not fail to comply with a requirement of the Authority contained in a notice under subsection (3).
- Maximum penalty: 20 penalty units.

139 Grounds for making complaint

- (1) A complaint in relation to a licensee, manager or close associate of a licensee may be made to the Authority by any of the following persons (referred to in this Part as *the complainant*):
- (a) an inspector,
 - (b) the Commissioner of Police.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (2) A complaint must be in writing and specify the grounds on which it is made.
- (3) The grounds on which a complaint in relation to a licensee, manager or close associate may be made are as follows:
 - (a) that the licensee or manager has, while holding a licence or managing licensed premises, been convicted of an offence under this Act (or under the former Act),
 - (b) that the licensee or manager has failed to comply with any of the conditions to which the licence is subject,
 - (c) that the licensee has failed to comply with any of the conditions to which any authorisation or approval held by the licensee under this Act is subject,
 - (d) that the licensee or manager has failed to comply with any other requirement under this Act (or under the former Act), relating to the licence or the licensed premises,
 - (e) that the licensee or manager has failed to comply with a direction or other requirement of the Authority or the Commissioner of Police under this Act (or of the Commissioner under the former Act),
 - (f) that the licensee or manager has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption),
 - (g) that intoxicated persons have frequently been on the licensed premises or have frequently been seen to leave those premises,
 - (h) that acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises,
 - (i) that the licensee is not a fit and proper person to be the holder of a licence or the manager is not a fit and proper person to be the manager of the licensed premises,
 - (j) that the close associate is not a fit and proper person to be a close associate of a licensee,
 - (k) that a complaint against a licensee under this section has been made and that:
 - (i) the close associate knew or ought reasonably to have known that the licensee was engaging (or was likely to engage) in conduct of the kind to which the complaint relates, and

-
- (ii) the close associate failed to take all reasonable steps to prevent the licensee from engaging in conduct of that kind,
 - (l) that the close associate is (or has become) a close associate of a licensee while disqualified by the Authority from being a close associate,
 - (m) that a person who is interested in the business, or in the conduct or profits of the business, carried on under the licence is not a fit and proper person to be so interested,
 - (n) that a person is (or has become) a person who is interested in the business, or in the conduct or profits of the business, carried on under a licence while disqualified by the Authority under this Part from being a person so interested,
 - (o), (p) [not applied]
 - (q) that a person who occupies a position of authority in the corporation is not a fit and proper person to occupy such a position in a corporation that is the holder of a licence,
 - (r) that public entertainment has been conducted on the licensed premises otherwise than in accordance with any requirements under the *Environmental Planning and Assessment Act 1979* relating to the use of the premises for public entertainment,
 - (s) that the licence has not been exercised in the public interest,
 - (t) that the continuation of the licence is not in the public interest.
- (4) In subsection (3), *former Act* means the *Liquor Act 1982*.

140 Procedure for taking disciplinary action

- (1) If a complaint in relation to a licensee, manager or close associate is made under this Part, the Authority must, before taking any disciplinary action against the licensee, manager or close associate, notify the licensee, manager or close associate in writing of the grounds on which the Authority is proposing to take disciplinary action.
- (2) Any such notice is to invite the licensee, manager or close associate to show cause, by way of a written submission, as to why the Authority should not take disciplinary action against the licensee, manager or close associate.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (3) The Authority must also, before taking disciplinary action against a licensee, invite written submissions from the following persons:
 - (a) if the licensee occupies the licensed premises under a lease—the lessor,
 - (b) each person named in the written statement referred to in section 41 that accompanied the application for the licence,
 - (c) each person named in the information provided to the Authority (as required by section 55) who has become interested in the business, or the conduct of the business, carried out on the licensed premises concerned,
 - (d) if the grounds for taking the proposed disciplinary action relate to a person (other than the licensee) not being a fit and proper person—that person.
- (4) The Authority may specify:
 - (a) the time within which a submission under this section may be made, and
 - (b) any other requirements that must be complied with in relation to the making of any such submission.
- (5) If any written submission is made in accordance with this section, the Authority must take the submission into consideration in deciding whether or not to take disciplinary action against the licensee, manager or close associate concerned.

