

# LIQUOR LICENSING LEGISLATION IN AUSTRALIA:

## EXECUTIVE SUMMARY

An examination of Liquor Licensing  
Legislation in Australia as at  
December 2010

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**SOUTH AUSTRALIA POLICE**  
KEEPING SA SAFE



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# Preface

This is the Executive Summary of the three reports from a review of liquor licensing legislation in Australia which was undertaken by the National Centre for Education and Training on Addiction (NCETA). These reports are an outcome of a project initiated under the former Ministerial Council on Drug Strategy (MCDS) Cost Shared Funding Model, now administered under the Intergovernmental Committee on Drugs, National Drug Strategy, Cost Shared Funding Model. The project was overseen by South Australia Police which also generously contributed to the report's publication.

The aim of the project was to review, from a law enforcement perspective, the enforcement provisions of the liquor licensing legislation of all Australian states and territories.

The project involved an extensive literature review, a comprehensive examination of each Australian state and territory's liquor licensing legislation and alcohol-related data collection systems as well as interviews with key informants.

South Australia Police contracted the National Centre for Education and Training on Addiction at Flinders University in South Australia to undertake the project.

Three reports have been developed from this project<sup>1</sup>.

**Part 1:**

Trifonoff, A., Andrew, R., Steenson, T., Nicholas, R., and Roche, A.M. (2011). *Liquor Licensing Legislation in Australia: An Overview*. National Centre for Education and Training on Addiction (NCETA), Flinders University, Adelaide, SA.

**Part 2:**

Trifonoff, A., Andrew, R., Steenson, T., Nicholas, R. and Roche, A.M. (2011). *Liquor Licensing Legislation in Australia: A Jurisdictional Breakdown*. National Centre for Education and Training on Addiction (NCETA), Flinders University, Adelaide, SA.

**Part 3:**

Trifonoff, A., Andrew, R., Steenson, T., Nicholas, R., and Roche, A.M. (2011). *Liquor Licensing Legislation in Australia: Police Expectations and Experiences*. National Centre for Education and Training on Addiction (NCETA), Flinders University, Adelaide, SA.

The objectives of the project were to:

- identify the key features of liquor licensing legislation in each state and territory
- identify examples of good practice in relation to the drafting and operation of liquor licensing legislation
- identify the perspectives and needs of law enforcement personnel in relation to liquor legislation to ensure that they are able to adequately perform their role in preventing and reducing alcohol-related crime and associated harms
- examine and recommend improvements to liquor licensing legislation across all Australian jurisdictions.

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<sup>1</sup> These three reports are designed to be used as both stand-alone documents, as well as a complementary suite of reports on liquor licensing in Australia.



# Acknowledgements

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NCETA would like to thank Senior Sergeant Tim Pfitzner, Assistant Commissioner Bronwyn Killmier, Ms Fiona Bruce and the staff of the Drug and Alcohol Policy Section, South Australia Police for their support with the wider project. In addition we would like to thank South Australia Police for its generous contribution towards the cost of publishing and printing the project reports.

The input of the members of the Project Advisory Group is also gratefully acknowledged:

*Senior Sergeant Tim Pfitzner, South Australia Police*  
*Chief Inspector Guy Haberley, New South Wales Police*  
*Inspector Andrew Jay, Victoria Police*  
*Acting Inspector Brad Little, Queensland Police*  
*Mr Daniel Di-Giuseppe, Western Australia Police*  
*Ms Debra Salter, Tasmania Police*  
*Brevet Sergeant Scott Mitchell, Northern Territory Police*  
*Acting Superintendent Dennis Gellatly, ACT Policing*  
*Mr Leon Atkinson-MacEwan, Liquor and Gaming Branch, Department of Treasury and Finance, Tasmania*

We would also like to thank Tarryn Gagliardi, Administrative Assistant and Paula Wilson, Project Officer, NCETA, for assisting with the preparation of this document and Karen Brandon, Administrative Assistant, NCETA, for providing administrative support throughout the project.

This report has been provided under the oversight of the Intergovernmental Committee on Drugs and is a product of collaboration between governments under the National Drug Strategy.

## Disclaimer

*The opinions expressed in this document are those of the authors and do not necessarily represent the views of the police services and other agencies that participated in the study from which this document was derived. In addition, they do not necessarily represent the views of the former Ministerial Council on Drug Strategy, the Intergovernmental Committee on Drugs or South Australia Police.*

*Please note that legislation is dynamic and may change but was correct at the time of writing this report. Readers are advised to check with their local jurisdiction for any revisions to the relevant liquor licensing legislation subsequent to December 2010. Since this document represents a historical “snap shot in time” of liquor licensing legislation in Australia it has been written in the past tense. Importantly however, the use of past tense should not be taken to imply that the legislation and other arrangements described herein no longer apply.*

*This document is not a legal interpretation or analysis of the liquor licensing legislation which exists in Australian states and territories. Statutory provisions are broadly provided as a means of comparing the legislative arrangements in each jurisdiction, as well as contextualising the experiences and expectations of the interviewees. To enable comparison across jurisdictions generic headings are utilised throughout the document, and in some instances, long statutory sections have been condensed. Readers are advised to seek further advice from the relevant authority in their jurisdiction regarding any liquor licensing matters which may impact them.*



# Executive Summary

This document is a summary of a series of three reports examining liquor licensing legislation in Australia as at December 2010 undertaken by the National Centre for Education and Training on Addiction (NCETA) at Flinders University. NCETA conducted an extensive literature review, a comprehensive examination of each Australian state and territory's liquor licensing legislation and data collection systems and interviews with key informants.

The project examined liquor legislation in each of Australia's eight jurisdictions, together with issues related to its application from a policing and enforcement perspective. It involved in-depth interviews with 60 key informants drawn from all jurisdictions, 55 of whom were police officers/personnel, with the balance comprising liquor licensing officials and other key stakeholders with an interest in liquor licensing legislation. This is the first time such an examination of these issues has been undertaken largely from a law enforcement perspective.

The first document in the series, *Liquor Licensing in Australia: An Overview*, describes the key elements of each jurisdiction's liquor licensing legislation as at December 2010. It also outlines the nature and purpose of the project, the context and background of the issues addressed and includes an extensive literature review of key contextual issues, covering alcohol availability, alcohol-related harm, initiatives to curb these harms, public amenity and perception.

