

# Liquor Control (Amendment) Bill (No. 2)

No.

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# LEGISLATIVE ASSEMBLY

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Read 1° 13 October 1994

*(Brought in by Mr Heffernan and Mr Gude)*

(No. 2)

## A BILL

to amend the **Liquor Control Act 1987** and for other purposes.

### **Liquor Control (Amendment) Act 1994**

The Parliament of Victoria enacts as follows:

#### ***1. Purpose***

The purpose of this Act is to facilitate the recovery of licence fees and other amounts payable under the **Liquor Control Act 1987** and to make certain other amendments to that Act.

#### ***2. Commencement***

This Act comes into operation on the day on which it receives the Royal Assent.

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Section headings appear in bold italics and are not part of the Act.  
(See **Interpretation of Legislation Act 1984**.)

No. 97/1987.  
Reprinted to  
No. 56/1991  
and  
subsequently  
amended by  
Nos 55/1992,  
122/1993,  
23/1994,  
36/1994 and  
37/1994.

### 3. *Principal Act*

In this Act the **Liquor Control Act 1987** is called the Principal Act.

### 4. *Definitions*

In section 3 of the Principal Act, after the definition of “Commissioner” **insert—** 5

“**“Commissioner of State Revenue”** has the same meaning as “Commissioner” has in the **Business Franchise (Tobacco) Act 1974;**’.

### 5. *Amendment of sections 12 and 36* 10

In the Principal Act—

- (a) in section 12, sub-sections (2) and (3) are **repealed;**
- (b) in section 36, sub-sections (2) and (3) are **repealed.** 15

### 6. *Amendment of sections 90 to 117*

In the Principal Act—

- (a) in section 90 (1), **omit** “to the Chief Executive Officer”;
- (b) in section 116 (1), **omit** “to the Chief Executive Officer”; 20
- (c) in section 117 (4), **omit** “to the Commission”;
- (d) in section 117, sub-section (6) is **repealed.**

### 7. *Amendment of section 142*

- (1) In section 142 of the Principal Act, before “For the purposes of this Act—” **insert** “(1)”. 25
- (2) At the end of section 142 of the Principal Act **insert—**

“(2) A certificate purporting to be under the hand of the Chief Executive Officer certifying that—

- 5           (a) a person named in the certificate is liable to pay a fee for a licence or permit or an extended hours permit in respect of a period specified in the certificate;
- 10           (b) a determination of a fee for a licence or permit or an extended hours permit or a re-assessment of a fee has been made;
- 15           (c) notice of a determination of a fee for a licence or permit or an extended hours permit or of a re-assessment of a fee was duly served on a person named in the certificate on a particular day;
- 20           (d) the amount specified in the certificate was, on the date of the certificate, payable as a fee for a licence or permit or an extended hours permit by a person named in the certificate;
- (e) a fee for a licence or permit or an extended hours permit specified in the certificate has been paid by or on behalf of a person named in the certificate—

25           is admissible in evidence in any proceedings against a person under this Act and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate.

30           (3) A certificate purporting to be under the hand of the Chief Executive Officer certifying that on a day specified in the certificate a person named in the certificate was a delegate of the Chief Executive Officer to whom the powers and functions of the Chief Executive Officer specified in the certificate were delegated on terms, if any, so specified is admissible in evidence in any proceedings against a person under this Act and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate.

- (4) A certificate purporting to be under the hand of the Chief Executive Officer certifying that on a day specified in the certificate the Commissioner of State Revenue had an authority referred to in section 154 or 158 is admissible in evidence in any proceedings against a person under this Act and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate. 5
- (5) A certificate purporting to be under the hand of the Commissioner of State Revenue certifying that on a day specified in the certificate a person named in the certificate was an authorised person within the meaning of section 154 (7) (e) or 158 (7) (b) is admissible in evidence in any proceedings against a person under this Act and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate. 10 15
- (6) The production of a document purporting to be under the hand of the Chief Executive Officer (that document purporting to be a copy of or extract from any document, statement, licence, note or memorandum furnished to, or of any document issued by, the Chief Executive Officer) is for all purposes sufficient evidence of the matters set forth in it, without production of the original.”. 20 25

**8. New sections 142A and 142B inserted**

After section 142 of the Principal Act insert—

**‘142A. Evidence of certain matters**

- (1) The production of a notice of a determination or re-assessment, or a document under the hand of the Chief Executive Officer purporting to be a copy of a notice of a determination or re-assessment, is evidence of the due making of the determination or re-assessment and that the amount and 30 35

all particulars of the determination or re-assessment are correct.

- (2) The production of a document under the hand of the Chief Executive Officer purporting to be a copy of a document issued by the Chief Executive Officer is evidence that the document was so issued.

**142B. *Judicial notice***

- (1) All courts must take judicial notice of the official signature of a person who is or has been the Chief Executive Officer and of the fact that that person is or was the Chief Executive Officer.

- (2) In this section, “**court**” includes a person authorised by law or by consent of parties to receive evidence.’.

**9. *Repeal of section 145A***

Section 145A of the Principal Act is **repealed**.