141 Disciplinary powers of Authority

- (1) The Authority may deal with and determine a complaint that is made to it under this Part.
- (2) If the Authority is satisfied that any of the grounds on which the complaint was made apply in relation to the licensee, manager or close associate, the Authority may decide not to take any action or may do any one or more of the following:
 - (a) cancel the licence,
 - (b) suspend the licence for such period not exceeding 12 months (or, if circumstances of aggravation exist in relation to the complaint, not exceeding 24 months) as the Authority thinks fit,
 - (c) order the licensee or manager to pay, within such time as is specified in the order:

-
- (i) a monetary penalty not exceeding 500 penalty units, or
 - (ii) if circumstances of aggravation exist in relation to the complaint—a monetary penalty not exceeding 1,000 penalty units,
 - (d) suspend or cancel any authorisation or other approval (other than the licence itself) held by the licensee under this Act,
 - (e) impose a condition to which the licence, or any authorisation or approval held by the licensee under this Act, is to be subject or revoke or vary a condition to which the licence or any such authorisation or approval is subject,
 - (f) disqualify the licensee from holding a licence for such period as the Authority thinks fit,
 - (g) withdraw the manager's approval to manage licensed premises,
 - (h) disqualify the manager from being the manager of licensed premises,
 - (i) [not applied]
 - (i) disqualify the close associate from being a close associate of a licensee for such period as the Authority thinks fit,
 - (k) disqualify the close associate from holding a licence for such period as the Authority thinks fit,
 - (l) order the licensee, manager or close associate to pay the amount of any costs incurred by:
 - (i) the Authority in carrying out any investigation or inquiry under section 138 in relation to the licensee, manager or close associate, or
 - (ii) the Authority in connection with the taking of disciplinary action against the licensee, manager or close associate under this section,
 - (m) reprimand the licensee, manager or close associate.
- (3) If the Authority orders a licensee or manager to pay a monetary penalty under this section and the penalty is not paid within the time specified in the order, the Authority may:
- (a) cancel the licence, or
 - (b) suspend the licence until such time as the penalty is paid (or for such other period as the Authority thinks fit).
- (4) While a person is disqualified by the Authority from being a close associate of a licensee, the person is conclusively presumed for

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

the purposes of this Act to be a person who is not a fit and proper person to be a close associate of a licensee.

(5) **Action against other interested persons**

In deciding whether to take disciplinary action under this section against a licensee in relation to a complaint, the Authority may take disciplinary action against a person who is interested in the business, or in the conduct or profits of the business, carried on under the licence (regardless of whether the Authority takes any disciplinary action under this section against the licensee concerned).

(6) If the Authority decides to take disciplinary action against any such interested person, the Authority may do any one or more of the following:

- (a) disqualify the person, for a period commencing on a specified day, from being a person interested in the business, or in the conduct or profits of the business, carried on under a licence,
- (b) reprimand the person.

(7) **Circumstances of aggravation**

For the purposes of this section, circumstances of aggravation exist in relation to a complaint if (and only if) each of the following paragraphs applies:

- (a) the complaint concerns a contravention or alleged contravention of section 73 or 74,
- (b) the complaint alleges that for the reasons specified in the complaint the matter of the complaint is so serious as to warrant the taking of action that is available to the Authority when circumstances of aggravation exist,
- (c) the Authority, in finding that the matter of the complaint has been made out, is of the opinion (having regard to any matter such as the number of contraventions of the Act involved, the seriousness of the contravention involved, the number of people involved in the contravention or the seriousness of the outcome of the contravention, or any other relevant consideration) that the matter of the complaint is so serious as to warrant the taking of action that is available to the Authority when circumstances of aggravation exist.

142 Procedure for implementing disciplinary action

- (1) If the Authority decides to take disciplinary action against or in relation to a licensee, manager, close associate or other person under this Part, the Authority is required to serve on the licensee, manager, close associate or person a notice informing the person of the Authority's decision.
- (2) The notice must include the reasons for the Authority's decision.
- (3) Any disciplinary action under this Part takes effect when notice of the action is served on the licensee, manager, close associate or person concerned (or on such later date as may be specified in the notice).
- (4) The Authority may, by serving a further notice on the licensee, manager, close associate or person concerned, cancel a notice under this section before the notice takes effect.
- (5) The Authority is not prevented from taking disciplinary action under this Part merely because the licensee, manager, close associate or person concerned is subject to criminal or civil proceedings that relate to the same matters or incident to which the disciplinary action relates.
- (6) If a licensee is disqualified from holding a licence under this Part, the Authority, may, on application by:
 - (a) the spouse or de facto partner of the licensee, or
 - (b) a member of the family of the licensee who is of or above the age of 18 years, or
 - (c) the owner of the licensed premises, or
 - (d) a person directly or indirectly interested in the business, or the conduct of the business, carried out on the licensed premises,

transfer the licence to that spouse, de facto partner or member of the family or to some other person approved by the Authority.

