

NORTHERN  
TERRITORY  
LICENSING  
COMMISSION

2010-11 Annual Report

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## NORTHERN TERRITORY LICENSING COMMISSION

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The Hon Delia Lawrie MLA  
Minister for Racing, Gaming and Licensing  
Parliament House  
State Square  
DARWIN NT 0800

Dear Minister

**RE: ANNUAL REPORT 2010-2011**

In accordance with the requirements of Section 21 of the *Northern Territory Licensing Commission Act*, I submit to you the Annual Report on the performance of the activities and operations of the Northern Territory Licensing Commission for the year ending 30 June 2011.

Also included for the record are details of the activities of the Northern Territory Racing Commission.

Yours sincerely



Richard O'Sullivan  
CHAIRMAN

26 September 2011

# Chairman's Message



Richard O'Sullivan,  
Chairman

There were 492 Full Liquor Licences on issue during the year, 119 Special Continuing Licences (under thirty hours trading) and 365 Special Licences issued for one off sporting and entertainment events. In all, this totals 976 liquor licences operative during the year.

There is evidence of churn within the liquor industry with 42 licences transferred during the year up from 25 transferred the previous year. Approvals of Restricted Private Premises (no bringing or consuming alcohol) continued, with a total of 907 properties under declaration.

The Commission views with concern an increase in complaints lodged against licensed Security in relation to use of undue force and at times excessive violent conduct. In view of the rising number of complaints the Commission has determined to publish its decision in relation to such complaints where in the public interest and where publication will assist in general deterrence.

Considerable publicity surrounded the lodgement by the Director of Licensing of a large number of complaints against Discovery Nightclub. The Commission has determined many of the alleged breaches to be upheld and in general it considers that many of these breaches have arisen as a result of inadequate management control. Suspension penalties have been incurred by the Licensee as a result of these breaches.

An outline of other significant matters follows:

## **Consistency**

The Commission determined to devote particular attention in ensuring consistency in its decisions and licence breach penalties. In order to bring about improved consistency, the Commission commenced preparation of a database on past decisions, including the circumstances of the matter, gravity and resultant penalty. Consistency is also in the interest of Licensees who will be better informed of likely action of the Commission in respect to various applications and penalties where licence breaches have occurred.

## **A Notable Decision**

Borrooloola Hotel Motel was granted a licence for the beer garden and bar of the premises which was previously cancelled by the Commission in 2006, due to unprincipled and unconscionable management by previous Licensees. In reaching a decision, the Commission took into account the need to promote responsible consumption of alcohol in a licensed premises with quality amenity and a social atmosphere. The licence granted was most restrictive and was based on the service of light and mid strength alcohol sold in conjunction with substantial food and snacks. Restrictions included:

- No trading on Sundays, and two additional days per month, being CDEP Thursday pay days;
- Restrictive hours, being from 4.00pm – 10.00pm Monday to Thursday and 4.00pm – 12.00pm Friday and Saturday;
- Operations to be consistent with the Borrooloola Alcohol Management Plan; and
- Appearance and amenity of the premises to be upgraded to the satisfaction of the Director.

The licence was granted in association with a decision to reduce takeaway alcohol able to be sold to Borrooloola residents by Malandari Store in Borrooloola and the nearest hotel, being Heartbreak Hotel, some 220 kilometres distant.

The Commission was fully aware that Borrooloola is largely an Aboriginal community and the licence granted is crafted to foster a culture and atmosphere of socialised and responsible drinking under restricted trading hours.

## **Four and Five Litre Wine Ban**

A ban on the sale of four and five litre cask wine in Darwin, Palmerston and Rural Areas was commenced, bringing these areas into line with the bans in existence throughout the Territory. Such a decision unfortunately impacts on the ability of responsible citizens to purchase alcohol at economic prices. However, large containers of cask wine have become the product of choice for many people seeking "bang for their buck" and whose abuse of alcohol greatly impacts on the amenity of the wider community and the results, in terms of policing, health and hospital outcomes, impose a huge cost on taxpayer-funded resources.

## **Alice Springs**

Following the Minister for Alcohol Policy referring three recommendations from the Alice Springs Alcohol Reference Panel, the Commission determined to support:

- the trialling of ID systems for the purpose of on-premises consumption at the Todd Tavern, Heavitree Gap Hotel and the Gapview Hotel; and
- the development of a Premises Amenity Guideline.

The Commission did not support the limiting of sales of mid strength alcohol before 2.00pm to those purchasing a meal. These decisions of the Commission followed extensive consultation in Alice Springs involving the receipt of twenty-six written submissions, meetings with stakeholders, a public meeting attended by 140 residents and the receipt of a petition with 3,984 signatures opposed to the restriction on full strength alcohol sale at licensed premises, unless accompanied by a meal.

### **Legislative Change**

During the year Parliament passed a series of measures to combat alcohol abuse and also passed amendments to the *Liquor Act* to streamline processes, including empowering the use of enforceable undertakings as a regulatory tool.

The Commission would like to extend its appreciation of the cooperation and productive working relationship with the many stakeholders, including the Minister for Alcohol Policy, Northern Territory Police, Health officials, the AHA and other industry bodies.



Richard O'Sullivan  
CHAIRMAN

# Licensing Commission Overview

## THE COMMISSION

The Northern Territory Licensing Commission is an independent statutory authority with extensive powers to regulate Territory racing, gaming, liquor, private security and related licensing legislation.

The Commission was established on 14 February 2000 by the *Northern Territory Licensing Commission Act* (the Act), and replaced several individual statutory authorities. The Commission operates as an independent tribunal with responsibility for licensing and related matters covering liquor control, kava management, private security, totalisators, escort agencies and gaming machines. The Chairperson and up to five Members of the Commission also comprise the full membership of the Racing Commission.

The Commission is supported in its functions by the Department of Justice and the Licensing, Regulation and Alcohol Strategy Division. The division supports the Commission through investigating complaints, monitoring venues, enforcing liquor laws and compiling reporting.

The *Northern Territory Licensing Commission Act* requires the Commission to prepare a report to the Minister for Racing, Gaming and Licensing at the end of each financial year detailing the Commission's operations during the year.

## MEMBERS OF THE COMMISSION

Members are appointed to the Licensing Commission by the Minister for Racing, Gaming and Licensing. The term of appointment extends to three years with provision for re-appointment.

Licensing Commission Members as at 30 June 2011 were:

Mr Richard O'Sullivan (Chairperson)\*

Mr Philip Timney (Legal Member)\*

Mrs Jane Large

Mr John Brears

Ms Helen Kilgariff

Mr Wally Grimshaw\*

Mr Paul Fitzsimons

Mrs Cynthia-Lee Bravos

Mr David Brooker\*

Mr Micheil Brodie (Executive Director, Licensing, Regulation and Alcohol Strategy)\*

\*Denotes membership of the Racing Commission pursuant to the *Racing and Betting Act*.

The Legal Member and Executive Director are Northern Territory Public Sector employees. All other members receive sitting fees and allowances in accordance with rates determined by the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act*.

## LEGISLATION

The Commission is a body corporate that operates as an administrative authority and quasi-judicial tribunal, with responsibility for related matters in accordance with the requirements of the following legislation:

- *Northern Territory Licensing Commission Act*
- *Liquor Act*
- *Kava Management Act*
- *Private Security Act*
- *Totalisator Licensing and Regulation Act*
- *Gaming Control Act*
- *Gaming Machine Act*
- *Prostitution Regulation Act*
- *Racing and Betting Act* (as the Racing Commission)
- *Tobacco Control Act*

## FUNCTIONS AND POWERS OF THE COMMISSION AND ITS CHAIRPERSON

Section 5 of the *Licensing Commission Act* sets out the Commission's powers and functions and section 7 of the Act refers to the role functions and powers of the Chairperson.

### COMMISSION PROCEDURES

The majority of matters considered by the Commission arise from reports submitted by the Director of Licensing. The Director of Licensing investigates all valid applications, complaints and objections and provides appropriate reports to the Commission.

