

South Australia



ANNO QUINQUAGESIMO PRIMO
ELIZABETHAE II REGINAE
A.D. 2002

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT ACT 2002

No. 2 of 2002

[Assented to 25 July 2002]

An Act to amend the Liquor Licensing Act 1997.

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of s. 3—Objects of this Act
4. Amendment of s. 53—Discretion of licensing authority to grant or refuse application
5. Amendment of s. 61—Removal of hotel licence or retail liquor merchant's licence
6. Amendment of s. 77—General right of objection
7. Amendment of s. 106—Complaint about noise, etc., emanating from licensed premises

SCHEDULE

Statute Law Revision Amendments

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Liquor Licensing (Miscellaneous) Amendment Act 2002*.

(2) The *Liquor Licensing Act 1997* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 3—Objects of this Act

3. Section 3 of the principal Act is amended—

(a) by inserting in paragraph (b) "the live music industry," before "tourism";

(b) by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) In deciding any matter before it under this Act, the licensing authority must have regard to the objects set out in subsection (1).

Amendment of s. 53—Discretion of licensing authority to grant or refuse application

4. Section 53 of the principal Act is amended by inserting after subsection (2) the following subsection:

(2a) A licensing authority may—

(a) grant an application on an interim basis;

(b) specify that a condition of a licence, permit or approval is to be effective for a specified period,

and, in consequence, may give any necessary procedural directions in the matter.

Amendment of s. 61—Removal of hotel licence or retail liquor merchant's licence

5. Section 61 of the principal Act is amended by striking out from subsection (1) "licence is to be removed," and substituting "the licence is to be removed, the removal of".

Amendment of s. 77—General right of objection

6. Section 77 of the principal Act is amended by striking out from subsection (5)(c) "provide" and substituting "adequately cater".

Amendment of s. 106—Complaint about noise, etc., emanating from licensed premises

7. Section 106 of the principal Act is amended—

(a) by inserting after subsection (3) the following subsection:

(3a) If a complaint is lodged with the Commissioner under this section—

- (a) the Commissioner must cause a copy of the complaint to be served on the licensee of the licensed premises to which the complaint relates no later than 7 days after its lodgement; and
 - (b) no conciliation meeting or other hearing may be held on the complaint until the period of 14 days has elapsed from the day of that service.;
- (b) by striking out from subsection (4) "If a complaint is lodged with the Commissioner under this section," and substituting "Unless either party to the proceedings on a complaint requests that the matter proceed direct to a hearing and the Commissioner is of the opinion that good reason exists for concurring with the request,";
- (c) by striking out subsections (5) and (6) and substituting the following subsections:
 - (5) If the subject matter of the complaint is not to be conciliated, or is not resolved by conciliation, as the case may be—
 - (a) if the parties to the proceedings request the Commissioner to do so—the Commissioner must determine the matter; and
 - (b) in any other case—the Commissioner must refer the matter for hearing and determination by the Court.
 - (6) In hearing and determining a complaint under this section, the Commissioner or the Court, as the case may be—
 - (a) must give the complainant, the licensee and any other person whom the Commissioner or the Court thinks fit to hear an opportunity to be heard; and
 - (b) must take into account—
 - (i) the relevant history of the licensed premises in relation to other premises in the vicinity and, in particular, the period of time over which the activity, noise or behaviour complained about has been occurring and any significant change at any relevant time in the level or frequency at which it has occurred; and
 - (ii) the unreasonableness or otherwise of the activity, noise or behaviour complained about; and
 - (iii) the trading hours and character of the business carried out by the licensee on the licensed premises; and
 - (iv) the desired future character of the locality in which the licensed premises are situated as stated in any relevant Development Plan under the *Development Act 1993*; and
 - (v) whether or not any environment protection policy made under Part 5 of the *Environment Protection Act 1993*, or guidelines published by the Environment Protection Authority established under that Act, applicable to the provision of live music on the licensed premises have been complied with; and

(vi) any other matter that the Commissioner or the Court considers relevant.

(6a) On completing the hearing of the complaint the Commissioner or the Court, as the case may be, may—

- (a) dismiss the complaint; or
- (b) make an order against the licensee resolving the subject matter of the complaint.

SCHEDULE
Statute Law Revision Amendments

The principal Act is further amended as follows:

Provision Amended	How Amended
Section 2	Strike out this section.
Section 4	
definition of "police officer"	Strike out this definition.
definition of "related body corporate"	Strike out " <i>Corporations Law</i> " and substitute " <i>Corporations Act 2001</i> of the Commonwealth".
Section 7(h)	Strike out " <i>Corporations Law</i> " and substitute " <i>Corporations Act 2001</i> of the Commonwealth".