The second, document in the series, *Liquor Licensing in Australia: A Jurisdictional Breakdown*, presents detailed summaries of the Legislation and administrative arrangements in each jurisdiction. It includes details of the number of licensed premises, changes over time (where available) and an outline of police alcohol-related data collection systems.

The third document, *Liquor Licensing in Australia: Police Expectations and Experiences*, presents the results of consultations. The legislation and associated strategies that assist police with their efforts to regulate licensed premises, as well as factors that hinder effective enforcement, are outlined in that report.

Taken together, these three reports are intended to provide policy makers with information upon which to base future decisions on liquor licensing issues.

## General Liquor Licensing Principles

All Australian states and territories contain statutory provisions that regulate:

- who may sell and supply alcohol
- the commercial practices of licensed premises
- offences and duties of licensees
- disciplinary procedures and penalties
- who may consume and access alcohol

- where alcohol may or may not be consumed and/or possessed.

The relevant legislation is described in detail in *Liquor Licensing Legislation: An Overview* (Part 1, Chapter 4).

## Liquor Licensing in Context

Liquor licensing legislation in Australia is developed independently in each state and territory, and is characterised by a high degree of diversity and variation. In addition, the legislation is continually changing to reflect shifts in commercial and community needs, priorities and concerns.

Australia's liquor licensing legislation cannot be viewed in isolation. It was assessed in this project in the context of:

- the structures and resources available to implement and enforce it
- the decision-making and review processes
- licensee disciplinary processes, including the degree of specialist knowledge of judicial members involved in the process
- the extent to which enforcement of legislation is a priority

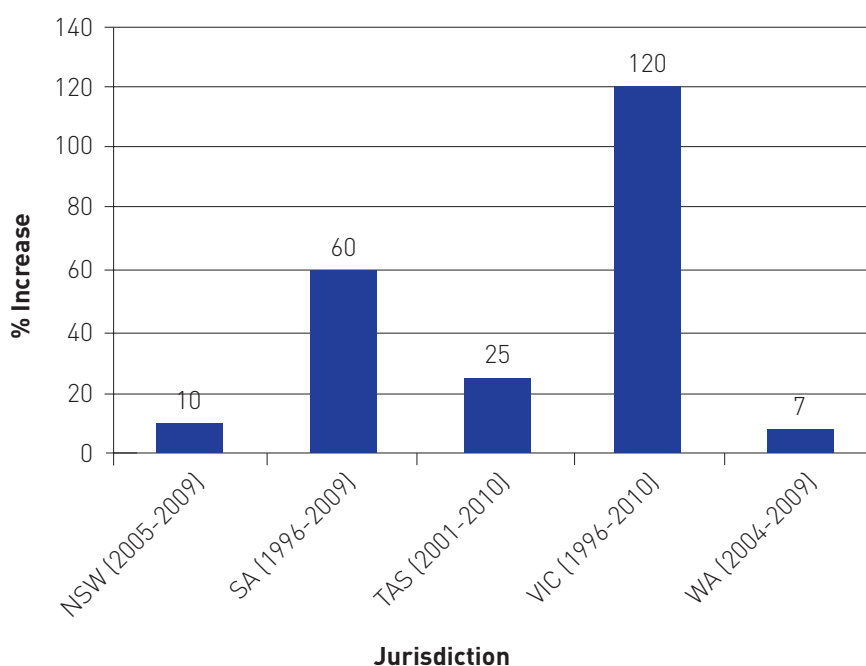
- the ways in which key stakeholders perceive the objectives of the legislation
- the extent and nature of legislative powers that sit outside of liquor licensing legislation that can also be used to reduce alcohol-related harm
- the degree of influence that key stakeholders have over the nature and implementation of liquor licensing legislation.

Key features of the legislation are displayed in Tables 2, 3 and 4 below.

## Availability of Alcohol in Australia

Alcohol availability, as reflected in the number of liquor licences and licensed premises, has consistently increased over the past 10 to 15 years in Australia.

Figure 1 shows the percentage growth in liquor licences or licensed premises in New South Wales, South Australia, Tasmania, Victoria and Western Australia. The increase in the number of liquor licences and licensed premises is indicative of the extent to which alcohol has become more available over the last decade.



Note that:

- reporting time-spans vary across each jurisdiction
- VIC and WA figures show data for licensed premises not liquor licences
- data were not accessible for the other jurisdictions at the time of writing

Figure 1: Percentage growth in liquor licences in NSW, SA and TAS and licensed premises in Vic and WA

Consistent with the growth in numbers of liquor licences, the number of licences per head of population aged over 18 years has also increased. At the time of writing there were approximately 53,533 liquor licences in Australia. The total number of licences/licensed premises in each state is shown in Table 1, together with the ratio of licences per head of population aged 18 years and over.

On 30 June 2010, the Australian population aged 18 years and over was 16,948,232. Across Australia, there was a licensed premise for every 317 persons over 18 years. The highest number of licensed premises per head of population were found in South Australia and Victoria with a liquor licence for every 224 and 229 persons over 18 years, respectively.

**Table 1: Number of Australian liquor licences by number of persons aged 18 years and over**

Jurisdiction	Number of current liquor licences	Australian Population ≥ 18 years old <sup>i</sup>	Population ≥ 18 years per licensed premises
Australian Capital Territory	650 <sup>ii</sup>	279,273	430
New South Wales	15,193 <sup>iii</sup>	5,601,746	369
Northern Territory	622 <sup>iv</sup>	166,626	268
Queensland	6,770 <sup>v</sup>	3,428,226	506
South Australia	5,752 <sup>vi</sup>	1,288,256	224
Tasmania	1,433 <sup>vii</sup>	388,984	271
Victoria	18,872 <sup>viii</sup>	4,316,946	229
Western Australia	4,241 <sup>ix</sup>	1,757,448	414
<b>TOTAL</b>	<b>53,533<sup>x</sup></b>	<b>16,948,232</b>	<b>317</b>

i Source: Australian Bureau of Statistics. Accessed from: <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3201.0Jun%202010?OpenDocument> on 11 January 2011.

ii Source: ACT Office of Regulatory Services. As at 20 December 2010.

iii Source: NSW Department of the Arts, Sport and Recreation (2009). As at 30 June 2009.