Major decisions and determinations are made by the Commission through a full corporate meeting or a meeting of a quorum selected by the Chairperson. The Commission maintains records and minutes of all meetings and publishes full written reasons for the majority of its decisions arising from hearings on its website.

Many of the functions are delegated by the Commission at its discretion. Delegates include the Chairperson, the Director of Licensing, Deputy Directors of Licensing, designated staff of Licensing, Regulation and Alcohol Strategy, and individual Commission members. All decisions made by delegates are decisions of the Commission, for which it bears ultimate responsibility.

### COMMISSION BUSINESS

The Commission conducts regular meetings to determine issues across the range of its legislative responsibilities. In addition, special meetings of membership quorums and other groupings of members are conducted on an 'as needs' basis in relation to specific and often urgent matters.

Hearings are conducted by panels of members selected by the Chairperson. Under the *Liquor Act*, hearing panels may comprise one or three members. The Commission attempts to conduct all hearings at or near the location where the matter originated. Hearings are often conducted on-site in regional towns and remote communities.

### HEARINGS AND MEETINGS 2010-11

Table 1: Nature, number and duration of hearings and meetings conducted during 2010-11

Type of Hearing/Meeting	Hearings & Meetings		Hearings and Meetings No. of Days	
	2009-10	2010-11	2009-10	2010-11
Scheduled monthly Commission meetings	8	8	11	11
Special Commission meetings	16	3	16	3
Community Liaison Events	6	6	6	7
Escort agency meetings	0	0	0	0
Private Security Inquiries / Reviews	4	12	6	9
Review of Public /General Restricted Area	4	0	4	0
Conferences attended	3	3	6	8
Hearings	56	51	64	50
<b>TOTAL</b>	<b>97</b>	<b>83</b>	<b>113</b>	<b>88</b>

Note: Does not include consultations with individual persons, organisations and public and community meetings.

## LIQUOR LICENSING

The *Liquor Act* requires the Commission to make decisions and, where necessary, conduct hearings in a range of circumstances. Important objects guiding the Commission when granting new liquor licences or dealing with complaints against existing Licensees are the protection of community amenity and the minimising of harm. In its normal course of business, the Commission conducts public hearings into new liquor licence applications where objections have been lodged and for any unresolved complaints against existing Licensees.

## LIQUOR RELATED HEARINGS 2010-11

**Table 3: Summary all liquor related hearings conducted during 2010-11 in comparison to 2009-10**

Nature of Hearings	2009-10	2010-11
Application for a restricted area	3	0
Application for the grant of a liquor licence	5	1
Complaint pursuant to S 48 – breach of <i>Liquor Act</i>	16	13
Complaint pursuant to S 48 – (other -eg noise) of <i>Liquor Act</i>	3	16
Section 124AAA (additional penalty) of the <i>Liquor Act</i>	4	1
Application to cancel liquor licence	6	3
Application to vary conditions of liquor licence	4	6
Application to substitute premises	0	0
Transfer of liquor licence	0	0
Requests by Licensees for review of licence conditions	2	0
Application or Reviews into Public Restricted Area	4	0
Reviews into Permit Application Revocations	7	11
<b>TOTAL</b>	<b>54</b>	<b>51</b>

## LIQUOR HEARINGS DECISIONS 2010-11

**Table 4: Liquor Hearing Decisions for 2010-11**

Nature of Hearing	Venue	Decision Date	Decision For details see <a href="http://www.nt.gov.au/justice/commission/decisions.shtml">http://www. nt. gov. au/justice/ commission/decisions..shtml</a>
Public Restricted Area	Batchelor	02/07/2010	APPROVED
Complaint pursuant to Section 48 – 106B	Todd Tavern	02/07/2010	WITHDRAWN AT HEARING
Complaint pursuant to Section 48 – 110	Todd Tavern	02/07/2010	PROVEN PENALTY (Five days suspension of Riverside Bar)
Material Alterations and Variation to Licensed Area	BP The Gap Service Station	07/07/2010	APPROVED
Variation of Liquor Licence Condition	Hot Rock Restaurant	09/07/2010	REFUSED
Additional Penalty following Court conviction Section 124AAA	Katherine Hotel	12/07/2010	PENALTY (One day suspension suspended)
Complaint pursuant to Section 48 – 110	Victoria Hotel	12/07/2010	PROVEN PENALTY (Reduced trading hours for Courtyard Alfresco Dining Area) (New noise condition added to licence) (Formal caution)
Complaint pursuant to Section 48 – 110	Hot Potato Tavern	12/08/2010	PROVEN PENALTY (Suspension for three hours from 01:00 to 04:00on a Sunday morning)
Complaint pursuant to Section 48 – 110	Larrimah Wayside Inn	17/08/2010	ADJOURNED Paper work to be submitted or Hearing reopened
Review of Four and Five Litre Wine Casks		01/09/2010	Ban on Four and Five Litre Wine Casks from 01/01/2011
Cancellation of Licence	Good Fortune Take Away and Mini mart	03/09/2010	ADJOURNED for three months

<b>Nature of Hearing</b>	<b>Venue</b>	<b>Decision Date</b>	<b>Decision</b> For details see <a href="http://www.nt.gov.au/justice/commission/decisions.shtml">http://www.nt.gov.au/justice/commission/decisions.shtml</a>
Variation of Liquor Licence	Borrooloola Hotel	23/09/2010	APPROVED with Conditions
Cancellation of Licence	Timber Creek Wayside Inn	27/09/2010	APPROVED
Complaint pursuant to Section 48 – 104(1), 110	Istanbul Café	29/09/2010	PROVEN PENALTY (Warning)
Complaint pursuant to Section 48 – 25(5A)	Char Restaurant @ Admiralty	04/10/2010	PROVEN PENALTY (Section 65 Direction and Caution)
Complaint pursuant to Section 48 – 101	Timber Creek Hotel	19/10/2010	PROVEN PENALTY (One day suspension on a Thursday)
Additional Penalty following Court conviction Section 124AAA	The Cavenagh	02/11/2010	PENALTY (One day suspension suspended)
Complaint pursuant to Section 48 – 110	Katherine Hotel	16/12/2010	ADJOURNED for three months
Variation of Licence Conditions and Material Alterations	Monte's Lounge	30/12/2010	APPROVED Material Alterations REFUSED Variation to Licence Conditions
Complaint pursuant to Section 48 – 110	Jabiru Golf Club	28/01/2011	PROVEN PENALTY Reprimand
Cancellation of Licence	The Cinema Café	07/03/2011	APPROVED
Complaint pursuant to Section 48 – 102	Katherine 5 Star Supermarket	14/03/2011	PROVEN PENALTY (One day suspension on a Thursday)
Variation of Liquor Licence Conditions	Fiddlers Green	28/03/2011	REFUSED
Complaints pursuant to Section 48 – 110, 106B	Discovery	30/03/2011	NOT PROVEN 106B PROVEN 110 PENALTY (three day suspension on a Wednesday, Thursday and Friday and Section 65 Direction to prepare a management Plan)
Complaint pursuant to Section 48 – 110	Walkabout Tavern	01/04/2011	PROVEN PENALTY (One day suspension suspended for twelve months)
Complaint pursuant to Section 48 – 107, 108, 110	Darwin Railway Sports and Social Club	04/04/2011	PROVEN PENALTY Condition added to licence and warning
Complaint pursuant to Section 48 – 110	Gove Yacht Club	08/04/2011	PROVEN PENALTY (Seven days suspension with Sunday suspended)
Complaint pursuant to Section 48 – 106B, 121	Katherine Hotel	08/04/2011	PROVEN PENALTY (Five day suspension on Fridays, two suspended for twelve months)
Review of Alice Springs Reference Panel Recommendations	Alice Springs	11/04/2011	Recommendation 1 ENDORSED Recommendation 2 SUPPORTED Recommendation 3 NOT ENDORSED
Complaint pursuant to Section 48 – 110	Hot Potato	15/04/2011	PROVEN PENALTY (One day suspension on a Tuesday)
Complaint pursuant to Section 48 – 110	Wycliffe Well Store	18/04/2011	PROVEN PENALTY (Camera Surveillance to be installed and alcohol sales register to be implemented)
Complaint pursuant to Section 48 – 102	Mataranka Hotel	19/04/2011	PROVEN PENALTY (One day suspension of takeaway component on a Thursday)
Complaint pursuant to Section 48 – 106B	Lasseters Hotel Casino	29/04/2011	PROVEN PENALTY (Two days suspension suspended for twelve months)
Complaint pursuant to Section 48 – 110, 116A	Aileron Roadhouse	09/05/2011	PROVEN PENALTY (Camera Surveillance to be installed and alcohol sales register to be implemented and two day suspension of takeaway sales on a Wednesday and Thursday)