**10. *New Division 3 of Part 6***

After Division 2 of Part 6 of the Principal Act insert—

**‘Division 3—Recovery of Fees and Fines**

**145A. *Recovery of amounts payable***

- (1) Each of the following amounts, when it becomes due and payable, is a debt due to the Crown and payable to the Commission—

- (a) an amount imposed by the Commission as a fine under section 90 (5);

- (b) an amount imposed by the Commission as a fine under section 101 (5) (h);
  - (c) an amount determined as a fee in accordance with section 113 or 115; 5
  - (d) an additional amount payable under section 116 (2) (a);
  - (e) an amount imposed by the Commission as a fine under section 116 (4); 10
  - (f) an amount payable as a late fee under section 117 (4);
  - (g) an amount imposed by the Commission as a fine under section 117 (5); 15
  - (h) an amount determined by the Commission under section 118 (2);
  - (i) an amount payable as interest under section 118 (4);
  - (j) an amount assessed by the Commission as a discontinuance fee under section 119. 20
- (2) An amount referred to in sub-section (1) may be sued for and recovered—
- (a) in the Magistrates' Court, irrespective of the amount; or 25
  - (b) in any other court of competent jurisdiction—
- by the Chief Executive Officer suing in his or her official name or by an officer of the public service authorised to sue for and recover amounts on behalf of the Chief Executive Officer, suing in the official name of the Chief Executive Officer. 30
- (3) Proceedings under this section brought in the name of the Chief Executive Officer must, in the absence of evidence 35



to the contrary, be deemed to have been brought by the authority of the Chief Executive Officer.

(4) An officer referred to in sub-section (2) may appear in proceedings brought under this section on behalf of the Chief Executive Officer.

(5) This section applies to amounts payable before, on or after the commencement of the **Liquor Control (Amendment) Act 1994**.

**145B. *Chief Executive Officer may collect certain amounts***

(1) The Chief Executive Officer may, by notice in writing (a copy of which must be served on the relevant person at his or her last known place of abode or business), require—

(a) any person by whom any money is due or accruing or may become due to a relevant person; or

(b) any person who holds or may subsequently hold money for or on account of a relevant person; or

(c) any person who holds or may subsequently hold money on account of some other person for payment to a relevant person; or

(d) any person having authority from some other person to pay money to a relevant person—

to pay to him or her forthwith upon the money becoming due or being held, or within such further time as the Chief Executive Officer allows, the money or so much of the money as is sufficient to pay any amount due by the relevant person.

- (2) A person must comply with a notice under sub-section (1).  
Penalty: 10 penalty units.
- (3) If any amount referred to in sub-section (1) is less than the amount due by the relevant person, the person served with the notice under that sub-section must pay to the Chief Executive Officer, in reduction of the amount due, the amount payable by that person to the relevant person. 5 10
- (4) Any person making any payment under this section is deemed to have been acting under the authority of the relevant person and of all other persons concerned, and is hereby indemnified in respect of the payment. 15
- (5) If the amount due by the relevant person is paid before any payment is made under a notice given under sub-section (1), the Chief Executive Officer must forthwith give notice of the payment to the person served with the notice under that sub-section. 20
- (6) In this section— 25
- “**amount due**” includes any judgment debt and costs in respect of amounts owing under this Act;
- “**relevant person**” means a person liable to pay an amount under this Act including any judgment debt and costs in respect of such an amount. 30

**145c. *Service of process***

- (1) Despite any Act or rule of court to the contrary, in any proceedings for the recovery of any amount due under this 35

Act, including any judgment debt and costs in respect of that amount, any process may, without leave of court, be served on a person—

- (a) personally; or
- (b) by leaving it at any address shown as a business address on the last application for a licence or permit by the person under this Act or at the person's last known place of business or abode in Victoria with a person apparently in the person's employment; or
- (c) by sending it or a sealed copy of it by post addressed to the person at the person's last known place of business or abode in Australia; or
- (d) by such other method as is permitted by any Act or rule of court.

- (2) Where sub-section (1) (c) applies, unless the contrary is proved, service of the process is deemed to have been effected two days after the date of posting.'

#### 11. *Amendment of section 154*

- (1) In section 154 of the Principal Act, for sub-section (1) **substitute**—

“(1) An authorised person may demand entry at any time to any licensed premises.”.

- (2) In section 154 (5) of the Principal Act—

- (a) in paragraph (a), for “a person referred to in sub-section (1)” **substitute** “an authorised person”; and
- (b) in paragraph (b), for “any such person” **substitute** “an authorised person”.

- (3) After section 154 of the Principal Act **insert**—

‘(6) The Commission may give an authority in writing to the Commissioner of State Revenue

to authorise officers of the public service on the staff of the Commissioner of State Revenue to exercise powers under this section.

- (7) In this section “**authorised person**” means—
  - (a) the Commissioner, Deputy Commissioner or an Assistant Commissioner; 5
  - (b) an officer of the Commission authorised in writing by the Commission;
  - (c) an authorised member of the police force;
  - (d) a licensing inspector; 10
  - (e) an officer of the public service on the staff of the Commissioner of State Revenue authorised in writing by the Commissioner of State Revenue acting under an authority given under sub-section (6).’. 15

12. Amendment of section 158

- (1) In section 158 of the Principal Act—
  - (a) in sub-section (1), for all words preceding paragraph (a) **substitute** “In the execution of powers and duties under this Act, an authorised person at any reasonable time—”; 20
  - (b) in sub-section (1) (a) and (d) for “the officer of the Commission” (wherever occurring) **substitute** “the authorised person”;
  - (c) in sub-sections (2) and (4), for “an officer of the Commission” (wherever occurring) **substitute** “an authorised person”. 25
- (2) After section 158 (5) of the Principal Act **insert**—
  - ‘(6) The Commission may give an authority in writing to the Commissioner of State Revenue to authorise officers of the public service on the staff of the Commissioner of State Revenue to exercise powers under this section. 30
- (7) In this section, “**authorised person**” means—
  - (a) an officer of the Commission authorised in writing by the Commission; 35

- (b) an officer of the public service on the staff of the Commissioner of State Revenue authorised in writing by the Commissioner of State Revenue acting under an authority given under sub-section (6).’

**13. *Statute law revision***

In the Principal Act—

- (a) in section 43 (2) (d) **omit** “; and”;  
(b) in section 47 (1) (b) **omit** “; and”;  
(c) in section 51 (1) (c) **omit** “; and”.