iv This is the number of full and special continuing licences (which trade for less than 30 hours per week). This number does not include liquor licences for one-off events. Source: the Northern Territory Licensing Commission Annual Report 2010/2011, pages 9 and 14. The figures refer to the year ending 30 June 2010.

v Source: Queensland Office of Regulatory Policy: Department of Employment, Economic Development and Innovation. As at 30 June 2009.

vi Source: Office of the South Australian Liquor and Gambling Commissioner (as cited in SA Police, 2010). As at 30 June 2009.

vii Source: Tasmania Department of Treasury and Finance: Retrieved 23 November 2010 from: <http://www.tenders.tas.gov.au/domino/dtf/dtf.nsf/fcfe52186e9867674a25665500244b46/2a23cfeaac81a794ca257354001b2152?OpenDocument>. As at 10 August 2010.

viii Source: [www.justice.vic.gov.au](http://www.justice.vic.gov.au) as at 30 September 2010.

ix Source: Department of Racing, Gaming and Liquor (2009). *Annual Report*. East Perth: Department of Racing, Gaming and Liquor (2009). As at 30 June 2009.

x This figure should be regarded as an approximation because the point in time at which these counts occurred varied between jurisdictions. Also note that this does not include the 1,484 Special Continuing Licences in the Northern Territory. In addition, some of these 53,533 licences may be inactive or only sell alcohol for limited periods of time.



Many licensed premises are not problematic; most are well run and operate within the law. However, the increased availability of alcohol in general (especially where associated with cheaper prices and easier access to take-away products) can exacerbate alcohol-related problems in the community, further highlighting the importance of both the role of liquor licensing legislation and its effective and appropriate enforcement.

## Summary of the Legislation (Part 1 and Part 2)

This legislative review found that:

- despite the differences that exist in liquor licensing legislation across Australia there were strong common themes across all jurisdictions
- appropriate governance arrangements are pivotal to the administration of liquor licensing legislation in Australia
- trading hours for licensed premises were legislated in all states
- all Australian jurisdictions had provisions in their liquor licensing legislation that allowed licensees, police, courts and government authorities to prohibit certain people from attending licensed premises
- all jurisdictions provided a method by which to instigate disciplinary proceedings against licensees. In some states and territories, this was an unlimited right, while in others, the right was invested in designated people and bodies
- serving and supplying an intoxicated and/or drunk person was an offence in every state and territory. There were, however, differences among jurisdictions in regard to how the terms drunk and intoxicated were defined, the context in which those terms were used and the elements needed to prove that an offence had been committed
- lockout conditions had been adopted in some Australian jurisdictions in an attempt to increase community safety by reducing high levels of alcohol-related problems in specific areas.

## Summary of Consultation Findings (Part 3)

Despite the diverse legislative, geographical, historical and structural differences that existed in liquor licensing legislation and regulatory mechanisms across Australia, strong common themes emerged from the key informant consultations as summarised below.

### Preventing Alcohol-Related Harm

1. Police have become active players and committed stakeholders in relation to alcohol and community safety, and play a central role in the prevention and resolution of alcohol-related harm.
2. Police placed a high priority on addressing alcohol-related community harms associated with licensed premises.

### Principles of Liquor Licensing Legislation

3. Harm minimisation was a central tenet<sup>2</sup> of the relevant legislation and regulatory mechanisms in each of Australia's eight jurisdictions.
4. Police strongly supported harm minimisation principles in relation to the legislation and regulations surrounding licensed premises. This was particularly evident in relation to public amenity and public safety issues.
5. While very supportive of the harm minimisation principles expressed in the legislation, police were not necessarily of the view that the legislation provided the requisite tools or latitude to deliver harm minimisation outcomes.
6. Liquor licensing legislation in Australia was largely viewed by police as unnecessarily complex and challenging to enforce. Police highlighted the complexity of liquor licensing legislation, the associated regulations, codes of practice and other industry standards.

<sup>2</sup> Whether stated explicitly within the "black letter" law of the legislation or reflected in its principles.

7. From the perspective of police, most liquor licensing regimes did not offer an adequate balance between empowering police or regulatory authorities to reduce alcohol-related harms and the need to protect the interests of the alcohol industry.

### The Challenge of Intoxication

8. Dealing with intoxication at a conceptual and practical level was a priority for police and one of the most challenging issues that they face. While serving and supplying an intoxicated and/or drunk person was an offence in every state and territory, jurisdictions defined these terms in different ways and applied different evidentiary burdens in relation to an offence of intoxication.

### Liquor Licensing Legislation Review and Reform

9. There was consensus that:
  - in some jurisdictions aspects of the liquor licensing legislation were outdated and needed review and fundamental reform
  - the legislation was complex and continually evolving
  - there was strong support for greater involvement by police in legislative and regulatory reform processes
  - liquor licensing legislation should be written in language that is easily understood by police, liquor licensing authorities, licensees and members of the public
  - liquor licensing legislation should focus more broadly on patterns and levels of supply at the community level.

### The Roles of Police and Liquor Licensing Authorities

10. Ambiguity surrounding the respective roles of police and liquor licensing authorities in enforcing liquor licensing legislation was highlighted. A number of police noted that there would be a greater understanding of

all key stakeholders' roles (including police, licensing authorities/regulatory bodies and licensees) if they were clearly outlined in liquor licensing legislation.

11. Across all jurisdictions, the relationship between police and liquor licensing authorities was identified as having improved substantially in recent times with greater recognition of respective roles and willingness to work together.
12. A need was identified for liquor licensing authorities to be more adequately resourced. From a policing perspective, this would create greater opportunities for joint operations with liquor licensing authorities.
13. Scope was identified for police to be more fully engaged in liquor licensing decision-making processes, such as raising objections to new licences or changes to existing licences. Participants supported improved police training in this area and provision of appropriate resources.

### Partnerships

14. Partnerships were identified as crucial for effective implementation and enforcement of liquor licensing legislation. This included partnerships between police, liquor licensing authorities, the alcohol industry, local government and other stakeholders (such as transport, health and welfare agencies).
15. Respondents indicated that partnerships with the alcohol industry (such as through liquor accords) were important but noted that these relationships could not be substituted for strong enforcement of the legislation.