Nature of Hearing	Venue	Decision Date	Decision For details see <a href="http://www.nt.gov.au/justice/commission/decisions.shtml">http://www.nt.gov.au/justice/commission/decisions.shtml</a>
Complaint pursuant to Section 48 – 110	Malak Supermarket	16/05/2011	PROVEN TECHNICAL NO PENALTY
Variation of Licence Conditions	Savannah Way Motel	19/05/2011	APPROVED except for one condition
Complaint pursuant to Section 48 – 110, 119	Arnhem Club	30/05/2011	PROVEN PENALTY (Caution)
Complaint pursuant to Section 48 – 47, 106C, 108	Central Supermarket	01/06/2011	PROVEN PENALTY (Five days suspension commencing on a Monday)
Complaint pursuant to Section 48 – 102, 110	Malandari Store	09/06/2011	PROVEN PENALTY (110 – written Reprimand, 102 one day suspension on a Saturday)
Variation of Liquor Licence Conditions	Comfort Inn Vitina	29/06/2011	APPROVED
Complaint pursuant to Section 48 – 102, 121	Monsoons	29/06/2011	PROVEN PENALTY (Reprimand)
Variation of Licence Conditions	Ocean Fresh	30/06/2011	NOT APPROVED – Change in Authority APPROVED Variation of Licence Conditions

## COMPLAINTS AGAINST LICENSED PREMISES

The *Liquor Act* makes provision for complaints to be made against a licensed premise in the following areas:

- the conduct of the business at licensed premises,
- the conduct of the Licensee in relation to the business of a licence, or
- that the Licensee is not a fit and proper person.

The *Liquor Act* requires all complaints to be in writing, to be lodged with the Director of Licensing and to be signed by the person lodging the complaint. The Director of Licensing is required to investigate all complaints and to provide Licensees with the opportunity to respond. Although there are some complaints that allow the Director of Licensing the opportunity to informally mediate, a number of complaints proceed to hearing.

**Table 5: Complaints received and actions taken during 2010-11 in comparison to 2009-10**

Liquor Complaints Received and Action Taken	2009-10	2010-11
Complaints investigated, but no further action warranted	3	0
Licences cancelled following complaint	0	0
Licences suspended due to breaches of licence conditions (section 66(1)(b))	9	11
Complaints heard and finalised without licence suspension	4	10
Complaints withdrawn	0	9
<b>TOTAL</b>	<b>16</b>	<b>30</b>

## LIQUOR LICENCES ISSUED

**Table 6A: Number of Full Liquor Licences (ie excluding special and continuing specials\*) in existence as at 30 June 2011 in comparison to 30 June 2010**

Liquor Licences as at 30 June	2009-10	2010-11
<b>TOTAL</b>	<b>491</b>	<b>492</b>

**Table 6B: Number of new full liquor licences issued during 2010-11 in comparison to 2009-10**

Categories	2009-10	2010-11
Public Hotel	0	1
Private Hotel	0	0
Tavern	1	0
Restaurant	7	4
Vessel	0	2
On Licence	5	4
Liquor Merchant	0	0
Off Licence	0	0
Roadside Inn Un-serviced	0	0
Roadside Inn Serviced	0	1
<b>TOTAL</b>	<b>13</b>	<b>12</b>

## CANCELLATION OF LICENCE

Cancellation of a liquor licence usually occurs due to the premises not having been used for the sale or supply of liquor for a period of 90 days. Cancellation can also occur on the grounds that:

- the Licensee is no longer a fit and proper person to hold the licence;
- the Licensee has been found guilty of an offence against the *Liquor Act*;
- the Licensee is serving a term of imprisonment; or
- the Licensee has failed to comply with the condition of his or her licence.

The Commission may also cancel a licence on the grounds that the premises no longer meets the needs or wishes of the community, but cancellation on this ground is subject to the payment of compensation.

The Commission is required to conduct a hearing before cancelling a licence on any grounds.

**Table 7: Liquor licences cancelled during 2010-11**

Cancelled Date	Premises
27/09/2010	Timber Creek Wayside Inn
07/03/2011	The Cinema Cafe

## SURRENDER OF LICENCE

The *Liquor Act* enables a Licensee to voluntarily surrender a licence. The surrender has no effect until accepted by the Commission, which must first satisfy itself that all interested persons have been given at least two weeks' notice of the Licensee's intention to surrender the licence. The person whose licence is surrendered remains liable for an act or omission done, caused, permitted or made by him or her prior to the surrender, and for any liability incurred prior to the surrender.

**Table 8: Liquor licences surrendered during 2010-11**

Surrendered Date	Premises
02/07/2010	Berry Springs Palms Cafe
03/08/2010	Table Forty Three
24/08/2010	Xaviers Cafe
18/11/2010	Alice Springs Bowling Club
31/12/2010	Rabbit Flats Roadhouse
05/01/2011	Fosters Australia
10/02/2011	Happy Gardens Beachfront Restaurant
28/02/2011	Arltunga Bush Hotel and Campground
18/04/2011	Hoppy's Cash Store
23/06/2011	BP The Gap

## SUSPENSION OF LICENCE

Liquor licences may be suspended as penalty for breaches of the *Liquor Act* or licence condition or for non-compliance with directions issued by the Commission. The Commission can only suspend the licence when it is satisfied that the breach is of sufficient gravity to justify suspension or in cases where the premises are not open for the sale or supply of liquor. The *Liquor Act* allows for the immediate suspension of a licence in an emergency or pending investigation of a complaint. Such suspensions would normally be at the request of the Police during a cyclone, major flood or civil disturbance.

**Table 9: Licences suspended during 2010-11 and reason for suspension**

Licence No	Suspended Date	No of Days / Section	Premises
80102200	12/07/2010 – 16/07/2010 10:00 - 14:00	4 Hours 5 Days 66(1)(b)	Todd Tavern (Riverside Bar only)
80518072	09/07/2010	Indefinitely 66(1)(b)	Rene's Restaurant and Pizzeria
8051550	12/08/2010	Indefinitely 66(1)(b)	Monte's Lounge (previously Bluegrass Restaurant)
80317973	29/08/2010	3 Hours 66(1)(b)	Hot Potato
81201510	27/09/2010 - 12/10/2010	15 Days 66(1)(c)	Mandorah Beach Hotel