143 Requirement for legal member of Authority to be present

The Authority cannot determine any complaint made to it under this Part (including any decision to take any disciplinary action) unless a member of the Authority who is or has been a Judge, or who has been an Australian lawyer for at least 7 years, is present at the meeting of the Authority (or the committee of the Authority) at which the complaint is determined or the decision to take the action is made.

Part 10 Criminal proceedings and related matters

145 Proceedings for offences

Proceedings for an offence under this Act are to be dealt with summarily before the Local Court.

146 Time within which proceedings for offences may be commenced

- (1) Except as provided by subsection (2), proceedings for an offence under this Act may be commenced within but not later than 12 months after the date on which the offence is alleged to have been committed.
- (2) Proceedings for an offence under section 7, 8, 9, 40 (5), 66, 69 or 92 may be commenced within but not later than 3 years after the date on which the offence is alleged to have been committed.

147 Maximum penalties for certain offences

- (1) This section applies to any offence under this Act in respect of which the specified maximum penalty is 100 penalty units or imprisonment for 12 months, or both.
- (2) In convicting a person for an offence to which this section applies, the court may not impose a monetary penalty of more than 50 penalty units, or sentence the person to a term of imprisonment for more than 6 months, or both, unless the court is satisfied that the higher penalty is warranted.
- (3) Without limiting the matters that the court may take into consideration in deciding whether such a higher penalty is warranted, the court may take into consideration:
 - (a) the seriousness of the offence, or
 - (b) the number of occasions on which the offender has committed an offence under this Act or the *Liquor Act 1982*.

149 Licensees and managers liable for act of employees etc

If, in contravention of this Act:

- (a) an employee or agent of a licensee, or
- (b) an employee or agent of the manager of licensed premises, or
- (c) a person acting, or purporting to act, on behalf of a licensee or the manager of licensed premises,

sells or supplies liquor on the licensed premises, the licensee or manager (as the case requires) is guilty of an offence and liable to the punishment specified for the contravention.

150 Penalty notices

- (1) In this section:
authorised officer means a police officer or an inspector.
- (2) An authorised officer may serve a penalty notice on a person (including a licensee) if it appears to the officer that the person has committed an offence under this Act and the offence is one that is stated by the regulations under the *Casino Control Act 1992* to be an offence to which this section applies.
- (3) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay within a time and to a person specified in the notice the amount of penalty prescribed by the regulations under the *Casino Control Act 1992* for the offence if dealt with under this section.
- (4) A penalty notice may be served personally or by post.
- (5) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is liable to any further proceedings or action in relation to the alleged offence, except the taking of disciplinary action under Part 9.
- (6) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence.
- (7) However, if a penalty is paid under this section in respect of a penalty notice served on a person, the person is, for the purposes of Part 9, taken to have been convicted of the offence to which the penalty notice related.
- (8) The regulations under the *Casino Control Act 1992* may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (9) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty which could be imposed for the offence by a court.
- (10) This section does not limit the operation of any other provision of, or made under, this or any other Act or law relating to proceedings that may be taken in respect of offences.

151 Forfeiture and seizure of liquor and other things

- (1) If a person is found guilty of an offence under section 7, any liquor that was, at the time of the commission of the offence, in the person's possession or apparently under the person's control is forfeited to the Crown.
- (2) If the holder of a producer/wholesaler licence, or an employee or agent of such a licensee, is found guilty of an offence under section 9 (1) (b) of selling liquor that is not authorised to be sold under the licence, any liquor (other than liquor the licensee is authorised to sell under the licence) that was, at the time of the commission of the offence, in the licensee's possession or apparently under the licensee's control is forfeited to the Crown.
- (3) If a person is found guilty of an offence under section 113:
 - (a) any liquor to which the offence relates, and
 - (b) any vehicle, boat or other thing in which the liquor was being carried, offered or exposed,is forfeited to the Crown.
- (4) If a licence is cancelled under this Act, any liquor found, not earlier than 7 days after the cancellation takes effect, in the former licensee's possession on the former licensed premises is forfeited to the Crown.
- (5) A police officer or inspector may seize and carry away anything that the officer or inspector reasonably suspects may be liable to forfeiture under this section.
- (6) For the purposes of this section, *liquor* includes any bottle or other container in which the liquor is contained.