### Effective Tools to Reduce Alcohol-Related Harm

16. Banning/barring orders were considered to have merit in reducing problems associated with licensed premises and warrant further attention.

17. Liquor infringement notices were regarded positively by police for their immediate impact and moderate resources requirement.
18. Police supported greater use of lockout provisions, particularly when utilised in conjunction with other measures and strictly enforced.
19. Risk-based licensing fee structures were regarded as a positive initiative because they imposed costs on licensed premises that were the source of most problems.

### Centralised Police Licensing Enforcement Functions

20. Four of the eight police jurisdictions had developed a centralised licensing enforcement function, and a further two had similar models in place or planned.
21. Police organisations that had a centralised licensing enforcement unit, with oversight for matters related to the policing of licensed premises and associated alcohol-related problems, reported that these arrangements worked better than where there was no such centralised function. In the latter case, it was perceived that making “everyone” responsible for the complex area of liquor licensing meant in many cases that “no-one” was responsible.

### Alcohol-Related Data Collection (see Table 6)

22. Participants highlighted the importance of police continuing to invest in improved alcohol-related data collection.
23. An opportunity existed for police agencies to build on recent investments in alcohol-related data collections and use that information to have a greater impact on liquor licensing decisions.
24. Wholesale data is an important aspect of any alcohol data collection and was identified as being of considerable potential benefit to police.

### Criminal Intelligence

25. Participants expressed concern that licensing authorities were required under administrative law principles to provide applicants with notification about why their application was not granted.
26. Probity information provided by police about an applicant and their associates was sometimes of a classified nature and police did not wish to jeopardise ongoing criminal investigations by providing licensing authorities with this information.

### Investing in Data Collection

27. Police indicated that their ability to collect data on alcohol-related crime, public disorder and amenity problems was central to their ability to understand and monitor liquor licensing-related matters and to inform decisions of liquor licensing authorities. Respondents also asserted that having a legislated requirement for jurisdictions to produce and provide wholesale sales data would assist policing efforts in this area.

## Recommendations

A range of issues and strategies were identified by police that could improve their effectiveness in this area.

To achieve this, it is recommended that:

1. strategies be put in place to increase role clarity between police and liquor licensing enforcement bodies
2. relevant aspects of current and future legislation and regulations be developed to allow police to be more fully engaged in liquor licensing-related decision-making processes
3. police have greater involvement in legislative and regulatory reform processes
4. more resources, training and support be allocated to police to carry out their roles in relation to liquor licensing
5. a national annual forum be conducted to:
  - a. allow police the opportunity to identify the key features of liquor licensing legislation and its enforcement in their respective jurisdictions, and to share this information across jurisdictions
  - b. progress the implementation of recommendations 1 to 4 in a coordinated manner.

Table 2: Liquor licensing regulatory structures (December 2010)

	ACT	NSW	NT <sup>i</sup>	QLD
<b>Legislation</b>	<i>Liquor Act 2010</i>	<i>Liquor Act 2007</i>	<i>Liquor Act Northern Territory Licensing Commission Act</i>	<i>Liquor Act 1992</i>
<b>Regulations</b>	<i>Liquor Regulation 2010</i>	<i>Liquor Regulation 2008</i>	<i>Liquor Regulations</i>	<i>Liquor Regulation 2002</i>
<b>Department</b>	Department of Justice and Community Safety	Office of Liquor, Gaming and Racing, Communities NSW	Department of Justice	Department of Employment, Economic Development and Innovation
<b>Administrative authority</b>	Office of Regulatory Services	Casino Liquor and Gaming Control Authority (CLGCA); Office of Liquor Gaming and Racing <sup>ii</sup>	Director of Licensing, Licensing, Regulation and Alcohol Strategy Division	Office of Liquor, Gaming, and Racing (OLGR)
<b>Decision-making authority</b>	Commissioner for Fair Trading, Office of Regulatory Services	Casino Liquor and Gaming Control Authority (CLGCA)	Licensing Commission	Chief Executive, Office of Liquor, Gaming, and Racing (OLGR)
<b>Review decisions/ hear appeals from decisions</b>	ACT Civil and Administration Tribunal (ACAT)	Communities NSW; Casino Liquor and Gaming Control Authority (CLGCA)	Licensing Commission	Queensland Civil and Administrative Tribunal (QCAT)
<b>Breaches of conditions/ offences/ complaints</b>	Commissioner (complaints) ACAT (occupational discipline) Magistrates' Court/ Infringement notices (offences)	Local Court (summary offences & breach of conditions) Director-General, Communities NSW (complaints)	Magistrates' Court (summary offences) Licensing Commission (complaints)	Magistrates' Court (summary offences) Chief Executive (disciplinary action)

i Please note that the Northern Territory was also subject to the provisions of the *Northern Territory National Emergency Response Act 2007* (Cth).

ii These bodies shared a dual administrative function.

Table 2 continued: Liquor licensing regulatory structures (December 2010)

	SA	TAS	VIC	WA
<b>Legislation</b>	<i>Liquor Licensing Act 1997</i>	<i>Liquor Licensing Act 1990</i>	<i>Liquor Control Reform Act 1998</i>	<i>Liquor Control Act 1988</i>
<b>Regulations</b>	<i>Liquor Licensing (General) Regulations 1997<sup>iii</sup></i>	<i>Liquor Licensing Regulations 2003</i> <i>Liquor Licensing (Fees) Regulations 2005</i> <i>Liquor Licensing (Infringement Notices) Regulations 2008</i>	<i>Liquor Control Reform (Prescribed Class of Premises) Regulations 2008</i> <i>Liquor Control Reform (Prohibited Supply) Regulations 2005</i> <i>Liquor Control Reform Regulations 2009</i>	<i>Liquor Commission Rules 2007</i> <i>Liquor Control Regulations 1989<sup>iv</sup></i>
<b>Department</b>	Attorney-General's Department, Financial and Business Services Division	Department of Treasury and Finance	Department of Justice	Department of Racing, Gaming and Liquor (RGL)
<b>Administrative authority</b>	Office of the Liquor and Gambling Commissioner	Liquor and Gaming Branch, Revenue, Gaming and Licensing Division	Responsible Alcohol Victoria	Director-General, Department of Racing, Gaming and Liquor (RGL)
<b>Decision-making authority</b>	Liquor Licensing Commissioner/Licensing Court <sup>v</sup>	Commissioner for Licensing/Licensing Board	Director of Liquor Licensing/Liquor Licensing Panel <sup>vi</sup>	Director of Liquor Licensing/The Liquor Commission
<b>Review decisions/hear appeals from decisions</b>	Licensing Court	Licensing Board/Supreme Court of Tasmania	Victorian Civil and Administrative Tribunal (VCAT)	The Liquor Commission
<b>Breaches of conditions/offences/complaints</b>	Licensing Court (disciplinary matters) Magistrates' Court (summary offences)	Liquor and Gaming Branch Magistrates' Court (when prosecution for an offence is required)	VCAT (inquiries and disciplinary matters) Magistrates' Court (summary offences)	Magistrates' Court (summary offences) The Liquor Commission (disciplinary matters)