Licence No	Suspended Date	No of Days / Section	Premises
80118222	28/09/2010	Indefinitely 66(1)(c)	Darwin Airport Lodge
80904482	04/10/2010	Indefinitely 66(1)(c)	Liquorland Karama
80304074	04/11/2010	1 Day 66(1)(b)	Timber Creek Hotel
80901929	07/01/2011	7 Days 48A	Central Supermarket
80802930	06/02/2011 – 21/02/2011	16 Days 66(1)(c)	Central Australian Football League
80804951	04/02/2011 -01/04/2011	56 Days 66(1)(c)	Eagle's Nest Bistro
81415350	15/02/2011- 21/02/2011	7 Days 48A	Wurankuwu Aboriginal Corporation
80900703	31/03/2011 – 01. 04. 2011	1 Day 66(1)(b)	5 Star Supermarket
80101789	12/05/11 – 14/05/2011	3 Days 66(1)(b)	Katherine Hotel
80317973	03/05/2011	1 Day 66(1)(b)	Hot Potato
81204578	18/05/2011 – 20/05/2011	2 Days 66(1)(b)	Aileron Roadhouse
80316240	31/05/2011 – 03/06/2011	3 Days 66(1)(b)	Discovery
80516310	18/05/2011	Indefinitely 66(1)(c)	Crooze Licensed Café and Restaurant
81203330	15:00 24/05/2011 – 30/05/2011	5. 5 Days 48A	Top Springs Hotel
80517192	01/05/2011	Indefinitely 66(1)(c)	My Cafe
80901929	06/06/2011 – 11/06/2011	5 Days 66(1)(b)	Central Supermarket
81401564	13/06/2011 – 19/06/2011	6 Days 66(1)(b)	Gove Yacht Club
80903761	18/06/2011	1 Day 66(1b)	Malandari Store

\* At 17:30 hours on Wednesday 16 February 2011, the Licensing Commission, pursuant to Section 48A of the *Liquor Act*, used its emergency powers to suspend 378 on premise and takeaway liquor licences in the Darwin and greater Darwin area and four liquor licences in the Daly region due to the Cyclone Watch issued for Tropical Cyclone Carlos. The suspension was lifted at 09:30 hours on Thursday 17 February 2011.

Note: *Liquor Act* sections:

- 66(1)(b) Breach of *Liquor Act*
- 66(1)(c) Licence not being used
- 48A Emergency Powers

## LICENCES TRANSFERRED

The *Liquor Act* enables a Licensee to transfer a licence to another person. The transfer does not take effect until the Commission authorises the transfer and the Director of Licensing issues a certificate of transfer. The conditions licence are not affected by the transfer. The person whose licence is transferred shall cease to be a Licensee, but shall remain liable for an act or omission done, caused, permitted or made by him prior to the transfer.

**Table 10: Liquor Licences transferred in 2010-11**

Transfer of Licences	Premises
80515830	La Beach
80517231	Rene's on the Bay (formerly Aschara)
80515500	Bluegrass Restaurant
80815560	Schooners Bar and Grill
80203860	Alice in the Territory (formerly Comfort Inn Outback Alice Springs)
80203967	The Diplomat Hotel
80305040	Uncles Tavern
80201864	Golf Links Motel

80304385	The Deck Bar
80518045	Pandanas on Litchfield
81104465	Katherine Low Level Caravan Park
80902690	Northside Foodland
80902628	Eastside Foodland
80902945	Flynn Drive Foodland
80518072	Kenny's Fusion Grill (formerly Rene's Restaurant and Pizzeria)
81215590	Sand Palms Roadhouse
80516420	Ruby Darwin (formerly Talagi)
80816390	The Wet Mess, Tanami Goldmine
81304562	The Lodge of Dundee
80517291	Saltneppa Café Ristorante (formerly Ristorante Rosinaz)
80515320	Oscars Cafe
81115510	Banyan Tree Resort (formerly Banyan Tree Caravan Park) and Store
80803343	Sails in the Desert Hotel
80803139	Desert Gardens Hotel
80204377	Outback Pioneer Hotel
80803503	AV8 Bar & Cafe
80303242	Ayers Rock Resident Club
80817152	Longitude 131
80901818	Good Fortune Takeaway Mini Market
80617745	MV Streeter
80518020	Alaturka Turkish Restaurant
80205060	Toddy's
80504395	Duck's Nuts
80304680	Wildman Wilderness Lodge
80615110	MV Spirit of Darwin
80101040	The Cavenagh
80517248	Thailicious
80117466	Darwin Airport Resort
80117946	Darwin Airport Inn
80204400	Seven Spirit Bay Eco Wilderness Resort (formerly Peppers Seven Spirit Bay)
80105018	Annie's Place
80902117	Mobil Elliott Store

## LICENCE CONDITION VARIATIONS

A Licensee may apply to the Commission for a variation of the conditions of their licence. The Commission may conduct a hearing in relation to the application if it considers it to be in the public interest.

**Table 11: Licence condition variations approved during 2010-11**

Premises	Licence Condition Variations
The Arnhem Club	Additional bar area
Borrooloola Hotel Motel	Additional outlet (reopening of bar)
Katherine 5 Star	Camera surveillance as part of a penalty provision
Larrimah Wayside Inn	Removal of wayside inn condition
Comfort Inn Vitina	Extension of trading hours and use of outside dining area.
Savannah Way Motel Borrooloola	Increase of licence area and trading conditions for sales to in-house guests.
Lasseters Hotel Casino	Extend trading hours for Decking & Beer Garden
Fernanda's	Remove CCTV and Security conditions from licence
Monte's Lounge	Include Noise & Entertainment condition
Red Centre Farm	Include conditions relating to sales of Mango Wine; Red & White Wine and Tawny Port; and Sales Register
Alice Springs Wine Club	Removal of licence conditions relating to: Delivery of Liquor; Tennant Creek; Liquor Products shall not be supplied to restricted areas; and Use of ID Technology

## MATERIAL ALTERATIONS

The *Liquor Act* requires a Licensee to obtain the approval of the Commission to make a material alteration to the premises. An application must be lodged with the Director of Licensing with supporting documentation including a copy of the plans and specifications for the alteration. The Commission considers the application in accordance with the objectives of the Act and the interests of the community. Where unauthorised alterations are made to a licensed premise, the Commission may direct that the alteration is removed and the premise is restored to a satisfactory condition.

Changes to the *Tobacco Control Act* commenced on 2 January 2010. The Commission recognised that these changes were likely to require liquor licensees to advertise alterations to licensed premises twice before seeking the necessary approvals from the Development Consent Authority, and the Commission has waived the requirement to advertise material alterations of licensed premises where advertising is being conducted for Development Consent purposes, and where the Commission is satisfied that the sole purpose of the alterations is to comply with the *Tobacco Control Act*.

**Table 12: Approved Material Alterations to Licensed Premises in 2010-11**

Premises	Alterations Undertaken
Humpty Doo Hotel	Rebuilding of takeaway bottle shop
Humpty Doo and Rural Area Golf Club	Refurbishment of the office area; expand the cool room size; close in part of the verandah area; and install a bar area from the extension to outside and create two serving windows
Malandari Store	Moved and expanded service counters
Mac's liquor	Moved and expanded service counters
Katherine Club	Smoking area
Katherine Country Club	Smoking area
Parap Tavern	Outdoor smoking area Internal renovations to a bar area Relocation of Gaming Room
Plaza Karama Tavern	Outdoor smoking area Internal renovations to Public bar and Restaurant areas Relocation of TAB
Manolis Greek taverna	Minor internal refurbishment
Mary River Roadhouse	Extension of licence area to include a beer garden
The Darwin Ski Club	New Bar area and ablutions block
Nitmuluk Tours	Variation to licence area
Ruby Darwin	Change of Name/concept and extension of licence area
The Arnhem Club	Additional Bar
BP The Gap Service Station	Upgrade existing Service Station including design & construction of a new building plus a change to the licence area
Monte's Lounge	Install decking with built in tables & chairs; Expansion of licensed area to include the building currently utilised as a Souvenir shop; converted of building to kitchen & servery, plus additional toilet facilities; relocate service area and install new service area; extension of roof to the alfresco area
Club Eastside	Proposed alterations encompass construction of a new entry area, alterations to the existing office, relocation of the existing gaming area, upgrading the existing toilet facilities, the construction of a shade structure, construction of a new storage shed and the construction of a designated outdoor smoking area (DOSA)
The Granites Social Club	Erect shade sail over outdoor area

## SPECIAL LIQUOR LICENCES

Special Liquor Licences are generally for the purpose of 'one-off' events, although these may occur on an annual basis such as the Darwin Beer Can Regatta. Applications for special licences are usually made by service and sporting clubs or by community organisations wanting to fund raise. Staff employed to work serving alcohol at these events are generally volunteers or club members. Special Liquor Licences are subject to adequate safety and security provisions and any special conditions as specified by the Commission.