152 Evidentiary provisions

- (1) In any proceedings for an offence under this Act, any one or more of the following allegations (however expressed) is evidence of the truth of the allegation unless the contrary is proved:
 - (a) that a specified person was or was not the holder of a licence at a specified time or during a specified period,

-
- (b) that a specified licence was or was not subject to a specified condition at a specified time or during a specified period,
 - (c) [not applied]
 - (d) that a specified licence was or was not endorsed with a specified endorsement at a specified time or during a specified period,
 - (e)–(g) [not applied]
 - (h) that a specified licence was or was not suspended or cancelled at a specified time or during a specified period,
 - (i) that specified premises were or were not licensed premises at a specified time or during a specified period,
 - (j) that a specified part of premises was or was not a bar area at a specified time or during a specified period,
 - (k) that specified hours were or were not the trading hours of specified licensed premises at a specified time or during a specified period,
 - (l) that specified premises were subject to a closure order under this Act at a specified time or during a specified period,
 - (m) that a minors area authorisation under section 121 was or was not in force at a specified time or during a specified period,
 - (n) that a specified person has or has not been approved by the Authority as a person who may be appointed as the manager of licensed premises,
 - (o) that a specified person is or was, at a specified time or during a specified period, the Director,
 - (p) that a specified person is or was, at a specified time or during a specified period, a delegate of the Commissioner of Police, or of the Authority, to whom a specified function has been delegated under this Act or the *Casino, Liquor and Gaming Control Authority Act 2007*,
 - (q) that a specified person is or was, at a specified time or during a specified period, an inspector,
 - (r) that a liquid or other substance is liquor.
- (2) In any proceedings for an offence under this Act, an allegation that, at a specified time, a person was under the age of 18 years is evidence of the truth of the allegation unless the defendant denies the allegation in accordance with subsection (3).

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (3) An allegation referred to in subsection (2) may be denied:
 - (a) at any adjournment before the commencement of the hearing of the information—by informing the court, the informant or a person appearing for the informant in writing of the denial, or
 - (b) at any time not later than 14 days before the commencement of the hearing of the information—by informing the informant or a person appearing for the informant in writing of the denial.
- (4) In any proceedings for an offence under this Act, evidence of delivery or supply of liquor is evidence of a sale of the liquor.
- (5) In any proceedings for an offence under section 9 (2), liquor is taken to have been sold or consumed on the licensed premises to which the proceedings relate regardless of whether the licensee took or carried, or caused another person to take or carry, the liquor out of the licensed premises for the purpose of being sold or consumed at another place occupied by the licensee or in a public place.

Part 11 Miscellaneous provisions

155 Procedure for dealing with matters under Act to be informal

- (1) A formal hearing involving the legal representation of parties is not required to be held in relation to any application or other matter (including the taking of disciplinary action under Part 9) that may be dealt with or decided by the Authority under this Act.
- (2) However, subsection (1) does not prevent the Authority, in such cases as the Authority considers appropriate:
 - (a) from conducting an interview or convening a conference or meeting, or
 - (b) from receiving submissions,
in relation to any application or other matter that may be dealt with or decided by the Authority under this Act.
- (3) Any such conference or meeting is to be presided over by the Authority and the procedure at the conference or meeting is to be determined by the Authority.

157 Delegation by Commissioner of Police

- (1) The Commissioner of Police may delegate to a person any function conferred or imposed on the Commissioner of Police by or under this Act, other than this power of delegation.

Note. The power of the Authority to delegate its functions under this Act is contained in the *Casino, Liquor and Gaming Control Authority Act 2007*.

- (2) A person to whom a function has been delegated by the Commissioner of Police may delegate the function to another person, subject to any conditions to which the delegation by the Commissioner is subject.

158 Crown not liable for any compensation

- (1) Damages or compensation are not payable by or on behalf of the Crown because of:
- (a) the enactment or operation of this Act, or for the consequences of that enactment or operation, or
 - (b) a representation or conduct of any kind about any restrictions or limitations on the sale or supply of liquor on any premises or kind of premises.
- (2) In subsection (1), *the Crown* means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes any employee or agent of the Crown.