iii *Liquor Licensing (Dry Areas—Long Term) Regulations 1997; Liquor Licensing (Dry Areas—Short Term) Regulations 1997.*

iv *Liquor Control (Bayalu Restricted Area) Regulations 2010; Liquor Control (Irrungadji Restricted Area) Regulations 2010; Liquor Control (Jigalong Restricted Area) Regulations 2009; Liquor Control (Juwurlinji Restricted Area) Regulations 2009; Liquor Control (Koongie Park Restricted Area) Regulations 2010; Liquor Control (Kundat Djaru Restricted Area) Regulations 2010; Liquor Control (Nicholson Block Restricted Area) Regulations 2010; Liquor Control (Noonkanbah Restricted Area) Regulations 2009; Liquor Control (Oombulgurri Restricted Area) Regulations 2008; Liquor Control (Punmu Restricted Area) Regulations 2010; Liquor Control (Wangkatjungka Restricted Area) Regulations 2008; Liquor Control (Yakanarra Restricted Area) Regulations 2010.*

v The Licensing Court (SA) determined contested applications.

vi The Liquor Licensing Panel considered contested applications and reported its findings (including recommendations) to the Director of Liquor Licensing.

Table 3: Key features of Australian liquor licensing legislation and regulation by jurisdiction

	ACT	NSW	NT <sup>iv</sup>	QLD	SA	TAS	VIC	WA
<b>No of licence types</b>	8 + 2 permits	6 <sup>ii</sup>	3 <sup>v</sup>	5 licences <sup>xi</sup> + 5 permits	11	5 licences + 4 permits	8 licences + 2 temporary licences + 1 permit <sup>x</sup>	9
<b>Fee structure</b>	Risk-based	Set fees	Set fees	Risk-based	Set fees	Set fees <sup>viii</sup>	Risk-based	Graduated fees
<b>Harm minimisation objectives in Act</b>	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
<b>Accords</b>	No	Yes	Yes <sup>vi</sup>	Yes	Yes, voluntary	No	Yes	Yes
<b>Infringement notices</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Barring orders</b>	No	No	Yes	No	Yes	Yes	No	Yes
<b>Banning notices</b>	No	Yes	Prohibition Order Exclusion Order	Civil Banning Orders <sup>xiii</sup>	No	No	Yes	Prohibition Orders
<b>Lockouts</b>	Yes	Yes	Yes <sup>vii</sup>	Yes	Yes <sup>xiv</sup>	No <sup>viii</sup>	Yes	Yes
<b>Secondary supply legislation</b>	Yes <sup>i</sup>	Yes	Yes <sup>viii</sup>	Yes	Yes <sup>xv</sup>	Yes <sup>ix</sup>	No	No
<b>Public drunkenness a criminal offence</b>	No	No	No <sup>ix</sup>	Yes <sup>xiii</sup>	No	No	Yes	No
<b>Mandatory RSA</b>	Yes	Yes	Yes <sup>x</sup>	Yes	No	Yes	Yes <sup>xi</sup>	Yes
<b>Licence duration</b>	Expires <sup>ii</sup>	Continuing	Continuing	Continuing	Not stated <sup>vi</sup>	Continuing	Renewed Annually	Continuing <sup>xii</sup>

**Table 3: Key features of Australian liquor licensing legislation and regulation by jurisdiction**

- i Under Section 204 of the *Liquor Act 2010* (ACT), it was an offence to supply liquor to a child or young person in a public place.
- ii Licences expired on a date determined by the Commissioner and could not be more than three years after issue. Expiry was determined with reference to its trading hour classification and/or occupancy loading. Both young people's events and permits expired on the day stated in the approval. Licensees had to apply to the Commissioner for their licence to be renewed at least 30 days before it expired.
- iii In NSW Community Impact Statements needed to be completed when applying for club, hotel, on-premises and packaged liquor licences.
- iv Since the completion of this report, the *Northern Territory Liquor Act* has been amended by the provisions of the *Alcohol Reform (Liquor Legislation Amendment) Act 2011* (Act No. 17, 2011) and *Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act 2011* (Act No. 19, 2011). These provisions commenced on 1 July 2011. This table does not incorporate these recent amendments.
- v There were only two categories of licence contained within the legislation. However, a third category was issued to social clubs and like organisations. This was a continuing special licence.
- vi Inserted in 2010.
- vii Lockouts were not a statutory provision in the Northern Territory. However, the Northern Territory Licensing Commission had adopted a policy of imposing lockouts on licensed premises as part of its power to determine the conditions of a licence.
- viii In the Northern Territory, secondary supply offences were directed at preventing the sale, supply, and possession of liquor in restricted areas.
- ix In the Northern Territory, Section 128 of the *Police Administration Act* permitted police to hold a person who was intoxicated in a public place in protective custody until they were no longer intoxicated.
- x Even though mandatory Responsible Service of Alcohol was not a statutory provision, the Licensing Commission had adopted a policy mandating that all staff must have responsible service of alcohol training within one month of commencing employment. This was part of the licence conditions.
- xi There were five other sub-categories of licence which could be issued under the Commercial Other Licence category.
- xii Only applicable in declared Drink Safe Precincts.
- xiii Under the *Summary Offences Act 2005*, Section 10.
- xiv There were no provisions for lockouts under the South Australian *Liquor Licensing Act 1997*. However, lockouts could be imposed on individual premises under Section 43 of the Act.
- xv Under Section 117 of the South Australian *Liquor Licensing Act 1997*, it was an offence for a minor to consume or have possession of liquor in a public place, and it was an offence to supply liquor to a minor in a public place, unless the consumption or possession was in the company of an adult, guardian or spouse of a minor.
- xvi The South Australian legislation was unique in that neither the legislation nor the regulations contained any provisions regarding licence renewals and no fees were required to be paid on renewal.
- xvii Fees were paid annually.
- xviii While there were no provisions for lockouts in the *Liquor Licensing Act 1990* (TAS), lockout conditions could be imposed on an out-of-hours permit.
- xix Sale or Supply of Alcohol to Youths (*Police Offences Act 1935*).
- xx These primary licence types were required consistent with Sections 7 & 14 of the *Liquor Control Reform Act 1998*. Further sub-categories of licences were contained within Sections 10, 11A and 14.
- xxi In Victoria, following amendments to the *Liquor Control Reform Act 1998*, as from 1 January 2011, all new applicants and existing licensees and their staff were required to complete an RSA course approved by the Director of Liquor Licensing.
- xxii Licences continued in force unless they were surrendered under Section 94, or cancelled by the Licensing Authority in accordance with the provisions of the Act. A special facility licence expired when it was granted for an express period of time or when the Director determined that it was no longer necessitated. Occasional licences also expired in accordance with their terms, or on a specified date.