**Table 13: Total Special Liquor Licences issued in 2010-11 in comparison with 2009-10**

Special Liquor Licenses Issued	2009-10	2010-11
<b>TOTAL</b>	<b>458</b>	<b>365</b>

## CONTINUING SPECIAL LICENCES

Continuing Special Licences are subject to a number of conditions including maximum trading hours of 30 hours per week. Continuing Special Licences are generally for the purpose of regular repeated events such as social clubs and specialised entertainment venues such as Browns Mart. Conditions are tailored to the nature and purpose of the licence and the majority of staff employed in the service of alcohol are generally volunteers or committee members.

The Director of Licensing holds the delegation to approve Continuing Special Licences and they are only referred to the Commission in special circumstances or in the review of the Director's decision.

**Table 14: Total Continuing Special Liquor Licences issued in 2009-10 in comparison with 2008-09**

Continuing Special Liquor Licences Issued	2009-10	2010-11
<b>TOTAL</b>	<b>131</b>	<b>119</b>

**Table 15: Total Special Event Permits received for Public Restricted Areas**

Special Event Permits Received for Public Restricted Area	2009-10	2010-11
<b>TOTAL</b>	<b>115</b>	<b>159</b>

## LIQUOR PERMITS

The Commission may grant permits to residents of and visitors to some alcohol restricted areas. Liquor permits allow the holder to possess, control and consume liquor within the restricted area. Permits are often restricted to a class, category or amount of liquor. The Commission regularly delegates initial assessment of permit applications to a local committee with a Constitution approved by the Commission. A permit is revoked when a holder fails to comply with or breaches a condition of their permit. Permits are normally revoked at the request of local police, both in individual cases or where a blanket revocation is necessary to meet an emergency situation. Generally, permits are current for one year and need to be renewed annually.

Due to the number of Restricted Areas which contain permit holders (some 21 communities have specific permit committees or endorser groups), a review is currently being undertaken to examine all existing processes at a community and application level.

The review comprises a presentation of community-specific application processes in order to provide a basis for a more standardised framework relating to such permits. The stakeholders of a permit assessment vary from region to region, and the intention is to ensure that information and support is provided to all stakeholders and networks to facilitate greater community compliance and understanding.

The Licensing Commission recognises the importance of community groups having input and providing advice relating to their community and access to alcohol. As such, the Licensing Commission intends to provide community groups and committees with clear definitions and structured processes to assist them in providing this advice.

Additional support to community groups is also provided by Licensing, Regulation and Alcohol Strategy officers, through processing, administrative support and support to governance continues.

**Table 16: Liquor permit activity for restricted areas for the 2010-11 period in comparison with 2009-10**

Permits	2009-10	2010-11
Issued	11,292	5,809
Revoked	113	129
Cancelled	99	105
In Effect	11,080	9,855

## EAST ARNHEM – LIQUOR PERMIT SYSTEMS

Alcohol management systems in the East Arnhem region are proving to be an effective way to better manage alcohol at a community level.

### Groote Eylandt

In July 2005 the Groote Eylandt community established a liquor permit committee to support the management. Committee membership includes key stakeholders such as representatives from relevant Territory and Australian Government agencies, Indigenous Elders, community councils, BHP Billiton (the local GEMCO mine), and industry including local Licensees. Since the liquor permit system was introduced there has been a significant reduction in alcohol related crimes and a dramatic improvement in social function and community harmony. Much of this success can be attributed to the ongoing commitment and work of the permit committee.

### Gove

In March 2008 a permit system for the purchase of takeaway alcohol was introduced. Building on the successes of the Groote Eylandt permit committee, three permit committees were established to support the alcohol management system. Permit committees are located in Ski Beach, the township of Nhulunbuy and Yirrkala. Similar to the Groote Eylandt model, membership includes key community stakeholders and administrative support is provided by the Department of Justice. Preliminary findings have indicated that since the alcohol management system was introduced there has been a decrease in alcohol related crimes and antisocial behaviour.

## RESTRICTED AREAS

The *Liquor Act* empowers the Commission, upon application, to declare an area to be a general restricted area, a public restricted area or a private restricted premise. Other types of restricted areas (ie Special Restricted areas and Prescribed Areas) may be imposed at the discretion of the Northern Territory or the Federal Minister. When considering applications, the Commission is required to ascertain the opinions of relevant parties including residents, Licensees and shire councils.

	General Restricted Areas	Public Restricted Areas	Private Restricted Areas
Declaration	Declared by Licensing Commission after extensive consultation with affected community.	Declared by Licensing Commission after extensive consultation with affected community.	Declared by Licensing Commission with consent of majority of occupiers.
Offences	It is an offence to bring, have, consume or sell liquor, without a licence or a permit.	It is an offence to consume liquor without a permit.	It is an offence to possess, consume or bring liquor onto the restricted area.
Penalties (in effect during 2010-11)	1st offence – maximum penalty of \$1000 or 6 months jail. 2nd or subsequent offence, maximum penalty of \$2000 or 12 months jail. Discretionary seizure of vehicle.	Maximum penalty for consumption of liquor is \$500. Confiscation/tip out of liquor.	Maximum penalty of \$500. Confiscation/tip out of liquor.

**Table 17: Type and number of restricted areas/premises in 2010-11 in comparison with 2009-10**

Type of Alcohol Restricted Areas Declared by Commission	2009-10	2010-11
General	112	112
Public	8	9
Private Restricted Premises (private homes and buildings)	680	786
<b>TOTAL</b>	<b>800</b>	<b>907</b>

# Kava Licensing

## HISTORY

Kava is a mood-altering drink prepared from the crushed root of the pepper plant. Widely used in South Pacific countries in a ceremonial context, it was first introduced into the Arnhem Land area of the Territory in the early 1980s and was readily adopted in most coastal and island communities across the Top End. Within a decade, over-use of kava in Aboriginal communities was causing concern amongst health professionals and others. Kava acts as a sedative, and its long-term heavy use was linked to emerging community apathy and dysfunction.

## LEGISLATION

The *Kava Management Act* came into effect in 1998. The *Kava Management Act* prohibits the possession of kava outside a declared licence area except in accordance with a licence.

## KAVA LICENCE AREAS AND KAVA LICENCES – AUSTRALIAN GOVERNMENT INTERVENTION

In June 2007 the Australian Government in conjunction with its intervention into the Northern Territory triggered by the 'Little Children are Sacred Report', imposed severe restrictions on the importation of kava to Australia. Commercial quantities of kava can now only be imported for pharmaceutical or research purposes.

Whilst provisions for licensing of kava still exist within the *Kava Management Act*, the impact from the changes made to import restrictions has resulted in the cessation of the regulated trade of kava in the Northern Territory.

**Table 18: Vehicles seized with kava and kava destroyed during 2010-11. No previous data available.**

	<b>2010-11</b>
Vehicles not returned to applicant and approved for destruction or tender by Chairman	7
Vehicles returned to applicant by Minister	8
Matters still outstanding	9
Order of destruction for kava by Chairman	10
Seized kava destroyed on approval of Chairman (kgs)	1,500

# Gaming Machine Licensing

## LEGISLATION

The principal functions of the Commission pursuant to the *Gaming Machine Act* are:

- determination of applications for all gaming machine licences;
- determination of the number of gaming machine licences;
- approval of tenders for the supply of gaming machines and games contained therein;
- issue of directions to Licensees in relation to the conduct of gaming and the administration of licensed premises; and
- disciplinary action against Licensees, including the power to suspend or cancel a licence.

The *Gaming Machine Act* does not apply to casinos.

Section 21(1A) of the *Northern Territory Licensing Commission Act* requires the Licensing Commission to report to the Minister the extent to which the objectives of the *Gaming Machine Act* have been met during the financial year.