160 Savings and transitional provisions

Schedule 1 has effect.

Schedule 1 Savings and transitional provisions

(Section 160)

2 Definitions

In this Schedule:

existing licence means a licence granted under the former Act (as applied under clause 35 of the *Casino Control Regulation 2001*) and in force immediately before 1 July 2008.

former Act means the *Liquor Act 1982*.

former Board means the Liquor Administration Board constituted by section 72 of the former Act.

proof of age card means:

- (a) an existing RTA proof of age card, or
- (b) a document issued by a public authority of the Commonwealth, or of another State or Territory, for the purpose of attesting to a person's identity and age.

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

3 Existing licences

- (1) An existing licence is taken to be a licence in force under this Act.
- (2) Any such existing licence may be dealt with under, and is otherwise subject to, the provisions of this Act.
- (3) Subject to the regulations under the *Casino Control Act 1992*, an existing licence is subject to the conditions or restrictions to which the licence was subject under the former Act.

17 Phasing-out of existing RTA proof of age cards

An existing RTA proof of age card ceases to be valid for any purpose on 14 December 2008 (being the date that is 3 years after the commencement of Schedule 2.3 [1] to the *Photo Card Act 2005*).

18 Manufacturing false proof of age cards

- (1) A person must not make a false document that could reasonably be taken to be a proof of age card with the intent that the document be used by any person as a proof of age card for the purposes of this Act.
Maximum penalty: 30 penalty units.
- (2) A person (*the offender*) must not give to another person a false document that could reasonably be taken to be a proof of age card with the intent that the document be used by any person as a proof of age card for the purposes of this Act if the offender knows or could reasonably be expected to know that the document is false.
Maximum penalty: 30 penalty units.
- (3) A person is guilty of an offence under this subclause if the person commits an offence under subclause (1) or (2) in circumstances of aggravation.
Maximum penalty: 50 penalty units.
- (4) For the purposes of this clause, a person commits an offence in circumstances of aggravation if:
 - (a) the offence involved a high degree of planning, or
 - (b) the offence involved the use of other people acting at the direction of the person convicted of the offence in the commission of the offence, or
 - (c) the person committed the offence solely or principally for financial reward, or
 - (d) the offender has a previous conviction for an offence under this clause or under section 117EB of the former Act.

19 Giving or lending proof of age cards

A person must not give or lend the person's proof of age card to another person, if the person giving or lending the card knows or could reasonably be expected to know that the card may be used:

- (a) as a proof of age card for the purposes of this Act by the person to whom the card was given or lent, or by any other person, or
- (b) to obtain a proof of age card for the person to whom the card was given or lent, or any other person, for the purposes of this Act.

Maximum penalty: 30 penalty units.

20 Tampering with proof of age cards

A person must not for an improper purpose wilfully or negligently alter, deface, or otherwise interfere with a proof of age card or with any of the material particulars contained on the card.

Maximum penalty: 30 penalty units.

21 Confiscation of existing RTA proof of age cards

- (1) An authorised person to whom an existing RTA proof of age card, or thing resembling such an existing RTA proof of age card, is produced by a person representing it to be the person's proof of age card (whether as proof of age or of identity) may, with no authority other than this clause, seize the card or thing if the authorised person reasonably suspects that the card or thing:
 - (a) is not the person's proof of age card or contains information that is false or misleading as to that person's name or age, or
 - (b) has been forged or fraudulently altered, or
 - (c) is being used in contravention of any provision of this Act.
- (2) A card or thing seized under this clause is to be forwarded to the Commissioner of Police. The Commissioner must cause the card or thing to be returned (by delivery or by post) to the person who produced it unless subclause (3) applies.
- (3) The Commissioner of Police may retain possession of and deal with a proof of age card or thing forwarded to the Commissioner in such manner as the Commissioner thinks fit if satisfied that the card or thing:

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

- (a) is not the proof of age card of the person from whom it was seized or contains information that is false or misleading as to that person's name or age, or
 - (b) has been forged or fraudulently altered, or
 - (c) is being used in contravention of any provision of this Act.
- (4) Each of the following is an **authorised person** for the purposes of this clause:
- (a) any police officer,
 - (b) the Authority, an inspector, the licensee and any employee of the licensee on the licensed premises concerned, but only on those licensed premises or in a place in the immediate vicinity of those licensed premises.