Table 4: Powers to remove, exclude, and prevent problem patrons from attending licensed premises<sup>i</sup>

State	Order	Behaviour	Authorised	Period	Extent of Prohibition
NSW	Self-exclusion Orders	Not specified.	Licensee. Individual.	Not specified	Specified in form
	Non-voluntary Exclusion Order (Refuse entry, remove from premises)	Intoxicated, violent, quarrelsome or disorderly, or whose presence on the licensed premises renders the licensee liable to a penalty under this Act. Smoking on any part of the licensed premises that is a smoke-free area. Uses or possesses, on the premises, a prohibited plant or a prohibited drug. May refuse access if in accordance with a condition of licence or liquor accord.	Licensee. Employee. Police Officer.	≤24 hours However, authorised person have right to refuse entry at any other time	Single premise
	Banning Orders	Satisfied person has repeatedly been intoxicated, violent, quarrelsome or disorderly on or in the immediate vicinity of licensed premises.	Casino, Liquor, Gaming, and Racing Authority. <sup>ii</sup>	≤6 months	Specified premises
	Power to remove or exclude	Intoxicated. Violent. Quarrelsome. Disorderly. Incapable of controlling own behaviour.	Licensees. Employees. Inspectors. Police.	12 hours	Single premise
NT <sup>iii</sup>	Prohibition Orders	Applies to specified offences. Has conditions attached. See <i>Alcohol Court Act</i> .	Alcohol Court.	≤12 months	

<sup>i</sup> In the Australian Capital Territory it was an offence for people to refuse to leave after they had been requested to do so by the licensee, an employee of the licensee, or a crowd controller. Besides this implied power, there were no express provisions contained within the Act giving the licensee or anyone else a power to ban.

<sup>ii</sup> May be applied for by the Director-General, Commissioner of Police, a licensee who is a party to a local liquor accord, any other person (or class of persons) prescribed by the regulations.

<sup>iii</sup> Since the completion of this report, the *Northern Territory Liquor Act* has been amended by the provisions of the *Alcohol Reform (Liquor Legislation Amendment) Act 2011* (Act No. 17, 2011) and *Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act 2011* (Act No. 19, 2011). These provisions commenced on 1 July 2011. This table does not incorporate these recent amendments.

Table 4 continued: Powers to remove, exclude, and prevent problem patrons from attending licensed premises

State	Order	Behaviour	Authorised	Period	Extent of Prohibition
NT	Banning Orders	Specified offence committed.	Police.	48 hours	Designated area All licensed premises in the designated area
	Exclusion Orders	Applies to specified offences. Has conditions attached. See <i>Alcohol Court Act</i> .	Courts of Summary Jurisdiction.	< 12 months	Designated area All licensed premises in the designated area Certain class of licensed premises in the designated area
QLD	Power to refuse entry, remove a person	Unduly intoxicated. Disorderly. Creating a disturbance.	Licensee. Permit-holder. Employees. Agents.	N/A	Single Premise
	Civil Banning Order	Person committed an act of violence, against another person or property, of such a nature that the act of violence would cause a person in the vicinity to reasonably fear bodily harm to any person or damage to property. Act of violence was committed: <ul style="list-style-type: none"> <li>within the previous 12 month period</li> <li>in licensed premises, or in an area in the vicinity of licensed premises, located within a drink safe precinct</li> <li>Person did not have a reasonable excuse for committing the act of violence.</li> </ul>	Court authorised to make order when satisfied that unless the order is made, the person would pose an unacceptable risk to: <ul style="list-style-type: none"> <li>the good order of licensed premises, and areas in the vicinity of licensed premises, located within a drink safe precinct; or</li> <li>the safety and welfare of persons attending licensed premises, and areas in the vicinity of licensed premises, located within a drink safe precinct.</li> </ul>	≤12 months	Declared DrinkSafe Precincts
SA	Power to refuse entry, remove a person	Intoxication. Speech, balance, coordination or behaviour is noticeably impaired due to consumption of liquor. Offensive or disorderly behaviour.	Licensee. Responsible person. Police officer. Approved crowd controller.	≤24 hours	Single premise

Table 4 continued: Powers to remove, exclude, and prevent problem patrons from attending licensed premises

State	Order	Behaviour	Authorised	Period	Extent of Prohibition
SA	Licensee Barring Notices	<ol style="list-style-type: none"> <li>1. Welfare of the person, or the welfare of a person residing with the person, is seriously at risk due to the consumption of alcohol.</li> <li>2. Person commits an offence, or behaves in an offensive or disorderly manner, on, or in an area adjacent to, the licensed premises.</li> <li>3. Any other reasonable ground.</li> </ol>	Licensee. Responsible person.	<p>Indefinite period for reason 1</p> <p>First barring: ≤ 3 months</p> <p>Second barring: ≤ 6 months</p> <p>Commissioner may approve longer periods</p> <p>Third + barring: indefinite period</p>	Single premise
	Commissioner of Police Barring Notices	On any reasonable grounds.	Commissioner of Police.	Indefinite or specified period	<p>Specified premise</p> <p>Licensed premises of a specified class</p> <p>Licensed premises of a specified class within a specified area</p> <p>All licensed premises within a specified area</p>
	Police Officer Barring Notices	Same reasons as licensee barring orders.	Police officer. <sup>iv</sup>	<p>Same periods as licensee barring orders if authorised by an Inspector</p> <p>If authorised by a Sergeant, order applies for a period ≤ 72 hrs</p>	As Above
TAS	Request to leave	Violent, quarrelsome or disorderly behaviour. Disgusting, profane or foul language.	Licensee. Police Officer.	≤ 24 hrs	Single premise

<sup>iv</sup> Notices needed to be authorised by an officer of or above the rank of Inspector. In some instances, the officer who authorised the notice could be a Sergeant or any police officer in charge, for the time being, of a police station.