The stated objectives of the *Gaming Machine Act* are to:

- promote the responsible operation and use of gaming machines, ensure the probity and integrity of participants in the gaming industry;
- ensure the fairness of games, the integrity of gaming systems and the delivery of quality services to game players; and
- ensure that clubs holding gaming licences will improve the amenity of their neighbourhoods in order to maximise the welfare of the community as a whole.

## RESPONSIBLE OPERATION AND USE OF GAMING MACHINES

A Code of Practice for Responsible Gaming was developed by a working party consisting of government, industry and social service providers as a measure to promote the responsible operation and use of gambling facilities. Adoption of the code began on a voluntary basis and was gazetted and became mandatory in June 2006.

## PROBITY AND INDUSTRY PARTICIPANTS

In order to ensure the probity and integrity of the gaming machine industry, the Director of Licensing conducts extensive probity checks and financial assessments of all applicants for gaming machine licences. The Commission must be satisfied as to the suitability of every applicant. Probity checks include a fingerprint search and criminal history check. All persons employed in the industry, including machine managers and repairers of gaming machines, require licences.

## FAIRNESS AND INTEGRITY OF GAMING SYSTEMS

In line with national industry benchmarks, the Director of Licensing ensures the fairness and integrity of gambling-related computer and control systems operating in the Territory. Risk management strategies include a thorough evaluation of all new systems and hardware before being approved for operation. From 1 July 2001, all gaming machines operating within Northern Territory clubs and hotels transferred to the NT TAB monitoring system, now part of the UNiTAB operation.

In October 1999, the Northern Territory adopted the National Standard for Gaming machines, which provides a consistent technical benchmark for the Australian gaming industry in relation to the fairness of games and the integrity of gaming machines. Most community (club and hotel) gaming machines comply with the National Standard, with some older models complying with an earlier Queensland standard.

## COMMUNITY IMPACT

Amendments to *Gaming Machine Act* in September 2004 provided a greater focus on harm minimisation and introduced the need for applicants to submit a community impact analysis with their gaming machine licence application.

The Act requires that the community impact analysis must enable the Commission to assess:

- The suitability of the premises in relation to the size, layout and facilities for the proposal;
- The suitability of the premises in relation to whether or not the primary activity of the premises is that of a hotel or club;
- The suitability of the proposed location, having regard to the population of the area, the proximity to other gaming venues and the proximity to sensitive areas;
- The appropriateness of problem gambling risk management and responsible gambling strategies; and
- The economic impact of the proposal.

When assessing the community impact, the Commission must also take into account any submissions made by the community.

## COMMUNITY CONTRIBUTION

Clubs with gaming machines are required to contribute to their neighbourhood amenity and report thereon to the Director of Licensing. Contributions towards the development of a club's neighbourhood may take various forms including improvements to the club's facilities and services and donations to local community, recreational or service organisations.

Gaming machine Licensees holding a liquor licence other than a club licence are subject to a community benefit levy, assessed on the basis of a prescribed percentage of gross profit. The Community Benefit Fund receives the levy and funds are disbursed by the Community Benefit Committee.

## GAMING MACHINES

In July 2008, the then Minister for Racing, Gaming and Licensing announced that the number of gaming machines able to operate in the Territory would be capped at 1,190. When announcing the cap, the Minister advised that a trading scheme would be developed whereby hotels and clubs could purchase gaming machine entitlements from within the existing pool. The matter is now with Government to devise an appropriate trading model for the Northern Territory.

## DISTRIBUTION OF GAMING MACHINES

The distribution of gaming machines is reported on a regional basis. The southern region refers to all gaming machine licensed venues in the Alice Springs and Tennant Creek areas. All other venues are included in the northern region.

**Table 19: Gaming machine distribution in the southern and northern regions for 2010-11 in comparison to 2009-10**

Gaming Machine Distribution		In Clubs	In Hotels	TOTAL
2009-10	Northern Region	575	348	923
	Southern Region	173	73	246
	<b>TOTAL</b>	<b>748</b>	<b>421</b>	<b>1,169</b>
2010-11	Northern Region	577	350	927
	Southern Region	181	78	259
	<b>TOTAL</b>	<b>758</b>	<b>428</b>	<b>1,186*</b>

\* Represents the number of approved gaming machines as opposed to the number of operational machines in June published in previous reports.

## GAMING MACHINE INDUSTRY PERFORMANCE IN CLUBS/HOTELS

The performance of community-based gaming machines has been monitored on a monthly basis since the introduction of cash-paying gaming machines in 1996.

During 2010-11, the average gross profit per machine per day was \$144.49 compared to \$163.08 in 2009-10. Gaming machine gross profit has dropped by 10.11% to \$62.550 million in 2010-11, down from \$69.582 million in 2009-10.

**Table 20: Machine numbers, gross profits and tax paid by clubs in 2010-11**

Name of Clubs	Number of Approved Machines	Gross Profit (\$)*	Gaming Tax (\$)
Alice Springs Golf Club	8	1,769	240
Alice Springs Memorial Club Inc	45	1,361,860	323,287
Alice Springs RSL Club	24	332,309	64,132
Alyangula Golf Club	8	65,198	8,417
Alyangula Recreation Club	15	647,157	136,264
Buff Club	16	672,239	142,010
Casuarina All Sports Club	45	6,050,630	2,224,325
Cazalys Palmerston	45	5,030,470	1,786,575
Club Eastside	14	283,503	52,951
Darwin Bowls and Social Club	3	25,242	3,259
Darwin Golf Club	13	173,148	27,668
Darwin Leagues Club	5	870	169
Darwin North RSL Services Club	6	39,691	5,124
Darwin RSL Services And Social Club	30	1,212,698	273,497
Darwin Sailing Club	10	52,628	6,794
Darwin Trailer Boat Club	10	156,819	29,035
Gillen Club	45	1,915,036	498,358
Gove Country Golf Club	12	129,534	18,892
Humpty Doo & Rural Area Golf Club	10	161,352	25,156
Jabiru Sports & Social Club	17	771,131	164,666
Katherine Club	45	1,736,963	442,866
Katherine Country Club	35	2,063,832	548,513
Katherine Sports & Recreation Club	19	636,992	133,935
Nightcliff Sports Club	22	1,552,719	379,000
Palmerston Golf & Country Club Inc	22	407,106	81,268
Palmerston Sports Club	45	4,735,813	1,660,138
PINT Club	24	640,893	134,829
Sporties Club Inc	16	699,120	148,168
St Marys Football Sporting and Social Club	30	829,349	178,004
Tennant Creek Bowling Club Inc	4	345	45
Tennant Creek Memorial Club Inc	25	1,520,732	368,795
The Arnhem Club	45	3,435,501	1,102,174
Tracy Village Social & Sports Club	45	3,969,558	1,331,337
<b>TOTAL</b>	<b>758</b>	<b>41,312,207</b>	<b>12,299,889</b>

\* While this column is titled 'Gross Profit' to reflect the Act's defined term, the figure actually represents the net loss by players. It represents the revenue flow from gaming machine operations to the venue. Note: Gaming tax is the amount generated in the period specified, not the amount received.

Note: Columns may not add due to rounding.