26 General savings provision

- (1) Subject to this Act and the regulations under the *Casino Control Act 1992*, anything done under or for the purposes of a provision of the former Act (as applied by clause 35 of the *Casino Control Regulation 2001*) is, to the extent that the thing has effect immediately before 1 July 2008, taken to have been done under or for the purposes of the corresponding provision of this Act.
- (2) Without limiting subclause (1) or clause 3, any approval, authority or appointment in force under a provision of the former Act immediately before 1 July 2008 is taken to be an approval, authority or appointment in force under the corresponding provision of this Act.

[14] Schedule 7 Persons and bodies prescribed for purposes of section 148 (2) of Act

Omit the Schedule.

[15] Schedule 8 Penalty notice offences

Omit the Schedule. Insert instead:

Schedule 8 Penalty notice offences

(Clause 41)

Part 1

Column 1	Column 2
Provision of the Act	Penalty
Section 72A (1)	\$1,100
Section 84 (1)	\$550
Section 85 (2)	\$220
Section 86 (2) or (3)	\$220
Section 87 (1)	\$660
Section 87 (1A)	\$220
Section 87 (2) or (3)	\$550
Section 97	\$110

Part 2

Column 1	Column 2
Provision of this Regulation	Penalty
Clause 23	\$550
Clause 24 (1)	\$550
Clause 26 (1)	\$550
Clause 27 (2)	\$550
Clause 28 (2)	\$550
Clause 29 (1)	\$550
Clause 30 (1)	\$550
Clause 31	\$550
Clause 32 (1)	\$550
Clause 32AA	\$550

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

Column 1	Column 2
Provision of this Regulation	Penalty
Clause 32B (2) or (3)	\$660
Clause 33	\$550
Clause 33A	\$660
Clause 34 (1)	\$550
Clause 34A (5)	\$550
Clause 34C	\$550
Clause 34D	\$110
Clause 34E (1)	\$550
Clause 34E (2)	\$110
Clause 35C (4)	\$550

Part 3

Column 1	Column 2
Provision of the Liquor Act 2007 (as applied by this Regulation and modified as set out in Schedule 6)	Penalty
Section 7 (1)	\$1,100
Section 8 (1)	\$1,100
Section 8 (2)	\$55
Section 9	\$1,100
Section 11 (2)	\$1,100
Section 40 (5)	\$220
Section 66	\$550
Section 69 (1)	\$550
Section 73 (1) or (2)	\$1,100
Section 73 (3)	\$550
Section 74 (1)–(4)	\$550
Section 75 (3)	\$1,100
Section 77 (4), (6) or (8)	\$550
Section 78 (8)	\$550

Column 1	Column 2
Provision of the Liquor Act 2007 (as applied by this Regulation and modified as set out in Schedule 6)	Penalty
Section 82 (6)	\$2,200
Section 84 (7)	\$2,200
Section 88 (1)	\$550
Section 92 (1) or (2)	\$550
Section 95 (1), (2) or (4)	\$55
Section 97 (5)	\$220
Section 100 (1)	\$550
Section 101 (7)	\$550
Section 102 (3)	\$550
Section 107 (1)	\$55
Section 111 (1)	\$110
Section 112	\$110
Section 113 (1)	\$220
Section 117 (1), (2), (4), (6) or (8)	\$1,100
Section 118 (1)	\$220
Section 118 (2)	\$1,100
Section 119 (1)	\$550
Section 120 (1)	\$330
Section 121 (5)	\$220
Section 123 (1) or (3A)	\$220
Section 124 (1) or (2)	\$1,100
Section 125 (1)	\$330
Section 126	\$550
Section 127 (1), (3), (4) or (5)	\$220
Section 128 (2)	\$220
Section 129	\$220
Section 138 (5)	\$1,100
Schedule 1, clause 18 (1) or (2)	\$330
Schedule 1, clause 18 (3)	\$550

2008 No 217

Casino Control Amendment (Liquor) Regulation 2008

Schedule 1 Amendments

Column 1	Column 2
Provision of the Liquor Act 2007 (as applied by this Regulation and modified as set out in Schedule 6)	Penalty
Schedule 1, clause 19	\$330
Schedule 1, clause 20	\$330

BY AUTHORITY