Table 4 continued: Powers to remove, exclude, and prevent problem patrons from attending licensed premises

State	Order	Behaviour	Authorised	Period	Extent of Prohibition
VIC	Banning Notices	Specified offence.	Police.	≤72 hrs	Designated area All licensed premises in the designated area
	Exclusion Orders	Specified offence.	Courts.	≤12 months	Designated area All licensed premises/specified premises in the designated area
WA	Prohibition Order	Prove order is warranted due to person's actions.	Director of Liquor Licensing.	≤5 yrs	Specified in Order
	Barring Orders	Violent, disorderly, indecent behaviour. Contravention of any written law.	Commissioner of Police (power may be delegated to officers above rank of Inspector).	≤12 months	Specified licensed premises Specified class of licensed premises
	Power to refuse entry, sell liquor, and remove from premises	Person is or appears to be drunk. Offensive behaviour. Not conforming with relevant, reasonable, and notified dress standards. Reasonable belief and/or knowledge person: <ul style="list-style-type: none"> <li>cannot or will not pay</li> <li>is quarrelsome or disorderly</li> <li>seeks to obtain liquor by begging</li> <li>is an associate of, a reputed thief, prostitute, supplier of unlawful drugs, or person convicted of an offence involving unlawful drugs or violence that is punishable by a term of imprisonment exceeding 3 years</li> <li>is or appears to be a person whose presence on the licensed premises will occasion the licensee to commit an offence under this Act.</li> </ul>	Licensees. Managers. Employees. Police.	≤24 hours	Single premise

Table 5: Definition of intoxication and drunk, offences and defences

State	Offence	Definition	Offender	Defence
ACT	A person commits an offence if the person supplies liquor to another person; and the other person is intoxicated; and the supply happens at licensed/ permitted premises.	A person is intoxicated if the person's speech, balance, coordination or behaviour is noticeably affected; and it is reasonable in the circumstances to believe that the affected speech, balance, coordination or behaviour is the result of the consumption of liquor.	Licensees Permittees Employees Other persons	See The Criminal Code, chapter 2.
NSW	Licensees must not permit intoxication. Licensees, employees, other persons must not sell or supply liquor to an intoxicated person.	A person is intoxicated if the person's speech, balance, coordination or behaviour is noticeably affected, and it is reasonable in the circumstances to believe that the affected speech, balance, coordination or behaviour is the result of the consumption of liquor. 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.	Licensee Employees Other persons	If an intoxicated person is on licensed premises, the licensee is taken to have permitted intoxication on the premises unless they prove: <ul style="list-style-type: none"> <li>the person was asked to leave the premises</li> <li>the person did not consume alcohol on the licensed premises</li> <li>the licensee contacted, or attempted to contact, a police officer for assistance in removing the person from the premises</li> <li>the licensee refused to serve the person any alcohol after becoming aware that the person was intoxicated</li> <li>the licensee had taken all other reasonable steps.</li> </ul>
NT	A licensee or a person employed by a licensee shall not sell or supply liquor to a person unless the person to whom it is sold or supplied is not intoxicated at the time (the onus of proof of which lies with the defendant).	N/A	Licensees Employees	Contravention of offence: <ol style="list-style-type: none"> <li>occurred in an emergency and was necessary to preserve life, prevent injury, or protect property</li> <li>authorised by being in obedience to the order of a competent authority whom the defendant was bound by law to obey unless the order is manifestly unlawful (the determination of which is a matter of law).</li> </ol>

i After the cut-off date for data collection for this report of December 2010, the Northern Territory Liquor Act was amended by the provisions of the *Alcohol Reform (Liquor Legislation Amendment) Act 2011* (Act No. 17, 2011) and *Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act 2011* (Act No. 19, 2011). These provisions commenced on 1 July 2011. While this table does not incorporate these recent amendments, readers are referred to the current provisions in sections 7 and 102 of the *Liquor Act (NT)* which state that: A person is drunk if: the person's speech, balance, coordination or behaviour appears to be noticeably impaired; and it is reasonable in the circumstances to believe that the impairment results from the person's consumption of liquor.

Table 5 continued: Definition of intoxication and drunk, offences and defences

State	Offence	Definition	Offender	Defence
QLD	Supply, permit or allow liquor to be supplied to; or allow liquor to be consumed by an unduly intoxicated person.	Unduly intoxicated means a state of being in which a person's mental and physical faculties are impaired because of consumption of liquor so as to diminish the person's ability to think and act in a way in which an ordinary prudent person in full possession of his or her faculties, and using reasonable care, would act under like circumstances.	Any person	For licensees: <ol style="list-style-type: none"> <li>the offence happened without the defendant's knowledge or authority; and</li> <li>the defendant had exercised due diligence to avoid the commission of the offence.</li> </ol>
SA	Liquor sold or supplied on licensed premises to an intoxicated person; or liquor sold or supplied on licensed premises to a person in circumstances in which the person's speech, balance, coordination or behaviour is noticeably impaired and it is reasonable to believe that the impairment is the result of the consumption of liquor.	N/A	Licensee Responsible person Person who supplied the liquor	Defendant believed on reasonable grounds that the person was not intoxicated and/or that the impairment of the speech, balance, coordination or behaviour of the person was not the result of the consumption of liquor. Manager/responsible person exercised proper care to prevent the sale or supply of liquor in contravention of the Section.
TAS	A person must not sell liquor to a person who appears to be drunk. A person shall not supply liquor to a person who appears to be drunk on licensed or permitted premises.	N/A	Person who sells and/or supplies the alcohol	Infringement notices were given for offences.