**Table 21: Gaming Machine details in hotels for 2010-11**

Name of Hotels	Number of Approved Machines	Gross Profit (\$)*	Gaming Tax (\$)	Community Benefit Levy (\$)
Aileron Roadhouse	4	10,726	1,471	1,140
Airport Hotel	10	900,084	194,214	90,008
Ayers Rock Resort Residents Club	3	36,523	4,715	3,652
Barkly Homestead	5	-	-	-
Beachfront Hotel	10	921,390	199,496	92,139
Corroboree Park Tavern	10	89,925	11,907	8,992
Dowlings Parap Village Tavern	10	1,041,450	226,979	104,145
Ducks Nuts Bar & Grill	10	307,901	57,942	30,790
Gapview Resort Hotel	10	299,445	56,603	29,945
Globetrotters Lodge	10	301,189	57,002	30,119
Goldfields Hotel	10	300,395	56,821	30,040
Heavitree Gap Tavern	10	230,455	40,797	23,046
Hibiscus Tavern	10	1,308,770	301,983	130,877
Hidden Valley Tavern	10	540,982	111,939	54,098
Howard Springs Tavern	10	793,546	169,801	79,355

Name of Hotels	Number of Approved Machines	Gross Profit (\$)*	Gaming Tax (\$)	Community Benefit Levy (\$)
Humpty Doo Hotel Motel	10	757,598	161,566	75,760
Humpty Doo Tavern	10	1,040,633	226,786	104,063
Katherine Hotel	10	573,042	119,284	57,304
Kitty Osheas Irish Bar - Cafe and Nightclub - KO Bar	10	532,000	109,881	53,200
Litchfield Hotel	10	472,001	96,135	47,200
Mataranka Hotel	10	221,141	39,125	22,114
Monsoons	10	659,409	139,070	65,941
Noonamah Tavern	10	334,224	64,571	33,422
Palmerston Tavern	10	660,084	139,225	66,008
Pine Creek Hotel	10	359,079	70,265	35,908
Plaza Karama Tavern	10	1,057,009	230,526	105,701
Quality Hotel Frontier Darwin	10	739,098	157,327	73,910
Rum Jungle Motor Inn	10	62,778	8,129	6,278
Rum Jungle Tavern	10	487,808	99,757	48,781
Shenannigans Irish Pub	10	575,606	119,871	57,561
Squires Tavern / The Time Nightclub	10	441,536	89,156	44,154
Stuart Hotel	10	331,744	64,003	33,174
Tennant Creek Hotel	10	211,467	36,553	21,147
The Arch Rival Bar & Grill	10	453,574	91,914	45,357
The Cavenagh	10	485,636	99,002	48,564
The Deck Bar	10	208,455	36,106	20,845
The Fox Ale House	10	96,081	13,218	9,608
The Victoria Hotel	10	414,105	82,320	41,410
Threeways Roadhouse	6	9,857	1,272	986
Todd Tavern	10	377,972	74,593	37,797
Top End Hotel	10	514,322	105,831	51,432
Town & Country Tavern	10	378,232	74,653	37,823
Virginia Tavern	10	597,524	124,893	59,752
Walkabout Tavern	10	545,837	113,051	54,584
Winnellie Hotel	10	556,776	115,557	55,678
<b>TOTAL</b>	<b>428</b>	<b>21,237,409</b>	<b>4,395,310</b>	<b>2,123,808</b>

\* While this column is titled 'Gross Profit' to reflect the Act's defined term, the figure actually represents the net loss by players. It represents the revenue flow from gaming machine operations to the venue. Note: Gaming tax and community benefit levy is the amount generated in the period specified, not the amount received.

Note: Columns may not add due to rounding.

Barkly Homestead recorded nil activity as machine weres not operating due to inability to secure cost-effective maintenance

# Private Security Licensing

The *Private Security Act* provides for regulation of security providers. There are three categories of security providers and three corresponding types of security licences:

- Crowd controller
- Security officer
- Security firm

A person may hold both a crowd controller's licence and a security officer's licence. Crowd controllers are usually employed at licensed premises, places of entertainment, and sporting events and concerts. Private security officers are normally employed to care for property, such as performing duties of bank guards, payroll escorts and undertaking security patrols of offices, shops, car yards and shopping centres.

The majority of licence approvals are delegated to the Director of Licensing. Licence applications are referred to the Commission in cases where the grant or refusal of a licence is outside the scope of Director's authority.

Applications are automatically refused where applicants have disqualifying offences and are often refused if the applicant has committed crimes of violence at any level or drug-related offences. The Commission has broad powers to impose conditions on licences including reporting, training or employment requirements.

The grant of a licence may be valid for up to three years. A licence renewal may not be refused without the applicant being given an opportunity to show cause against the refusal. Appeal rights exist to the Local Court which has a wider discretion to grant licences than the Commission. During the 2010 year there were five appeals; two were allowed, two were dismissed and one lapsed when criminal charges were withdrawn, resulting in the revocation of notice of licence suspension. The Court allowed a 'stay of suspension' until the appeal was to be decided.

## PRIVATE SECURITY LICENSING HEARING DECISIONS

**Table 22: Commission hearings relating to Private Security Licensing**

Nature of Hearing	Decision Date	Decision
Application for Crowd Controller Licence	24/09/2010	Approved
Complaint pursuant to S53A of the <i>Private Security Act</i>	01/11/2010	Refused
Suspension of Liquor Licence	01/11/2010	Suspension lifted
Complaint Pursuant to Section 53A of the <i>Private Security Act</i>	15/11/2010	Licence cancelled
Application for Crowd Controller/ Security Officer Licence	07/12/2010	Refused
Complaint Pursuant to Section 53A of the <i>Private Security Act</i>	07/12/2010	Suspension of licence for seven days
Application for Crowd Controller/ Security Officer Licence	12/01/2011	Refused
Application for Reinstatement of Crowd Controller/Security Officer Licence	04/05/2011	Approved Security Officer Refused Crowd Controller

## PROVISION OF COMPLAINTS

The *Private Security Act* provides a formal complaint process, enabling any person to lodge a complaint against a security provider. The Commission determines such complaints, with penalties ranging from a reprimand or fine to suspension or cancellation of licence where the Licensee is no longer considered an appropriate person within the criteria provided by that Act. The Licensee is generally given the opportunity to show cause against a proposed suspension or cancellation, unless the Commission is satisfied that immediate suspension is required in the public interest. If a Licensee is charged with a disqualifying offence, the Commission may immediately suspend their licence, pending determination of the charge by the appropriate court.

Following the consideration of legal advice the Commission determined to publish penalty decisions for persons licensed under the *Private Security Act*. Such publication is considered in the public interest and will act as a deterrent to breaches of licence conditions. The most common complaint against licensed persons is the use of undue force in carrying out crowd controller duties.

Published decisions can be viewed at <http://www.nt.gov.au/justice/commission/decisions>

## LICENCE NUMBERS

The Act requires a Crowd Controllers' Register and a Security Officers' Register to be maintained listing all full licence and provisional licence holders. A full licence holder will have completed an approved training course. Provisional licence holders generally obtain the qualification required to become a fully licensed officer during the provisional period of three months. A provisional licence may be issued to an applicant on the basis that he or she attends an approved training course and on the condition that they are supervised at all times while on duty.

No licence is issued prior to an applicant undergoing a detailed criminal record check.

## PRIVATE SECURITY LICENCES

**Table 23: Private security licences in force as at 2010-11 in comparison with 2009-10**

Type of Licence	2009-10	2010-11
Dual security/crowd controller	1,287	1,568
Sole crowd controller	95	102
Sole private security officers	232	236
Security firm	63	79
<b>TOTAL</b>	<b>1,677</b>	<b>1,985</b>

## MUTUAL RECOGNITION

Section 17 of the *Mutual Recognition Act (Commonwealth)* requires the Commission to recognise the registration of a person in another state or territory as a security officer or crowd controller by issuing that person with the equivalent Northern Territory licence. Issues sometimes arise when an applicant for mutual recognition would not otherwise qualify for a licence under the Territory legislation, particularly where such an applicant would be automatically disqualified from obtaining a licence under the *Private Security Act* on the basis of an unacceptable criminal record. In the latter cases, the Commission has issued the licence as required by the *Mutual Recognition Act*, then taken immediate action under the *Private Security Act* to challenge what is then a local licence.

**Table 24: Licences issued under the *Mutual Recognition Act* in 2010-11 in comparison to 2009-10**

Licence Type	2009-10	2010-11
Crowd Controller	5	9
Security Officer	16	22
Dual Licence	121	189
<b>TOTAL</b>	<b>142</b>	<b>220</b>

# Escort Agency Licensing

The Commission determines licence applications for the operators and managers of escort agencies. While no formal complaint process is provided by the *Prostitution Regulation Act*, in practice the Commission gives the applicant the opportunity to attend any licence application inquiry.

The Commission interviews all applicants for new licences in order to assess their suitability to hold a licence. People with previous sexual, violent or drug-related offences may be ineligible to hold a licence or held to be unsuitable by the Commission, depending on the offence. Licences are subject to annual renewal.

There were six Escort Agency Operators' Licences and two Escort Agency Manager Licences current as at 30 June 2011.

## Totalisator Licensing

There is only one totalisator licence in operation, and Commission activity in relation to this licence has been minimal.

From time to time the Commission approves additional or substituted totalisator agencies.

The *Totalisator Licensing and Regulation Act* provides a public complaint mechanism in relation to the conduct of a totalisator Licensee, with complaints to be investigated and determined by the Commission. The Commission has a range of penal powers ranging from a reprimand or fine, to cancellation of the licence.

No complaints were received during 2010-11.

Throughout the Northern Territory there are 51 TAB outlets, consisting of 10 agencies, 38 club/pub licensed outlets and three on-course TAB outlets.

**Table 24: On-course and Off-course Wagering Turnover Figures for 2010-11 by comparison with 2009-10**

Wagering turnover	2009-10 \$M	2010-11 \$M
On-course	18.515	17.151
Off-course	134.762	118.570
<b>*TOTAL</b>	<b>153.277</b>	<b>135.721</b>

\* Further details of taxation raised are contained in Northern Territory Treasury's annual report ([www.nt.gov.au/ntt/annual\\_report.shtml](http://www.nt.gov.au/ntt/annual_report.shtml))

## Tobacco Licensing

The Commission's role under the *Tobacco Control Act* is limited to reviewing refusals of the Director of Licensing to grant, transfer or vary a licence, and decisions of the Director of Licensing suspending or cancelling a licence. Section 41 of the *Tobacco Control Act* requires reviews to be conducted in accordance with Part 4 of the *Northern Territory Licensing Commission Act*, which mandates a fair and expeditious manner of hearing and proper consideration of the issues.

No applications for review were lodged with the Commission in the reporting period.

# ***Racing and Betting Act***

## **FUNCTIONS OF COMMISSION**

The principle functions of the Commission pursuant to the *Racing and Gaming Act* are to:

- investigate and make to the Minister such recommendations as it thinks fit with respect to such matters relating to the administration or operation of this Act, or
- as are referred to it by the Minister for investigation or as it from time to time thinks fit;
- undertake research and investigations into matters relating to horse-racing, trotting and greyhound-racing and the breeding of horses for horse-racing and trotting and greyhounds for greyhound-racing, including the financial security of the organizations and persons whose subsistence or livelihood is derived from or directly connected with horse-racing, trotting or greyhound-racing;
- control, supervise, regulate and develop trotting and greyhound-racing;
- grant licences and permits in accordance with this Act;
- define the duties and functions of a person employed as a key employee;
- allot race days for such period or periods as it thinks fit to registered clubs;
- prosecute persons for offences against this Act; and
- carry out such other functions as are conferred on it by or under this Act or any other law of the Territory.

In performing its functions, the Commission must have regard to the following principles:

- minimum regulatory intervention by government;
- maximum co-operation between industry and government;
- performance-based risk management controls;
- proactive and competitive industry positioning;
- long term viability of the racing industry;
- a balanced approach to problem betting.

## **POWERS OF COMMISSION**

Subject to this Act, the Commission has power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of its functions and the exercise of its powers.

Without limiting the generality of subsection (1), the Commission may, in the performance of its functions and the exercise of its powers, including powers or functions conferred on it elsewhere in this or any other Act:

- investigate any matter referred to it by the Minister and report to the Minister thereon;
- subject to the approval of the Minister, enter into contracts;
- do all such things as it considers necessary or desirable for the proper regulation and control, in the interests of the public, of betting by and with bookmakers or by means of a totalisator conducted in pursuance of a licence granted under section 111;
- do all such acts and things as it considers necessary or desirable for the proper regulation and control, in the interests of the public, of bookmakers, horse-racing, trotting and greyhound-racing; and
- do anything incidental to any of its powers.

The Commission may make rules providing for the custody of its property and the form and use of its common seal.

## **PROBITY AND INTEGRITY IN RACING AND BETTING IN THE TERRITORY**

The Racing Commission monitors the thoroughbred industry's Principal Club activities, and oversees the activities of the greyhound industry, through the Department's Chief Steward.

A major function is the licensing of bookmakers, both on course bookmakers and sports corporate bookmakers. For on course bookmakers, key employees must hold a permit or licence issued by the Commission.

The Commission also monitors and control activities of the all registered and licensed bookmakers in the Northern Territory.

### **Maintain Probity and Integrity of Persons engaged in Racing and Betting**

In order to ensure the probity and integrity of the racing industry, the Commission, through Departmental staff, conducts extensive probity checks and financial assessments of all applicants in the wagering industry. Probity checks include fingerprint criminal history checks for key persons employed in the industry. The Commission must be satisfied as to the suitability of every applicant.

The Commission also licences certain persons engaged in the greyhound industry, pursuant to the Greyhound Racing Rules.

### **Promote Fairness, Integrity and Efficiency in the Operations of Persons Engaged in Racing and Betting**

The Commission, through Departmental staff, ensures all wagering systems, used by bookmakers, are fully evaluated before approval to ensure compliance with requirements. They are regularly monitored through risk based and on-site assessment to ensure continued compliance.

The Commission determines disputes and complaints in a timely manner.

### **Reduce Adverse Social Impact of Betting**

A mandatory Code of Practice for Responsible Gambling applies to all NT wagering operators.

Despite predictions of a downturn in wagering turnover for sports bookmakers in line with the global financial crisis, the 2010-11 year witnessed an increase in turnover of approximately 6.58%

**Table 25: Turnover and related tax for licensed book makers for 2010-11 in comparison to 2009-10**

Category	Turnover (\$M)			Category	Taxes (\$M)		
	2009-10	2010-11	% Change		2009-10	2010-11	% Change*
Racing	3,925	4,068	3.64%	Gross Profit	1.102	2.218	101.27%
Sports	1,275	1,474	15.61%	Turnover	5.166	0.024	-99.54%
<b>TOTAL</b>	<b>5,200</b>	<b>5,542</b>	<b>6.58%</b>	<b>TOTAL</b>	<b>6.268</b>	<b>2.242</b>	<b>-64.23%</b>

Note: From 1 January 2010, the Government replaced the Northern Territory's current corporate bookmaker turnover tax with a tax based on gross wagering profits. The Government has capped the teach each Corporate Bookmaker has to pay at a maximum of \$250,000.

\* The significant variation in taxes is due to the shift to a gross profit tax model with on course bookmakers continuing to be taxed on turnover.

**Table 26: Total number of Licensed Bookmakers for 2010-11 in comparison to 2009-10**

Bookmakers operating in the NT	2009-10		2010-11	
No of Corporate Bookmakers	12	13	13	13
No of On-Course Bookmakers	39	37	36	36
<b>TOTAL</b>	<b>51</b>	<b>50</b>	<b>49</b>	<b>49</b>

'Licensed' refer to the number of bookmakers licensed as at 30/6/11.

'Operated' includes bookmakers who operated throughout the year but ceased to be operational as at 30/6/11.

## **DISPUTES**

During 2010-11, the Commission formalised complaint procedures for licensed Sports Bookmakers.

While Departmental Officers investigate and resolve minor complaints, major complaints, or those of substantial public interest, are referred to the Commission for determination. The Commission, at its discretion, publishes such determinations where in the public interest.

In 2010-11, of the 197 complaints received, five were referred to the Commission for determination.

Complaint Outcomes:

- 108 – determined as bookmaker not in error
- 13 – client complaint upheld
- 72 – settled to satisfaction of both parties
- 4 – not within NT jurisdiction