Table 5 continued: Definition of intoxication and drunk, offences and defences

State	Offence	Definition	Offender	Defence
VIC	<p>A licensee or permittee must not supply liquor to a person who is in a state of intoxication, or permit drunken or disorderly persons to be on the licensed premises.</p> <p>A person must not, on licensed premises procure liquor for a person in a state of intoxication; or aid or abet a person in a state of intoxication to obtain liquor.</p>	<p>For the purposes of this Act, a person is in a state of intoxication if his or her speech, balance, coordination or behaviour is noticeably affected and there are reasonable grounds for believing that this is the result of the consumption of liquor.</p>	<p>Licensee Permittee Any person</p>	<p>Defendant did not know that drunken or disorderly persons were on the premises; and had taken reasonable steps to ensure that drunken or disorderly persons were not on the premises.</p>
WA	<p>Licensees and employees who permit drunkenness on premises.</p> <p>Persons who sell or supply liquor, or cause or permit liquor to be sold or supplied, to a drunk person; or allow or permit a drunk person to consume liquor, or obtain or attempt to obtain liquor for consumption by a drunk person; or aid a drunk person in obtaining or consuming liquor on licensed premises.</p>	<p>A person is drunk for the purposes of this Act if the person is on licensed premises or regulated premises; and the person's speech, balance, coordination or behaviour appears to be noticeably impaired; and it is reasonable in the circumstances to believe that the impairment results from the consumption of liquor.</p>	<p>Licensee Employee Any person</p>	<p>Persons and employees may prove that they were instructed by the licensee, an approved manager or another person in a position of authority in relation to the person charged to sell or supply the liquor to the drunk person.</p>

Table 6: Jurisdictional data collection systems/source

Jurisdiction	Data Collection Systems/Sources	Summary
ACT Policing	<ul style="list-style-type: none"> <li>Police Realtime Online Management Information System (PROMIS)</li> </ul>	<p>ACT Policing used a mandatory alcohol recording field on the PROMIS case management system to record and extract whether an individual involved in an incident reported to police had consumed alcohol. People in police custody charged with an alcohol-related assault were asked to indicate [voluntarily] if they had consumed alcohol prior to the offence. At time of writing, the alcohol recording field in PROMIS was monitored by ACT Policing.</p>
New South Wales Police	<ul style="list-style-type: none"> <li>Alcohol-Related Crime Information Exchange (ARCIE)</li> </ul>	<p>ARCIE contained significant information across a range of domains representing a combination of intelligence shared between the NSW Police, the NSW Bureau of Crime, Statistics &amp; Research (BOCSAR), the Office of Liquor, Gaming and Racing (OLGR) and the Office of State Revenue (OSR). NSW Police considered the system a “complete” solution for alcohol-related crime queries.</p>
Northern Territory Police	<ul style="list-style-type: none"> <li>NT Integrated Justice Information System (IJIS)</li> <li>Police Realtime Online Management Information System (PROMIS)</li> </ul>	<p>Data collection was related to a specific incident. The PROMIS data collection system collected information on both the offender and victim. IJIS data was offender specific. The data from both databases were used by police when lodging objections or raising concerns about liquor licensing matters with the Northern Territory Liquor Commission. This data could be accessed by outside agencies, subject to appropriate approval.</p>
Queensland Police Service	<ul style="list-style-type: none"> <li>Queensland Police Records and Information Management Exchange (QPRIME)</li> </ul>	<p>The data generated in QPRIME was used by general duties police, local tactical crime squads and the Liquor Enforcement and Proactive Strategy (LEAPS) units throughout the state. It captured police occurrence data across a range of domains. The data had been used to dispel some misconceptions concerning locales and demographic groups often perceived to be problematic.</p>



Table 6 continued: Jurisdictional data collection systems/source

Jurisdiction	Data Collection Systems/Sources	Summary
<p><b>South Australia Police</b></p>	<ul style="list-style-type: none"> <li>• Police Information Management System (PIMS – Mainframe system)</li> <li>• Traffic Online (Data warehouse application)</li> <li>• Expiation Database</li> <li>• Alcohol Incident Reporting (AIR) data collection</li> </ul>	<p>South Australia Police collected data on alcohol-related offending from its existing data systems. These systems were accessed or analysed via a web-based application. The AIR data was used to identify problem licensed premises across the state, and to engage management at these venues to improve compliance with licensing regulations.</p>
<p><b>Tasmania Police</b></p>	<ul style="list-style-type: none"> <li>• Non-specific</li> </ul>	<p>While Tasmania Police did not have a specific alcohol-related offences database, data was nevertheless collected in relation to a number of alcohol-related matters using multiple data systems. A range of information/data was routinely collected for reporting on a monthly basis. Tasmania Police was moving towards a new information technology platform and will be reviewing existing data collection systems and future needs.</p>
<p><b>Victoria Police</b></p>	<ul style="list-style-type: none"> <li>• Law Enforcement Assistance Program (LEAP)</li> <li>• Alcohol &amp; Drug Reporting Incidents for Tasking (ADRIFT)</li> <li>• Interpose                             <ul style="list-style-type: none"> <li>» Licensed Premises Incident Report (LPIR)</li> </ul> </li> <li>• Attendance Register</li> <li>• Traffic Incident System (TIS)</li> <li>• Taskforce RAZON</li> <li>• Divisional Licensing Units (DLU)</li> <li>• Computer Aided Dispatch System</li> </ul>	<p>A variety of data systems incorporating a diverse and comprehensive set of alcohol and non-alcohol specific data were used to monitor alcohol-related crime and disorder. There was potential for the various information sources to be rationalised as a single database. Identity scanning at licensed premises had been identified as a potential new initiative.</p>
<p><b>Western Australia Police</b></p>	<ul style="list-style-type: none"> <li>• Incident Management System (IMS)</li> </ul>	<p>The IMS contained a mandatory “alcohol flag” which was recorded against a particular incident. It was examined daily to identify incidents connected to particular licensed venues. The potential existed for the collection of computer aided dispatch (CAD) data for incidents in which alcohol was a factor.</p>





